

ADMINISTRATIVE PANEL DECISION

Blancpain SA, Omega SA, Swatch AG v. Dirk Scheidt, hu luo, lewansi,
XU euni, Zheng Zheng
Case No. D2023-5177

1. The Parties

The Complainants are Blancpain SA and Omega SA, and Swatch AG, Switzerland, internally represented.

The Respondents are Dirk Scheidt, Germany; hu luo, lewansi, Japan; XU euni, Hong Kong, China; and Zheng Zheng, China.

(Collectively hereinafter referred to as the “Complainant” and the “Respondent” unless otherwise indicated).

2. The Domain Names and Registrars

The disputed domain names <blancpainswatch.shop>, <joint-swatch.shop>, <omega-swatch.shop>, <swatchblancpain.shop>, <swatch-official.shop>, <swatch-outlet.shop>, <swatchsale.shop>, <swatchshop.store>, and <swatch-vip.online> are registered with GoDaddy.com, LLC.

The disputed domain name <swatch-jp.live> registered with NameCheap, Inc.

(Collectively hereinafter referred to as the “Domain Names” and the “Registrars” unless otherwise indicated).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 12, 2023. On December 13, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Domain Names. On December 13, 2023, the Registrars transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Names which differed from the named Respondent (individual/entity of unknown nature) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 20, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on January 8, 2024.

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 January 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 16, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on February 26, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Blancpain SA, Omega SA and Swatch AG are fully owned subsidiary companies of The Swatch Group Ltd., and watchmakers with long company history for their distinctive and well-known watch brands. The fame of the Complainant is documented in earlier UDPR decisions.

The Complainant has registered trademarks worldwide for their trademarks OMEGA, SWATCH and BLANCPAIN.

The Domain Names have been registered between November 13, 2023 and December 10, 2023. The Domain Names have resolved to similar websites on which the Respondent claims to sell the Complainant’s watches for discounted prices, and makes visitors believe the Respondent is endorsed and/or affiliated with the Complainant. The Respondent uses the Complainant’s official logos on its websites. At the time of drafting the Decision, the Domain Names resolved to error pages.

5. Parties’ Contentions

A. Complainant

The Complainant argues that the Domain Names are registered by the same individual/entity. The Domain Names have been linked to essentially identical websites. 9 out of 10 of the Domain Names have been registered using the same registrar and all Domain Names have registered within one month. The Registrant information provided by the two Registrars shows nominally different Registrant names, but the information is mere pretext.

The Complainant provides evidence of trademark registrations and argues that its trademark is famous and distinctive. Three of the Domain Names incorporate two of the Complainant’s trademarks in combination. The rest of the Domain Names incorporates the Complainant’s trademark with the inclusion of the descriptive terms “official”, “vip”, “shop”, “sale”, “outlet”, “joint”, or the random letters “jp”. The additions of such terms, and use of a hyphen for some of the Domain Names, do not prevent a finding of confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Names. The Complainant has not authorized the Respondent to use its trademarks in any way. The Respondent has no prior right or legitimate interest justifying use of the Complainant’s trademark, and is not making a legitimate, noncommercial or fair use of the Domain Names or using them in connection with a bona fide offering of goods or services. The Respondent has used the Domain Names to impersonate the Complainant, as described above.

The Complainant argues that the Respondent's use of the Domain Names is evidence that the Respondent acted with opportunistic bad faith. The Respondent uses the Complainant's official logos displayed on its websites and tries to lure consumers into buying counterfeited products or paying for products that are never delivered. Numerous customers have reported to the Complainant that either the ordered products were of counterfeit nature, or no products were delivered after payment. Moreover, the Respondent has registered and is using several hundred other domain names subject to UDRP disputes.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural matters - Consolidation of Multiple Registrants

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or under common control. The Complainant requests the consolidation of the Complaint against the multiple Domain Names registrants pursuant to paragraph 10(e) of the Rules. Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the Domain Names all incorporate the Complainants' trademarks, were registered within one month with the same registrar for 9 of the 10 Domain Names. Importantly, all the Domain Names have linked to essentially identical websites that impersonate the Complainants. The nominally different Registrant information includes what appears to be false contact details. The Domain Name registrants did not comment on the Complainant's request for consolidation.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different Domain Name registrants (referred to as "the Respondent") in a single proceeding.

6.2. Substantive Issues

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademarks and the Domain Names. See [WIPO Overview 3.0](#), section 1.7. The Complainant has established that it has rights in the trademarks OMEGA, SWATCH and BLANCPAIN. The Domain Names either incorporate two of the Complainant's trademarks in combination or incorporate one of the Complainant's trademarks with the inclusion of descriptive terms. The additions or the hyphen do not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the Domain Names are confusingly similar to the trademark in which the Complainant has rights. The first element of paragraph 4(a) 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. While 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the 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 Domain Names. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a bona fide offering of goods or services. The Respondent’s use of the Domain Names is evidence of bad faith, see below.

As described above, the Respondent has used the Domain Names to resolve to websites that appear to imitate the Complainant’s website. Further, also the composition of the Domain Names carries a risk of implied affiliation as it impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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.

The composition and use of the Domain Names prove that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Names. The Respondent has failed to provide any evidence of actual or contemplated good faith use of the Domain Names. The use of the Domain Names for websites to lure consumers into buying counterfeited products or paying for products that are never delivered, is evidence of bad faith registration and use pursuant to paragraph 4(b)(iv) of the Policy.

For the reasons set out above, the Panel concludes that the Domain Names were registered and used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Names <blancpainwatch.shop>, <joint-swatch.shop>, <omega-swatch.shop>, <swatchblancpain.shop>, <swatch-jp.live>, <swatch-official.shop>, <swatch-outlet.shop>, <swatchsale.shop>, <swatchshop.store>, and <swatch-vip.online> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: March 5, 2024