

## **ADMINISTRATIVE PANEL DECISION**

James Purdey & Sons Limited, Compagnie Financiere Richemont SA v.  
Whois Agent, Domain Protection Services, Inc. / Fcsw Tvsww  
Case No. D2022-3021

### **1. The Parties**

The Complainants are James Purdey & Sons Limited, United Kingdom, and Compagnie Financiere Richemont SA, Switzerland (collectively “the Complainant”), represented by Corsearch, United States of America (“United States”).

The Respondent is Whois Agent, Domain Protection Services, Inc., United States / Fcsw Tvsww, Hong Kong, China.

### **2. The Domain Name and Registrar**

The disputed domain name <purdeysale.com> is registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 17, 2022. On August 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 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 August 18, 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 amended Complaint on August 22, 2022.

The Center verified that the Complaint together with the amended 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 August 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 16, 2022.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on September 21, 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**

Compagnie Financière Richemont S.A., known as Richemont, is a Switzerland luxury goods holding company founded in 1988 and parent company of James Purdey & Sons Limited and the ultimate parent company of Richemont DNS Inc.

James Purdey & Sons was originally founded in 1814 by James Purdey. It is based in London, United Kingdom, specializing in high- end shotguns, rifles, luxury clothing and accessories and is part of the so called Richemont Group. Richemont DNS Inc. is owner of the domain name <purdey.com>.

The Complainant James Purdey & Sons Limited is the owner of several trademark registrations for the word mark PURDEY, including the following:

United States Trademark Registration No.2327534 PURDEY, registered on March 14, 2000 for goods in classes 8, 13, 14, 16, 18, and 25;

United States Trademark Registration No. 5593086 PURDEY, registered on October 30, 2018 for goods in class 9;

European Union Trademark Registration No. 005394697 PURDEY, registered on December 7, 2007 for goods in classes 13, 25 and 35;

European Union Trademark Registration No. 006678891 PURDEY, registered on April 17, 2009 for goods in classes 8, 18 and 21;

International Trademark Registration No.908772 PURDEY, registered on December 15, 2005, for goods in classes 3, 8, 9, 13, 14, 16, 18, 20, 21, 25 and 34.

The disputed domain name <purdeysale.com> was registered on June 8, 2022 and resolves to a website offering for sale versions of the Complainant's products.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant claims that the disputed domain name <purdeysale.com> is confusingly similar with the trademark PURDEY, in which the Complainant has rights and that it was registered and is being used in bad faith.

More specifically, the Respondent is not sponsored by or legitimately affiliated with the Complainant in any way, nor has the Complainant given the Respondent permission to use the Complainant's mark PURDEY in a domain name.

The Respondent has not been commonly known by the disputed domain name. At the time the Respondent registered the disputed domain name, the Respondent had no trademark nor intellectual property rights in the disputed domain name.

The Respondent's sale of products bearing the Complainant's mark without the consent of the Complainant is neither *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name.

The Respondent is offering clothing and accessories at the website to which the disputed domain name resolves that contain the Complainant's PURDEY mark, thereby defrauding customers into believing that the goods been sold are authentic by creating a strong impression of association with the Complainant.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark 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 was registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Panel is satisfied that the Complainant has proved to have rights in the trademark PURDEY.

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's PURDEY trademark.

The disputed domain name <purdeysale.com> incorporates the Complainant's trademark PURDEY in its entirety with the addition of the term "sale", which certainly does not prevent a finding of confusing similarity.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark PURDEY in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

## B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

Likewise, and as further discussed under section 6.C of this decision, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name, but rather that it intends to use the disputed domain name for the purpose of deriving unfair monetary advantage by confusing Internet users and leading them to believe that the site to which the disputed domain name relates is an official site of the Complainant.

As established in section 2.5 of [WIPO Overview 3.0](#): "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry." Here, the nature of the disputed domain name carries a risk of implied affiliation.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

## C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark PURDEY mentioned in section 4 above (Factual Background) when it registered the disputed domain name <purdeysale.com> on June 8, 2022. By that time, the Complainant's trademark had been registered and used for over ten years.

By registering the disputed domain name, the Respondent was targeting the Complainant and its business by incorporating the Complainant's distinctive trademark PURDEY with the word "sale" which contributes to increase confusion among Internet users who very likely will be lead to believe that the website to which the disputed domain resolves belongs to or is affiliated with the Complainant, particularly since they both offer the same type of goods.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name, the nature of the disputed domain name and, the use of the disputed domain name to resolve to a website offering similar goods with the unauthorized use of the Complainant's trademark are indications of bad faith (as stated in section 3.2.1 of [WIPO Overview 3.0](#)).

The Panel finds that the Respondent registered and is using the disputed domain name in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

## 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 <purdeysale.com> be transferred to the Complainant.

*/Miguel B. O'Farrell/*

**Miguel B. O'Farrell**

Sole Panelist

Date: September 29, 2022