

## **ADMINISTRATIVE PANEL DECISION**

Oris Holding AG v. On-Ramp Internet Services  
Case No. D2024-1708

### **1. The Parties**

The Complainant is Oris Holding AG, Switzerland, represented by Soprintel S.A., Switzerland.

The Respondent is On-Ramp Internet Services, Japan.

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

The disputed domain name <oris.com> is registered with eNom, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 23, 2024. On April 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 23, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on April 26, 2024, providing the 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 April 29, 2024.

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 May 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 24, 2024.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on May 31, 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 and its predecessors have been producing Swiss made watches since founding a factory in 1904 in Hölstein, Switzerland. The Complainant itself was registered in the Commercial Register of the Canton of Basel-Landschaft, Switzerland on April 1, 1982. The Complainant's trademarks for watches and watch parts date back at least to 1964.

For example, the Complainant is the owner of International Registered Trademark Number 281604 for the device mark ORIS consisting of these capitalized letters in a black serif-typeface surrounded by a black line oval, registered on March 26, 1964, in Class 14, and designated in respect of over thirty territories. The Complainant is also the owner of Japanese Registered Trademark Number 1887592 for the mark ORIS, registered on September 29, 1986, in Classes 14 and 23.

According to the related Whois record, the disputed domain name was registered on August 7, 1998. The disputed domain name does not point to an active website.

According to an email from the Complainant's IT-Supporter dated February 21, 2024, the Complainant had obtained data (of a provenance unknown to the Panel) indicating that the disputed domain name is held in a reseller account with the Registrar. The reseller's data included a postal address in Kobe, Japan, which matched the registrant postal address in the Whois record for the disputed domain name, together with a telephone number ("the alleged reseller telephone number") and an email address ("the alleged reseller email address") neither of which matched those in said Whois record.

Having apparently emailed the alleged reseller email address, the Complainant received an email on February 21, 2024, from a Mr. Yoshiki Okada. Mr. Okada requested that the Complainant telephone him on the alleged reseller telephone number within the next hour. The Panel does not know whether that call was made. On February 21, 2024, the Complainant emailed Mr. Okada having received advice from its domain management partner. In said email, the Complainant invited Mr. Okada to issue a letter in the name of On-Ramp Internet Services confirming that he (Mr. Okada) wished to transfer the disputed domain name to the Complainant, or to sign a "wish to transfer" document, or to get in touch with the Registrar in order to obtain access to the disputed domain name and provide a transfer code to the Complainant. On the same date, the Respondent replied, "As I told you, On-Ramp Internet Services under which the [disputed] domain name has been being registered is a made-up name, and I can't write a letter on behalf of On-Ramp Internet Services which doesn't exist. / I can't even change the account setting for On-Ramp Internet Services, which is locked and continues to pay annually."

On February 27, 2024, the Complainant and Mr. Okada again exchanged emails. The Complainant suggested that Mr. Okada could regain access to the account, or the disputed domain name could be allowed to expire, or the Complainant could bring the present administrative proceeding. The Complainant renewed its request for Mr. Okada to contact the Registrar. Mr. Okada replied that he had tried gaining access to the relevant account years ago without success.

#### **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 name.

Notably, the Complainant contends that the disputed domain name is identical to the Complainant's trademark, that the Respondent is not authorized to use said mark, and is not an authorized reseller of the Complainant's products. The Complainant adds that there is no active website for the disputed domain name and that there is no trace of serious use thereof since it was registered 25 years ago. The Complainant notes that Mr. Okada (who it describes as the Respondent) admits that he lost access to the

disputed domain name years ago. The Complainant also notes that the Respondent does not operate a bona fide or legitimate business under the disputed domain name and is not making a noncommercial or fair use thereof.

The Complainant asserts that Mr. Okada admits to using a false company name to register the disputed domain name, adding that “On-Ramp Internet Services” is a name invented on purpose to correspond (by way of an acronym) to the Complainant’s mark. The Complainant notes that it has been present in Japan since September 29, 1986, and that its Japanese trademark is still in force. The Complainant asserts that the Respondent knew of the Complainant’s mark when it registered the disputed domain name. The Complainant submits that there has been no use of the disputed domain name since it was registered and concludes from that fact that it must have been registered to resell it, asserting that a large number of the Registrar’s resellers engage in such a practice. The Complainant repeats the terms of its dealings with Mr. Okada, noting that he had suggested the Complainant file an administrative proceeding under the Policy.

The Complainant concludes that the disputed domain name is a strategic domain generating a lot of traffic and that the impossibility of recovering it over 25 years has caused considerable damage to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel notes that the Complainant’s mark contains design elements, in the form of a stylization of the word ORIS. The Panel considers that the stylized elements may readily be excised for the purpose of comparison of the textual element with the disputed domain name. [WIPO Overview 3.0](#), section 1.10.

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 name. 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 name such as those enumerated in the Policy or otherwise.

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

### **C. Registered and Used in Bad Faith**

A finding that a domain name has been registered and is being used in bad faith typically requires an inference to be drawn that the respondent has registered and is using such domain name to take advantage of its significance as a trademark owned by (usually) the complainant (see e.g., *British Airways Plc v. Softline Studios*, WIPO Case No. [D2023-2188](#)). It follows that the Complainant, on whom the burden of proof lies, must show on the balance of probabilities that the Respondent registered the disputed domain name in the knowledge of and with intent to target the Complainant and/or its rights in the trademark concerned. This can be more difficult for a complainant to do if, as here, the disputed domain name is of a very longstanding nature. The reason is that it is necessary to adduce evidence of the position at the date of registration, which in this case is over a quarter century ago. The Complainant has failed to do this on the present record.

The Panel notes that the Complainant has maintained a Japanese registered trademark since 1986. That is not enough on its own to demonstrate the (apparently Japanese-based, at least on according to a contemporaneous Whois record) Respondent's likely knowledge of and intent to target the Complainant's rights in 1998. The Complainant has neither produced any historic Whois records for the disputed domain name nor has stated that it has attempted to do so and that none are available. The Complainant has not demonstrated the extent of its business in Japan at the material date. This leaves the relevant issues in 1998 largely unknown on the present record.

Importantly, an alternative explanation exists as to why the disputed domain name might have been registered. This arises from the composition of the disputed domain name, in that it is a four character ".com" name which may have been seen at the relevant time to have its own inherent value. It is therefore possible, at least on the present record, that it was registered without intent to target the Complainant's mark. As noted above, the Complainant does not show how well-known its ORIS mark was in Japan at the material date so as to permit or support an inference that it was being targeted. Nor does it attempt to demonstrate that the initials "oris" could only sensibly refer to the Complainant at that date.

Instead, the Complainant chooses to place heavy emphasis on the fact that it has been able to make contact with a person whom it believes to be the registrant of the disputed domain name. The Complainant describes this person as "the Respondent" without showing any evidence of the person's link to the disputed domain name. It is possible that the missing link is contained in a report of a telephone call which the Complainant may have had with this person, or in other correspondence that it may have had but, in any event, it has not been placed before the Panel. Consequently, and putting aside the above renown and timing and targeting issues, there is insufficient evidence showing that this person is the holder of the disputed domain name or has any authority to speak on behalf of the holder of the disputed domain name.

It is true that the postal contact address produced by the Complainant, which allegedly belongs to the person (Mr. Okada) with whom it has been in contact, does match that for the registrant in the Whois record of the disputed domain name. However, that is as far as the apparent connection goes. The person's email address and telephone number do not match those of the registrant details. The provenance of the person's contact data has not been established. In these circumstances, the Panel cannot rely upon or draw any

particular inferences from what this person has told the Complainant, notably its allegation that the Respondent's name "On-Ramp Internet Services" is a made-up name.

The broad thrust of the Complainant's argument is to raise suspicions about the bona fides of the person it has contacted. This would only be relevant if that person was the Respondent, *i.e.*, the holder of the disputed domain name. In any event, the Respondent has not established that this reflects upon the Respondent's motivation to register the disputed domain name 25 years ago, assuming the disputed domain name has been continuously held by a single registrant over that period, which the Panel must do where evidence has not been produced indicating the contrary. The Complainant asks why the person has not re-established its ownership of the reseller account with the Registrar when a process is in place for it to do so. It relies upon the person's statement that "On-Ramp Internet Services" is a made-up name, and concludes that it must have been created as a pretext to target the Complainant. In the Panel's opinion, even if true, neither of these observations on their own adequately demonstrate that the disputed domain name was registered in bad faith and, in any event, it does not matter when there is no evidence that the person is the Respondent or is speaking on the Respondent's behalf.

Despite the Complainant's prior correspondence with this party, it is notable that no person claiming to be the Respondent has come forward, whether to confirm or deny the Complainant's assertions, to endorse what was said in the prior correspondence, or to consent to the remedy sought. It should be noted that notification of the Complaint was effected not only to the Respondent but also to the person whom the Complainant claims has a connection to or is the Respondent. Based on the general tenor of such correspondence, a consent to remedy might have been expected if the person concerned was actually the holder of the disputed domain name; none was forthcoming.

In all of these circumstances, the Panel cannot conclude either that the registrant name in this case is pretextual, nor can it draw an adverse inference from the Complainant's assertions that the Complainant is requesting the Panel to draw.

As the Complainant has failed to prove to the Panel's satisfaction that the disputed domain name was registered in bad faith, it is not necessary to consider the use of the disputed domain name as the point is moot.

The Panel finds the third element of the Policy has not been established.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Andrew D. S. Lothian/*

**Andrew D. S. Lothian**

Sole Panelist

Date: June 14, 2024