

## **ADMINISTRATIVE PANEL DECISION**

### **PATEK PHILIPPE SA Geneve v. Domain Privacy, Domain Name Privacy Inc Case No. D2024-3286**

#### **1. The Parties**

The Complainant is PATEK PHILIPPE SA Geneve, Switzerland, represented by Cabinet Vidon Marques & Juridique PI, France.

The Respondent is Domain Privacy, Domain Name Privacy Inc, Cyprus.

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

The disputed domain name <patek.world> (the “Disputed Domain Name”) is registered with Communigal Communications Ltd. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2024. On August 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 15, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 16, 2024, 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 August 20, 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 August 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 23, 2024.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on September 25, 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, PATEK PHILIPPE SA GENEVE, is a luxury watch company founded in 1839. The Complainant maintains over 300 retail locations globally and a dozen distributors across the world.

The Complainant is the owner of numerous trademarks including the following:

- PATEK, international wordmark No. 208381 registered on March 22, 1958, in classes 9 and 14.

The Complainant also owns the domain name <patek.com> leading to the Complainant's official website.

The Disputed Domain Name was registered on July 11, 2024 and resolves to a parking page with pay-per-click ("PPC") links. The website linked to the Disputed Domain Name also states that the Disputed Domain Name "may be for sale".

#### **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 a trademark in which it claims to have rights.

The Complainant further claims that the Respondent has no legitimate interests in respect of the Disputed Domain Name as:

- the Complainant has given no authorization to the Defendant to use the term "PATEK" nor to register a domain name including its trademarks;
- the Disputed Domain Name does not lead to any active website on certain search engines and lead to a parking page for other ones;
- the Respondent chose to use a proxy to hide its identity.

Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainant:

- the Respondent knew, or at least should have known, about the Complainant's trademark rights;
- the Respondent registered the Disputed Domain Name with the intention to benefit from the reputation of the Complainant and/or with the intention to selling it to the Complainant;
- the Respondent may be sending fraudulent emails, using an email address created with the Disputed Domain Name.

##### **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.

Based on the available record, the Panel finds 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 Complainant's PATEK mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is well established that generic Top-Level-Domains ("gTLDs"), here ".world", may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights.

Based on the available record, 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 notes that the Respondent used a privacy service to hide its identity. The Respondent's use and registration of the Disputed Domain Name was not authorized by the Complainant.

Fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. The correlation between a domain name and the complainant's mark is often central to this inquiry. Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1. In this case, the second-level part of the Disputed Domain Name corresponds to the Complainant's PATEK trademark.

When the Top-Level Domain ("TLD") is descriptive of, or relates to, goods or services, a geographic region, or other terms associated with a complainant, a respondent's selection of such TLD would tend to support a

finding that the respondent obtained the domain name to take advantage of the complainant's mark and as such that the respondent lacks rights or legitimate interests in the domain name. [WIPO Overview 3.0](#), section 2.14.1.

The Disputed Domain Name incorporates the Complainant's PATEK trademark in its entirety, merely adding the TLD ".world". In the Panel's view, this combination may even increase the risk of confusion with the Complainant as it as it may be considered as a reference to the global presence of the Complainant.

Beyond looking at the domain name, UDRP panels assess whether the overall facts and circumstances of the case, such as the content of the website linked to the disputed domain name and the absence of a response, support a fair use or not. [WIPO Overview 3.0](#), sections 2.5.2 and 2.5.3.

In this case, the Panel is of the opinion that the Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name. The Disputed Domain Name appears to redirect to a parking page containing PPC links such as "Ladies Rolex Watches" and "Montre Breitling", referring to competitors of the Complainant. Given the distinctive character of the Complainant's mark and the Complainant's luxury watch business, the Panel finds that such sponsored links (to a website offering watches for sale) may capitalize on the reputation and goodwill of the Complainant's mark or mislead Internet users, which cannot be considered as a use of the Disputed Domain Name in connection with a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.9.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

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.

As established above, the Disputed Domain Name appears to redirect to a parking page containing PPC links, some of which refer to competitors of the Complainant. In the circumstances of the present case, the Panel's considers this to indicate that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark. [WIPO Overview 3.0](#), section 3.2.4. While the intention to earn click-through-revenue is not in itself illegitimate, the Panel finds that the use of the Disputed Domain Name that is confusingly similar to the Complainant's trademark with the purpose of obtaining click-through-revenue constitutes bad faith use (irrespective of the amount of such revenues, and even if no revenues are obtained effectively). See *Mpire Corporation v. Michael Frey*, WIPO Case No. [D2009-0258](#); *L'Oréal, Biotherm, Lancôme Parfums et Beauté & Cie v. Unasi, Inc.*, WIPO Case No. [D2005-0623](#).

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 finds that the following circumstances serve as indication of bad faith registration and use:

- the Disputed Domain Name consists of the Complainant's well-known PATEK trademark combined with a TLD which could even increase the risk of confusion for Internet users;
- some of the Complainant's trademarks predate the registration of the Disputed Domain Name by more than 60 years;
- the Respondent did not take part in the administrative proceedings.

Based on the available record, 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 <patek.world> be transferred to the Complainant.

*/Flip Jan Claude Petillion/*

**Flip Jan Claude Petillion**

Sole Panelist

Date: October 9, 2024