

ADMINISTRATIVE PANEL DECISION

Swiss Life AG, Swiss Life Intellectual Property Management AG v. Enya Maxwell, Home Builders Warranty
Case No. DME2024-0003

1. The Parties

Complainants are Swiss Life AG and Swiss Life Intellectual Property Management AG, Switzerland, represented by FMP Fuhrer Marbach & Partners, Switzerland.

Respondent is Enya Maxwell, Home Builders Warranty, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <swisslife-am.me> 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 7, 2024. On March 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 8, 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 (unknown) and contact information in the Complaint. The Center sent an email communication to Complainants on March 12, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amendment to the Complaint on March 14, 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 Respondent of the Complaint, and the proceedings commenced on March 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 7, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 8, 2024.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on April 18, 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

Complainants are connected companies within the Swiss Life group of companies. Particularly, Swiss Life AG (“First Complainant”) is the parent company to Swiss Life Intellectual Property Management AG (“Second Complainant”), which latter company is responsible for managing all intellectual property rights of First Complainant. Complainants are part of a group of companies commercializing insurance and life insurance products.

Complainants operate several domain names including the mark SWISS LIFE (<swisslife.ch>, <swisslife.de>, <swisslife.be>, <swisslife.at>, <swisslife.li>, <swisslife.lu>, <swisslife.sk>, <swisslife.swiss>, <swisslife.fr>, <swisslife.sg>, <swisslife.hk>, <swisslife.com>, <swisslife.insurances>, <swisslife.shop>, <swisslife.site>, <swisslife.select>, and <swisslife.club>) in which Complainants promote and offer services.

Some examples of Second Complainant trademark registrations for SWISS LIFE can be found below:

Registration No.	Trademark	Jurisdictions	International Class	Registration Date
491528	SWISS LIFE	Switzerland	9, 16, 35, 36, 38, 41, 42	November 15, 2001
003438413	SWISS LIFE	European Union (“EU”)	9, 16, 35, 36, 38, 41, 42, 44	October 20, 2006
3041924	SWISS LIFE	United States	35, 36	January 10, 2006
1504597	SWISS LIFE	United Kingdom (“UK”)	36	May 27, 1994
1622040	SWISS LIFE	Spain	36	July 5, 1993

The disputed domain name was registered on October 25, 2023. According to the evidence provided in the Complaint, it has been used to resolve to a website on which Internet users can allegedly sign up for a newsletter about “money-saving offers”.

5. Parties’ Contentions

A. Complainant

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

Notably, Complainants contend that no legitimate offer can be linked to the disputed domain name resolves to a simple generic website on which users can allegedly sign up for a newsletter about exclusive “money-saving offers”. Complainants claim the disputed domain name is identical to Complainants’ SWISS LIFE trademarks, while the generic suffix “am” may refer to “America” or may be understood as an abbreviation of “Asset Management”, either way not contributing to the overall distinction of the disputed domain name. Complainants argue that Respondent deliberately created a danger of confusion, pertaining alleged fraudulent activities.

Therefore, according to Complainant, the disputed domain name is confusingly similar with Second Complainant's trademark SWISS LIFE, fulfilling paragraph 4(a)(i) of the Policy.

Moreover, Complainants state that Respondent is using the disputed domain name also infringing Complainants' company and tradename to which Complainants have rights under the scope of the Policy and constitutes acts of unfair competition according to Swiss Law.

Complainants' state they did not give any permission to Respondent or any third party to use SWISS LIFE trademarks for the registration and/or use of the disputed domain name. This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy has been fulfilled.

Finally, Complainants state that Respondent intentionally attempts to attract for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with Second Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of a product or service on Respondent's website.

Thus, according to Complainants, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraph 4(a)(iii) of the Policy.

Accordingly, Complainants requests transfer of the disputed domain name to Complainants.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

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 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 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 trademark SWISS LIFE is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Moreover, the disputed domain name consists also of the country code Top-Level Domain (“ccTLD”) “.me”, which does not prevent confusing similarity. [WIPO Overview 3.0](#), sections 1.11.1 and 1.11.2.

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on 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 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 respondent fails to come forward with such relevant evidence, complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainants have established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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 Panel notes that Complainants argue that Respondent is using the disputed domain name to create confusion among Internet users and create the impression that the Respondent’s website is affiliated with or endorsed by the Complainant. The Panel finds that Complainant sufficiently proves that Respondent’s intent on diverting Internet users to the website fraudulently using Second Complainant’s trademark offering “money-saving offers and web-only specials” as supported by Annex 12 to the Complaint. Moreover, the construction of the disputed domain name by itself carries a risk of implied affiliation to the Complainants, exacerbated by the use of Second Complainant’s trademark and content mentioned above, and as such, cannot constitute fair use.

Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that Respondent has registered the disputed domain name that is confusingly similar to Second Complainant’s trademark SWISS LIFE - as explained above in Section 6.A - and with a generic suffix “am” that might be understood as an abbreviation of “Asset Management”, alongside the applicable ccTLD “.me”, increases the risk of confusion with Complainants’ services as financial service provider.

The Panel finds that it was duly demonstrated that Respondent was aware of Complainants’ financial activities and services as well as Second Complainant’s rights to the trademark SWISS LIFE at the time of the registration - as Complainants enclosed proof that the disputed domain name resolved to a website using

Second Complainant's trademark and showcasing a request for user details in exchange of "money-saving offers" aiming to divert Internet users (Annex 12 to the Complaint).

The Panel concludes the registration and use is in bad faith under paragraph 4(b) of the Policy as the use of the disputed domain name falls under paragraph 4(b)(iv) of the Policy as Respondent has intentionally attempted to attract Internet users, for commercial gain or to obtain their data, by creating a likelihood of confusion or association with Second Complainant's mark.

Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name to impersonate Complainants aiming to potentially obtain financial gain (Annex 12 to the Complaint) constitutes bad faith under the Policy.

The Panel finds that the circumstances of the present case allows a finding of bad faith in the registration and use of the disputed domain name, considering that (i) Respondent would likely obtain personal data of Internet users by using a confusingly similar disputed domain name to Second Complainant's trademark; (ii) Complainants operating an almost identical domain name, such that Respondent most likely knew (or should have known) of its existence, taking advantage of the Internet user confusion caused by its use in the disputed domain name; and (iii) the use of the disputed domain name in order to divert Internet users to inform personal data in exchange for allegedly "money-saving offers", possibly obtaining financial gain and providing such data for scams.

Moreover, the Panel finds it relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute. Complainants have put forward serious claims regarding the apparent bad faith use of the disputed domain name that the Panel would expect any legitimate party would seek to refute.

Based on the available record, the Panel finds that Complainants have 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 <swisslife-am.me> be transferred to Complainants.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: May 2, 2024