

## **ADMINISTRATIVE PANEL DECISION**

Swiss Re Ltd v. Seba Obraz  
Case No. D2023-4790

### **1. The Parties**

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

The Respondent is Seba Obraz, Poland.

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

The disputed domain names <swissrecapital.ltd> and <swissrecapital.tech> are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 17, 2023. On November 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Domains by Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 22, 2023, 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 November 23, 2023.

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 December 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 4, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on January 18, 2024.

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 and leading wholesale provider of reinsurance, insurance and financial services. Founded in Zurich, Switzerland, in 1863, the Complainant serves clients through a network of over 60 offices globally.

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. Several WIPO UDRP decisions have found that SWISS RE is a well-known trademark.

The Complainant is the owner of the SWISS RE LIFE CAPITAL trademark registered in Switzerland (reg. No. 642128) on April 9, 2013, and also of the International Registration (reg. No. 1163676), registered on April 10, 2013.

The Complainant has a subsidiary with the company name “Swiss Re Capital Markets Ltd”, which has its seat in London, United Kingdom.

Both disputed domain names were registered on October 9, 2023. At the time of filing the Complaint, the disputed domain name <swissrecapital.ltd> resolved to a website with a legend “Buy, trade and hold 100+ cryptocurrencies on Polish Trade”. The disputed domain name <swissrecapital.tech> contains pay-per-click (“PPC”) links from a parking page related to finance investments, credits and insurance.

#### **5. Parties’ Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that:

- the disputed domain names are confusingly similar to its trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names;
- the Respondent has registered and is using the disputed domain names in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

- (i) the disputed domain names are identical or confusingly similar to 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark SWISS RE is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term "capital" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel also notes that the term "capital" is also a portion of another trademark of the Complainant, SWISS RE LIFE CAPITAL and the dominant feature of this trademark is recognizable within the disputed domain names.

The Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, here, claimed as applicable to this case: impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

### C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel makes the following findings:

- Several WIPO UDRP decisions have found that SWISS RE is a well-known trademark (*Swiss Re Ltd v. Domain Admin, Privacy Protect LLC / Ruben Perez*, WIPO Case No. [D2021-2210](#)).
- Noting the composition of the disputed domain name and the content displayed on the website to which the disputed domain name <swissrecapital.ltd> resolves containing references to financial services, the Panel believes that the Respondent had the Complainant and its SWISS RE trademark in mind when registering and using the disputed domain name.
- The disputed domain name <swissrecapital.tech> contains PPC links from a parking page related to finance investments, credits and insurance.
- 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel concludes that by using the disputed domain names in the above-defined manner, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other online 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 the Respondent's website or location.

The Panel finds that the Complainant has established the third element 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 names, <swissrecapital.ltd> and <swissrecapital.tech>, be transferred to the Complainant.

*/Pablo A. Palazzi/*

**Pablo A. Palazzi**

Sole Panelist

Date: February 2, 2024