

ADMINISTRATIVE PANEL DECISION

The Swatch Group AG, Swatch AG v. Ali Bing
Case No. D2022-4241

1. The Parties

The Complainants are The Swatch Group AG, Switzerland, and Swatch AG, Switzerland¹, internally represented.

The Respondent is Ali Bing, United States of America.

2. The Domain Name and Registrar

The disputed domain name <swatchsgroup.com> (the “Domain Name”) is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 8, 2022. On November 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 9, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 9, 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 November 11, 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 November 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 2, 2022.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on December 8, 2022. The

¹ The Panel will in singular refer to the “Complainant” when there is no particular purpose to distinguish between the two Complainants.

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 first Complainant, The Swatch Group AG, is the parent and holding company of the second Complainant, Swatch AG. The Complainant is headquartered in Biel/Bienne, Switzerland, and operates worldwide as a designer, manufacturer, seller, and retailer of wristwatches. The Complainant promotes its watches through the website to which the domain name <swatch.com> resolves and uses the domain name <swatchgroup.com> to provide information on the first Complainant.

The Complainant is the owner of several trademark registrations, including, but not limited to the International Registration for the trademark SWATCH GROUP (word mark), with registration No. 1187122 and registration date of September 18, 2013, for services in classes 35, 36, 37, 38, 39, 41, 42, 43, and 45, designating, *inter alia*, the European Union, Singapore, and Australia. Moreover, the Complainant is owner of the Swiss trademark SWATCH GROUP (word), with registration No. 647167 and registration date of August 13, 2013, for services in classes 35, 36, 37, 38, 39, 41, 42, 43, and 45 (together in singular referred to as the "Trademark").

The Domain Name was registered on October 20, 2022, and does not resolve to any active website.

5. Parties' Contentions

A. Complainant

The Complainant contends the following:

The Domain Name is identical or at least confusingly similar to the Trademark. More specifically, the Domain Name is composed of the Trademark in its entirety. The Respondent introduced an obvious misspelling by adding the letter "s" in between the two word elements. By doing so, the Domain Name clearly mimics the Complainant's Trademark and/or Complainant's existing domain name. The mistyping and/or typo squatting of the Trademark and/or domain name causes confusion amongst Internet users as to the affiliation with or ownership by the Complainant.

The Respondent has no prior rights or legitimate interests in regard to the Domain Name. The Respondent has not commonly been known by the Domain Name. Moreover, the Respondent is not in any way affiliated with the Complainant. The Respondent has also not secured a license nor any other authorization from the Complainant to use the Trademark. In addition to this, there is no legitimate noncommercial or fair use of the Domain Name whereas the Domain Name does not resolve to an active website.

Furthermore, the Respondent has registered and has been using the Domain Name in bad faith. The Respondent registered the Domain Name with prior knowledge of the Trademark. This is because, the Respondent chose to register a Domain Name that copies the well-known trademark of the Complainant which in turn is highly similar to the domain name which the Complainant uses for its official website. Thus, there is no plausible explanation other than that the Respondent must have been aware of the Complainant's rights and activities. Lastly, the Respondent is intentionally using the Domain Name to attract Internet users by creating a likelihood of confusion with the Complainant's trademark. As such, the Domain Name could potentially be used for phishing purposes.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements;

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

A. Identical or Confusingly Similar

The Complainant has sufficiently proven to have rights in the Trademark.

The Domain Name consists of the Trademark in its entirety, only adding a very obvious misspelling, being the addition of an extra letter “s” before the second word element “GROUP”. Therefore, the Trademark is clearly recognizable in the Domain Name and the misspelling as such does not prevent a finding that the Domain Name is confusingly similar to the 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 Complainant in its Complaint and as set out above has established a *prima facie* case that the Respondent has no rights or legitimate interests in the Domain Name.

The Panel could not find any evidence by referring to the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business, or other organization) even if the Respondent has not acquired any trademark or service mark rights; or
- (iii) making legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the Domain Name. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the Domain Name, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

In more detail, the Complainant asserted that there is no evidence that “swatchsgroup” is the Respondent’s name or that the Respondent is commonly known under this name. Additionally, the Complainant asserted that the Respondent is not affiliated with the Complainant in any way. The Respondent has also not been licensed or otherwise authorized by the Complainant to register or use the Trademark.

Furthermore, the Respondent does not seem to make any use of the Domain Name as the Domain Name does not resolve to an active website. The Respondent has also not put forward any evidence that would support the claim that the Respondent has used or made 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.

Consequently, the Panel considers that the Respondent is not making use of the Domain Name in connection with a *bona fide* offering of goods or services or for noncommercial or fair use purposes.

Hence, the Panel finds that the Respondent has no rights or legitimate interests in relation to the Domain Name.

Therefore, the Panel is satisfied that the second element of the Policy is met.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent has registered and used the Domain Name in bad faith and refers to its considerations under section 6.B. above.

Taking into consideration the evidence filed by the Complainant, the Panel finds that the Trademark and the Complainant's activities are well known throughout the world. The Complainant is owner of numerous trademarks and operates stores in North America, Europe, the Middle East, Africa, Central and South America, Asia, and Australia. As such, the Complainant has also provided sufficient evidence showing the global notoriety of the Trademark. In addition to this, the Panel considers the fact that for its official (corporate) website the Complainant uses the domain name <swatchgroup.com>, and the Domain Name is almost identical to the Complainant's domain name.

Hence, in the Panel's view, this is an obvious case of typo squatting and certainly lacking a Response, leads to a finding of registration and use in bad faith. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.3 [WIPO Overview 3.0](#)).

Based on the available record, the Panel finds that the Respondent was likely aware of the existence of the Complainant's rights and/or activities at the time the Respondent registered the Domain Name. Moreover, there is no indication of any likely *bona fide* use of the Domain Name.

The fact that the Domain Name does not resolve to an active website, does not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 [WIPO Overview 3.0](#)).

Finally, although the lack of a formal or substantive response by the Respondent as such cannot by itself lead to the conclusion that there is registration and use in bad faith, this nonetheless supports for the Panel to find that the registration and use of the Domain Name by the Respondent is in bad faith.

Therefore, the Panel is satisfied that the third element of the Policy is 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 Domain Name, <swatchsgroup.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: December 21, 2022