

ADMINISTRATIVE PANEL DECISION

BLANCPAIN SA, OMEGA SA, SWATCH AG, ETA SA Manufacture Horlogère Suisse, Hamilton International AG v. 于青青 (yu qing qing)
Case No. D2024-3693

1. The Parties

The Complainants are BLANCPAIN SA (“First Complainant”), Switzerland, OMEGA SA (“Second Complainant”), Switzerland, SWATCH AG (“Third Complainant”), Switzerland, ETA SA Manufacture Horlogère Suisse (“Fourth Complainant”), Switzerland, and Hamilton International AG (“Fifth Complainant”), Switzerland, internally represented.

The Respondent is 于青青 (yu qing qing), China.

2. The Domain Names and Registrar

The disputed domain names <blancpain.online>, <fiftyfathoms.online>, <flikflak.online>, <hamiltonwatch.online> and <moonswatch.online> are registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 11, 2024. On September 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 13, 2024, 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 (Redacted, yu qing qing) and contact information in the Complaint. The Center sent an email communication to the Complainants on September 18, 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 an amended Complaint in English on September 19, 2024.

On September 18, 2024, the Center informed the parties in Chinese and English, that the language of the Registration Agreement for the disputed domain names is Chinese. On September 19, 2024, the Complainants confirmed its request that English to be the language of the proceeding. The Respondent did not submit any comment on the Complainants’ submission.

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 in Chinese and English of the Complaint, and the proceedings commenced on September 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 20, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on October 29, 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 Complainants’ parent company The Swatch Group Ltd is a publicly traded company on various stock exchanges under the symbols UHR and UHR N and is the holding company of numerous worldwide famous brands such as Harry Winston, Breguet, Longines, Tissot, Rado and Swatch. The Swatch Group Ltd is one of the world’s largest watch companies and employs about 36,000 people in 50 countries.

The First Complainant was founded in 1735 and is known as the world’s oldest watch brand. Since its inception, the First Complainant has been using its trademarks continually in commerce and has gained both common-law and registered trademark rights through its efforts and innovations. It owns an international trademark portfolio for BLANCPAIN and FIFTY FATHOMS, including but not limited to the following registrations: BLANCPAIN, International Trademark Registration number 190558, registered on February 8, 1956 and BLANCPAIN, United States of America (“United States”) Trademark Registration number 1727428, registered on October 27, 1992; FIFTY FATHOMS International Trademark Registration number 681000 registered on September 24, 1997; and FIFTY FATHOMS Japanese Trademark Registration number 4305314 registered on August 13, 1999.

The Second Complainant was founded in 1848 and is a globally famous watch brand. The Second Complainant’s products and name have been featured in many worldwide famous movies such as James Bond since 1995. Further, the Second Complainant is the producer of the worldwide famous “Speedmaster” watch (commonly called “MOONWATCH”), the first watch ever worn on the moon, which was worn by Neil Armstrong and Buzz Aldrin on the lunar surface in 1969. The Second Complainant owns a trademark portfolio for its marks, including the following marks: OMEGA, International Trademark Registration number 132141, registered since August 11, 1947 and MOONWATCH, International Trademark Registration number 1180215, registered on October 30, 2014.

The Third Complainant has become one of the most famous industry leaders in wristwatches and has also produced or produces apparel, sunglasses, and other items. The Third Complainant owns a trademark portfolio for its marks, including the following mark: MOONSWATCH, International Trademark Registration number 1759320, registered on August 28, 2023.

The Fourth Complainant has been developing and producing quartz, mechanical and Swatch watch movements for the watch industry since 1793, and today, it is the one of the world’s largest movement manufacturers of finished and semi-finished movements. The Fourth Complainant owns a trademark portfolio for its marks, including the following marks: FLIK FLAK, Chinese Trademark Registration number 302204, registered since October 30, 1987 and FLIK FLAK European Union Trademark Registration number 103184, registered since June 15, 1998.

The Fifth Complainant was founded in 1892 in Lancaster, Pennsylvania, United States, and is a watch brand that has been an iconic name in precision watchmaking. Its watches have synchronized the first railroads and furnished the wrists of soldiers, aviators and Hollywood stars, making over 500 appearances on the big screen, including world-wide known movies such as “James Bond: Live and Let Die”, “2001: A Space Odyssey”, and “Ocean’s Eleven”. The Fifth Complainant owns a trademark portfolio for its marks, including the following mark: HAMILTON, European Union Trademark Registration number 103200, registered since June 5, 1998.

The disputed domain names were all registered on November 14, 2023, and are therefore of a later date than the Complainants’ abovementioned trademarks. The Complainants provide evidence that the disputed domain names all redirect to identical active websites on the Dan.com platform where the disputed domain names are all offered for a “buy now” price of USD 950 or a “Lease to own” price of USD 106.

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 names.

Notably, the Complainants contend that the disputed domain names are identical or confusingly similar to their prior registered trademarks. The Complainants also contend that the Respondent has no rights or legitimate interests in respect of the disputed domain names and that the Respondent is not related in any way with or licensed by the Complainants. Furthermore, the Complainants argue that the disputed domain names all point to a registrar parking page where the disputed domain names are offered for a “buy now” price of USD 950 or a “Lease to own” price of USD 106, which the Complainants contend constitutes a general offer to sell the disputed domain names for an amount clearly in excess of the out-of-pocket expenses related to the disputed domain names. The Complainants argue that this evidences the Respondent’s lack of rights or legitimate interests as well as the Respondent’s bad faith. The Complainants also contend that given the distinctiveness of the Complainants’ trademarks and their reputation, it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainants’ trademarks and as such constitutes registration and use in bad faith. Finally, the Complainants also contend that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations.

The Complainants request the transfer of the disputed domain names.

B. Respondent

The Respondent did not reply to the Complainants’ contentions.

6. Discussion and Findings

6.1 First Preliminary Issue: Consolidation of the Complainants

The Complaint was filed in the name of multiple Complainants and the Complainants therefore request consolidation in this regard. Concerning consolidation, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) states in section 4.11.1: “In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.”

The Panel has carefully reviewed all elements of this case, giving particular weight to the following elements: all Complainants are sister companies and all Complainants are wholly-owned subsidiaries of The Swatch Group Ltd and have a common grievance of factually very similar trademark-abusive domain name registration and use against the Respondent. As such, the Panel concludes that all Complainants are the target of common conduct by the Respondent, and have common grievances regarding the use of their respective trademarks in the disputed domain names by the Respondent.

The Panel accepts that permitting the consolidation would be fair and equitable to all Parties involved and would safeguard procedural efficiency. The Panel also notes that the Respondent did not object to the request for consolidation. The Panel therefore grants the request for consolidation of the Complainants and shall hereafter refer to the Complainants jointly as “the Complainant”.

6.2 Second Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the allegation that the Respondent intentionally and systematically misuses the Complainant’s world-wide famous trademarks and further has registered several thousand other domain names, many of which are infringing on famous third-party trademarks; the fact that the Respondent has linked its disputed domain names to websites in the English language and that by using the domain brokering service Dan.com, the Respondent has most likely accepted Dan.com’s terms and conditions thereby submitting itself regarding any disputes between it and Dan.com to the jurisdiction of London, United Kingdom.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs (see [WIPO Overview 3.0](#), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.3 Findings on the Merits

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 names. [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 Panel finds the disputed domain names <blancpain.online>, <fiftyfathoms.online>, <flikflak.online>, and <moonswatch.online> only consist of, respectively, the Complainant’s marks BLANCPAIN, FIFTY FATHOMS, FLIK FLAK and MOONSWATCH and are therefore identical to those marks. Furthermore, the Panel finds that the HAMILTON mark is easily recognizable within the disputed domain name <hamiltonwatch.online> and that accordingly, this disputed domain name is confusingly similar to that mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

The Panel considers that the composition of the disputed domain names carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. 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.

The Panel notes that there are no elements in this case that point to the Respondent having made any reasonable and demonstrable preparations to use the disputed domain names in connection with a bona fide offering of goods or services. According to the evidence, the Respondent only ever connected the disputed domain names to a parked page offering it for sale for a “buy now” price of USD 950 or a “Lease to own” price of USD 106, which are amounts most likely in excess of out-of-pocket costs relating to the disputed domain names.

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.

Given the intensive use, fame, and distinctiveness of the Complainant’s various prior registered trademarks, the Panel finds that the subsequent registration of the disputed domain names, which are either identical or confusingly similar to such marks, clearly and consciously targeted the Complainant’s prior registered trademarks. The Panel also notes that several of these trademarks have been considered well-known by other panels applying the Policy (see for instance *Montres Breguet SA and Blancpain SA v. Privacydotlink Customer 3450653 / Privacydotlink Customer 3450628 / George Friar*, WIPO Case No. [D2018-1966](#)). The Panel finds that this creates a presumption of bad faith. In this regard, the Panel refers to the [WIPO Overview 3.0](#), section 3.1.4, which states “[p]anel have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.” Furthermore, the Panel also notes that the Complainant’s trademarks were registered several years before the registration date of the disputed domain names. The Panel deducts from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant’s trademarks at the time of registering the disputed domain names. In the Panel’s view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain names in bad faith.

As to use of the disputed domain names in bad faith, the evidence of use of the websites linked to the disputed domain names demonstrates that the Respondent is attempting to sell the disputed domain names for an amount most likely in excess of the Respondent's out-of-pocket costs related to the disputed domain names, i.e., a "buy now" price of USD 950 or a "Lease to own" price of USD 106. This leads the Panel to conclude, on balance of the probabilities, that the Respondent is using the disputed domain names to try to sell it to the Complainant, who is the owner of the corresponding trademarks, or to other parties and to obtain unjustified financial benefits through such sale. The Panel notes that this constitutes direct evidence of bad faith of the Respondent under paragraph 4(b)(i) of the Policy.

Additionally, the Panel also finds that the Respondent has been engaged in a pattern of trademark-abusive domain name registrations. In this regard, the Panel refers to the Complainant's evidence from which it appears that the Respondent has registered several thousand other domain names, many of which are infringing on famous third-party trademarks such as <japanairlines.us>; <kodakexpress.us>; <lionelmessi.us>; and <novavision.us>.

The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain names in bad faith. The Panel therefore finds that it has been demonstrated that the Respondent has used and is using the disputed domain names in bad faith. 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 <blancpain.online>, <fiftyfathoms.online>, <flikflak.online>, <hamiltonwatch.online> and <moonswatch.online> be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: November 8, 2024