

ADMINISTRATIVE PANEL DECISION

Swiss Life AG, Swiss Life Intellectual Property Management AG v. Filip Novkovic

Case No. D2022-3267

1. The Parties

The Complainants are Swiss Life AG and Swiss Life Intellectual Property Management AG, Switzerland, represented by FMP Fuhrer Marbach & Partners, Switzerland.

The Respondent is Filip Novkovic, Switzerland.

2. The Domain Name and Registrar

The Disputed Domain Name <swisslifesolution.com> (“the Disputed Domain Name”) is registered with Ascio Technologies Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2022. On September 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 6, 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 Complainants on September 7, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on September 15, 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 September 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 10, 2022. The Center

received an informal communication from the Respondent on October 12, 2022¹.

The Center appointed Jacques de Werra as the sole panelist in this matter on October 25, 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 Complainants in this proceeding are Swiss Life AG (“Complainant 1”) and Swiss Life Intellectual Property Management AG (“Complainant 2”), together “Complainants” which are both corporations incorporated under the laws of Switzerland. Complainant 2 is a subsidiary of the Complainant 1 and is in charge of managing all intellectual property rights owned within the “SWISS LIFE” group.

The SWISS LIFE group is Switzerland’s largest life insurance company and one of Europe’s leading comprehensive life and pensions and financial solutions providers, with approximately CHF 254 billion of assets under management by the end of 2019. Founded in 1857, the company adopted its current name in 2002. In 2019, the group generated a total turnover of more than CHF 23 billion and had around 9,300 employees and 14,000 consultants in order to serve its more than 4 million customers.

The Complainants use the umbrella brand SWISS LIFE as the distinctive and distinguishing element of their corporate identity and of their services. On this basis, Complainant 2 holds numerous trademarks protecting the SWISS LIFE brand (together “the Trademark”), including the Swiss word trademark No 491,528, for the terms “SWISS LIFE” which was registered on November 15, 2001 for various goods and services in classes 9, 16, 35, 36, 38, 41 and 42.

The SWISS LIFE group operates numerous websites featuring the Trademark, such as “www.swisslife.ch”, “www.swisslife.de” and “www.swisslife.com” (among many other domain names).

The Disputed Domain Name was registered on May 20, 2020. According to the evidence provided with the Complaint, it directs to a parked site with the “Hosting” company, that states “this domain has been purchased now”.

5. Parties’ Contentions

A. Complainants

The Complainants claim in essence² that the Complainants’ Trademark is clearly recognizable in the Disputed Domain Name, while the additional generic element “solution” is obviously understood as a reference to the financial service solutions of the Complainants (e.g. “www.swisslife-global.com/global-solutions/about-us.html”) and, as a descriptive element, does not contribute to the overall impression of the Disputed Domain Name.

The Disputed Domain Name obviously incorporates the Complainants’ Trademark and the additional element “solution” is clearly of a generic character and does not affect the overall impression of the Disputed Domain Name. It has long been established under the UDRP that where the relevant trademark is recognizable within the Disputed Domain Name, the mere addition of a hyphen or other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) will not prevent a finding of confusing

¹ “I refuse any negotiation I want to take it to the court those domains are not in use and will be under my name they can make me an offer and secondly tgis swisslife solution is not patented I refuse and I want it to the court”.

² The Complainants makes various legal developments on the basis of Swiss law that will not be exposed here to the extent that they do not correspond to issues that are relevant under the Policy.

similarity under the first element of the Policy. Section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainants further claim that the Respondent cannot provide any proper justification as to why it would be entitled to register a domain name containing the Complainants' Trademark. In any case the Complainants did not give any permission to the Respondent or to any third party to use the Trademark for the registration and/or use of the Disputed Domain Name. Thus, the Respondent is clearly illegally capitalizing upon and taking advantage of the Trademark and it is highly likely that sooner or later fraudulent activities will be carried out over the Disputed Domain Name.

The Complainants submit that registration and use of the Disputed Domain Name in bad faith made by the Respondent can be found in the present case in view of the following circumstances:

- the Respondent has no evidence whatsoever of any actual or contemplated good faith use of the Disputed Domain Name;
- lack of apparent use of the Disputed Domain Name apart from a blank website;
- well-known status of the Complainants' Trademark; and
- nature of the Disputed Domain Name (reproducing the entirety of the Complainants' Trademark), suggest rather a clear indication of the Respondent's registration and holding of the Disputed Domain Name in bad faith, with the implausibility of any good faith use to which the Disputed Domain Name may be put.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that the complainant must prove each of the following three elements in order to succeed in a UDRP proceeding. Thus, for the Complainants to succeed, they must prove all of the three elements under the Policy:

- (i) the Respondent's Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) the Respondent's Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainants have rights to the Trademark.

A comparison between the Disputed Domain Name and the Trademark shows that the Disputed Domain Name replicates the Trademark to which a word element has been added as a suffix, *i.e.* "solution".

As a matter of principle, the addition of terms (whether merely generic, descriptive, geographical, or otherwise) to a trademark in a domain name does not avoid a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

As a result, based on the rights of the Complainants on the Trademark and on the confusing similarity between the Trademark and the Disputed Domain Name, the Panel finds that the conditions of paragraph 4(a)(i) of the Policy are met.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights to or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to it of the dispute, the Respondent's use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed 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 Disputed Domain Name, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Although a complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, previous UDRP panels have consistently ruled that paragraph 4(c) of the Policy shifts the burden to the respondent to come forward with evidence of a right or legitimate interest in the domain name, once the complainant has made a *prima facie* showing. See *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#).

In this case, the Panel finds that the Complainants have made a *prima facie* showing that the Respondent lacks any right or legitimate interest in the Disputed Domain Name. The Respondent did not reply to the Complainants' contentions. The Panel acknowledges that the Complainants never authorized, licensed or permitted the Respondent to use the Trademark in any manner and that the Respondent is not commonly known by the Disputed Domain Name.

On this basis, the Panel finds that the Complainants have made a *prima facie* showing that the Respondent has no rights or legitimate interests in the Disputed Domain Name and that the Respondent has not established any rights to or any legitimate interests in the Disputed Domain Name.

The Panel is consequently satisfied that the Complainants have established that the second requirement of paragraph 4(a) of the Policy is met.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name;
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct;
- (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent intentionally is using the domain name in an attempt to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the

respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant is seeking to profit from and exploit the trademark of another. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

In this case, the Panel finds on the basis of the allegations of the Complainants (to which the Respondent has not reacted) that the Respondent registered and uses the Disputed Domain Name in bad faith for the following reasons:

Based on the established practice under the UDRP, the non-use of a domain name (including a blank, "coming soon" or "under construction" page, which is the case here) does not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3. Factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. See [WIPO Overview 3.0](#), section 3.3.

In this case, by application of these factors, the Panel holds that the passive holding of the Disputed Domain Name by the Respondent does not prevent a finding of bad faith. The degree of distinctiveness and of reputation of the Trademark is indeed very high, and the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use.

On this basis, the Panel finds that the Respondent registered and uses the Disputed Domain Name in bad faith pursuant to paragraph 4(b) of the Policy, so that the conditions of paragraph 4(a)(iii) of the Policy are met.

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 <swisslifesolution.com> be transferred to the Complainants.

/Jacques de Werra/

Jacques de Werra

Sole Panelist

Date: November 8, 2022