

ADMINISTRATIVE PANEL DECISION

Swiss Re Ltd v. Registration Private, Domains By Proxy, LLC /
Serhii Zhydkov
Case No. D2022-0069

1. The Parties

The Complainant is Swiss Re Ltd, Switzerland, represented by TIMES Attorneys, Switzerland.

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America (“United States”) / Serhii Zhydkov, Bulgaria.

2. The Domain Name and Registrar

The disputed domain name <swissresigorta.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2022. On January 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 11, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 12, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on January 14, 2022.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 6, 2022. On January 31, 2022, an email communication sent by the Respondent was received by the Center. Accordingly, pursuant to paragraph 6 of the Rules, the Center notified the commencement of panel appointment process on February 7, 2022.

The Center appointed Kaya Köklü as the sole panelist in this matter on February 9, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a global wholesale provider of reinsurance, insurance, and financial services with its registered seat in Switzerland. The Complainant's group is the largest reinsurers worldwide (Annexes 1 and 6 to the Complaint).

The Complainant is the owner of the SWISS RE trademark, which is registered in a large number of jurisdictions since at least 2010 (Annex 7 to the Complaint). For instance, the Complainant is the owner of the International Trademark Registration No. 1067014, registered on November 26, 2010, designating many jurisdictions and providing protection *inter alia* for insurance services.

The disputed domain name was registered on November 13, 2021.

The Respondent is reportedly an individual in Bulgaria.

As evidenced by screenshots in the Complaint, the disputed domain name resolves to a website in Turkish language that prominently uses the Complainant's SWISS RE word and figurative trademark and offers insurance consultancy services, without providing for a visible disclaimer describing the (lack of) relationship between the Parties (Annex 8 to the Complaint). Rather, the website creates the look and feel of an official website operated or at least endorsed by the Complainant.

Prior to initiation of this administrative proceeding, the Complainant tried in vain to solve the dispute amicably by sending a cease-and-desist letter to the Respondent on November 19, 2021, asking *inter alia* for the transfer of the disputed domain name at no costs (Annex 10 to the Complaint).

5. Parties' Contentions

A. Complainant

The Complainant is of the opinion that the disputed domain name is confusingly similar to its SWISS RE trademark.

Furthermore, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Finally, it is argued that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions. In the email communication sent to the Center on January 31, 2022, the Respondent just stated in English language: "What kind of problem we have and what we should do? Could you inform us?" The Center replied on the same day, but did not receive any further communication from the Respondent.

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has registered trademark rights in the mark SWISS RE by virtue of a large number of trademark registrations worldwide.

The Panel further finds that the disputed domain name is confusingly similar to the Complainant's registered trademark, as it fully incorporates the SWISS RE trademark. As stated at section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity. The mere addition of the term "sigorta" (which is Turkish and means "insurance" in English), does, in view of the Panel, not serve to prevent a finding of confusing similarity between the disputed domain name and the Complainant's SWISS RE trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel further finds that the Respondent has failed to demonstrate any rights or legitimate interests in the disputed domain name.

While the burden of proof on this element remains with the complainant, previous UDRP panels have recognized that this would result in the often impossible task of proving a negative, in particular as the evidence in this regard is often primarily within the knowledge of the respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name in order to meet the requirements of paragraph 4(a)(ii) of the Policy. See, *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Panel finds that the Complainant has satisfied this requirement, while the Respondent has failed to file any evidence or make any convincing argument to demonstrate rights or legitimate interests in the disputed domain name according to the Policy, paragraphs 4(a)(ii) and 4(c).

In its Complaint, the Complainant has provided uncontested *prima facie* evidence that the Respondent has no rights or legitimate interests to use the Complainant's SWISS RE trademark in a confusingly similar way within the disputed domain name.

There is also no indication in the current record that the Respondent is commonly known by the disputed domain name, particularly as the disputed domain name was registered just recently in November 2021. In the absence of a formal Response, the Respondent has also failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain name. Rather, the Panel notes that the nature of the disputed domain name carries a risk of implied affiliation or association, as stated in section 2.5.1 of the [WIPO Overview 3.0](#). This risk is exacerbated by the impersonating content found on the disputed domain name's website, which prominently features the Complainant's word and figurative trademark and in essence suggests being a website officially operated by the Complainant, seeing as no disclaimer is available.

Bearing all this in mind, the Panel does not see any basis for assessing a *bona fide* offering of goods or services by the Respondent.

As a conclusion, the Panel finds that the Complainant has also satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Noting the composition of the disputed domain name and the trademark displayed on the website to which the disputed domain name resolves, the Panel believes that the Respondent had the Complainant and its SWISS RE trademark in mind when registering and using the disputed domain name. It appears that the Respondent has registered the disputed domain name solely for the purpose of creating an association with the Complainant and its insurance services.

The Panel further notes that the Respondent has not published a visible disclaimer on the website associated to the disputed domain name to explain that there is no existing relationship between the Respondent and the Complainant. The prominent use of the Complainant's SWISS RE trademark on the website associated to the disputed domain name as well as the nature of the disputed domain name is, in view of the Panel, sufficient evidence that the Respondent intentionally tries to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant as to the source, sponsorship, affiliation or endorsement of its website.

Furthermore, the Panel accepts the failure of the Respondent to submit a substantive Response to the Complainant's contentions as an additional indication for bad faith use, as well as the Respondent's use of a privacy service to mask its details.

All in all, the Panel cannot conceive of any plausible and legitimate use of the disputed domain name that would be in good faith, except with an authorization of the Complainant.

Taking all facts of the case into consideration, the Panel believes that this is a typical cybersquatting case. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <swissresigorta.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: February 23, 2022