

## **ADMINISTRATIVE PANEL DECISION**

Swiss Life AG, Swiss Life Intellectual Property Management AG v.  
Technology Leyend  
Case No. D2024-1034

### **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 Technology Leyend, Spain.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 8, 2024. On March 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 11, 2024, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainants on March 13, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed the first amendment to the Complaint on March 19, 2024, and filed the second amendment to the Complaint on March 21, 2024.

The Center verified that the Complaint together with the first and second 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 March 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2024. The Respondent sent several email communications to

the Center on March 13, 14, 20, and respectively on 28, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on April 24, 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 Swiss Life AG, founded in 1857 in Zurich, is the largest life insurance company and one of the Europe's leading comprehensive life, pensions and financial solutions providers, with approximately CHF 254 billion of assets under management by the end of 2019. The name "Swiss Life" was adopted in 2002, and in 2019 the Complainants' group generated a total turnover of more than CHF 23 billion, had around 9,300 employees and 14,000 consultants in order to serve its more than 4 million customers.

The Complainants own trademark registrations for or including SWISS LIFE, such as the following:

- the Swiss Trademark Registration No. 2P-436709 for SWISS LIFE (word), filed on March 21, 1996, registered on February 12, 1997, covering services in International class 36; and

- the European Union Trademark Registration No. 003438413 for SWISS LIFE (word), filed on October 31, 2003, and registered on October 20, 2006, covering goods and services in International classes 9, 16, 35, 36, 38, 41, 42, and 44.

The Complainants have spent substantial time, efforts and money in advertising and promoting the SWISS LIFE trademark, and thus the Complainants have received numerous recognitions and the SWISS LIFE mark was listed in various rankings, such as in the Forbes's list of the World's Best Regarded Companies 2019, the Swiss Life Group ranked the 125<sup>th</sup> and the Interbrand Ranking lists SWISS LIFE on position 45 in the Best Swiss Brands 2016 ranking. Further, a decision issued in 2007 by the Swiss Supreme Court confirms that SWISS LIFE has reached the status of a well-known trademark.

The Complainants own numerous domain names incorporating SWISS LIFE, such as <swisslife.com> registered on May 10, 1996; <swisslife.swiss>; <swisslife.insurances>; <swisslife.site>; or <swisslife.club>.

The disputed domain name was registered on December 29, 2023, and, at the time of filing the Complaint, according to Annex 12 to the amended Complaint, the disputed domain name resolved to a generic website template, without any individual content.

At the time the Panel visited the website under the disputed domain name and the Center conducted its formal verification, the disputed domain name resolved to a website in Spanish apparently providing information how to emigrate to Switzerland, however, the content provided was minimal, without actual information.

According to the records before it, the Panel notes that after the commencement of the proceedings, the Respondent offered to sell the disputed domain name to the Complainants, for the amount of EUR 10,000.

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

##### **A. Complainants**

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name is identical to well-known trademark, company and tradename; the term “guide” obviously refers to the Complainants’ advisory services in the field of business; the Respondent improperly presents himself as a representative of the SWISS LIFE brand and the services provided thereunder leads to an unfair and illegitimate exploitation of the Complainants’ reputation; the Respondent has no rights or legitimate interest in the disputed domain name; the unauthorised reference to and use of the disputed domain name by the Respondent must clearly have had the Complainants and their rights in the SWISS LIFE mark in mind when registering the disputed domain name; it is obvious that the Respondent provided false information at the time of the registration of the disputed domain name since the Respondent’s company name, as revealed by the Registrar in its verification response, does not exist in the relevant registries, the name of the street is a made up name formed of vulgar words, and the telephone number seems to be inaccurate; the Complainants have presence in Spain where the Respondent claims to be located; the Respondent’s offer to sell the disputed domain name for a lump sum amount of EUR 10,000 during the proceedings is another evidence of bad faith, demonstrating that the Respondent registered the disputed domain name in order to sell it for an unjustified high price to the rightful owner; the allegedly legitimate use of the disputed domain name, as per the Respondent’s communication of March 20, 2024, only started after the present UDRP proceeding was initiated and, the content on the website available under the disputed domain name actually copies the content available on a third party’s website and, therefore, the infringement of such third party’s copyright is a further indication of bad faith.

## **B. Respondent**

The Respondent did not formally reply to the Complainants’ contentions.

In its informal communications, the Respondent offers to sell the disputed domain name to the Complainants for the amount of EUR 10,000; further on March 20, 2024, the Respondent claims that the disputed domain name was registered as an online guide for people that want to emigrate to Switzerland.

## **6. Discussion and Findings**

Under the Policy, the Complainants are required to prove on the balance of probabilities that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights;
- (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is 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 Complainants have 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 is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. WIPO Overview 3.0, section 1.7.

Although the addition of other terms (here, “guide”) 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 name and the mark for the purposes of the Policy. WIPO Overview 3.0, section 1.8.

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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants’ prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Respondent claims the use of the disputed domain name to provide information regarding on how to emigrate in Switzerland. However, having in view the records before it, such allegations cannot be accepted by this Panel particularly because the content under the disputed domain name, except for being very minimal, has been changed after the initiation of the present proceedings and it is an obvious made up evidence in the Panel’s view, provided in order to try to delay or somehow divert the present proceedings.

Furthermore, the composition of the disputed domain name, consisting of the Complainants’ mark plus an additional dictionary term, carries a high risk of implied affiliation. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. WIPO Overview 3.0, section 2.5.1.

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 considers that the disputed domain name was registered in bad faith in 2023, with knowledge of the Complainant and its trademark because it incorporates the Complainants’ trademark with an additional dictionary word and the Complainants’ have registered trademark and tradename rights since at least 2002, its domain name since 1996 and the trademark SWISS LIFE is well known at least in Switzerland and in Europe.

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.

According to evidence before the Panel, the disputed domain name was offered for sale to the Complainants, during the proceedings, for an amount very likely exceeding the out-of-pocket expenses incurred with its registration. Consequently, in these circumstances, the Panel deems applicable the circumstances listed under paragraph 4(b)(i) of the Policy providing that the Respondent has registered the disputed domain name primarily for the purpose of selling or otherwise transferring the disputed domain name registration to the Complainants or their competitors for an amount likely in excess of the documented out-of-pockets costs.

Furthermore, it should also be noted that the absence of active content in the disputed domain name, here generic website template at the time of filing the Complaint, does not prevent a finding of bad faith under the Policy considering the circumstances of the case. WIPO Overview 3.0, section 3.3.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar to a third party's well-known trademark can, by itself, constitute a presumption of bad faith for the purpose of Policy. WIPO Overview 3.0, section 3.1.4.

Lastly, the Panel also finds that the change of content of the website to which the disputed domain name resolves and the timing thereof; and the provision of false or inaccurate contact information in the Whois underlying a privacy or proxy service, as further indications of bad faith. WIPO Overview 3.0, sections 3.2.1 and 3.6.

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 name <swisslifeguide.com> be transferred to the Complainants.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: May 8, 2024