

ADMINISTRATIVE PANEL DECISION

Swiss Life AG and Swiss Life Intellectual Property Management AG v.
Domain Administrator, See PrivacyGuardian.org / DH Email Hosting,
David David
Case No. D2022-0632

1. The Parties

The Complainant is Swiss Life AG and Swiss Life Intellectual Property Management AG, Switzerland, represented by Fuhrer Marbach & Partner, Switzerland.

The Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America (“United States”) / DH Email Hosting, David David, South Africa.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 23, 2022. On February 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 23, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 24, 2022, 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 February 25, 2022.

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 March 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 22, 2022. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent's default on April 11, 2022.

The Center appointed Daniel Peña as the sole panelist in this matter on April 19, 2022. 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 in this proceeding is Swiss Life AG and Swiss Life Intellectual Property Management AG, both corporations incorporated under the laws of Switzerland and having their legal domicile in Zürich, Switzerland. The latter is a subsidiary of the former corporation and responsible for managing all intellectual property owned within the Swiss Life group. The Complainant Swiss Life Intellectual Property Management AG holds various trademark registrations protecting the SWISS LIFE brand; including the following:

- Swiss Trademark Registration SWISS LIFE No. P-491528, registered on November 15, 2021, in classes 09, 16, 35, 36, 38, 41, 42;
- Swiss Trademark Registration SWISS LIFE No. 2P-436709, registered on February 12, 1997 in class 36;
- European Community Trademark Registration SWISS LIFE No. 003438413, registered on October 20, 2006, in classes 09, 16, 35, 36, 38, 41, 42 and 44;
- French Trademark Registration SWISS LIFE No. 99823895, registered on November 18, 1999, in class 36;
- British Trademark Registration SWISS LIFE No. 1504597, registered on May 27, 1994, in class 36;
- Indian Trademark Registration SWISS LIFE No. 1730726, registered on September 11, 2008, in class 36;
- Spanish Trademark Registration SWISS LIFE No. M1622040, registered on July 5, 1993, in class 36; and
- United States Trademark Registration SWISS LIFE (fig.) No. 3041924, registered on January 10, 2006 in classes 35 and 36.

The Complainant has established various websites accessible by domain names featuring the SWISS LIFE brand, such as <swisslife.ch>, <swisslife.de>, <swisslife.fr>, <swisslife.be>, <swisslife.at>, <swisslife.sk>, <swisslife.club>, <swisslife.shop> (among others). On the websites associated with these domain names the Complainants and subsidiaries offer and market their insurance products and services.

The disputed domain name was registered on February 3, 2022, and resolves to a website that uses the Complainant's SWISS LIFE trademark and its logo, and offers the same services than the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant claims that "SWISS LIFE" stands for Switzerland's largest life insurance company and one of Europe's leading comprehensive life and pensions and financial solutions providers, with approximately CHF 254 billion of assets under management by the end of 2019.

Founded in 1857 in Zurich as the "Schweizerische Lebensversicherungs und Rentenanstalt cooperative", the Complainant adopted its current name in 2002. In 2019, the group generated a total turnover of more than CHF 23 billion and had around 9300 employees (FTE) and 14'000 consultants in order to serve its more

than 4 million customers.

According to ADV Ratings 2019, the SWISS LIFE group figures among the 15 largest European insurance companies according to their assets and is the fourth largest insurance company by market value. In Forbes' list of the World's Best Regarded Companies 2019 the SWISS LIFE group even ranks 125th, ahead of other famous companies such as the Volkswagen Group (#144), Swatch Group (#164) or Pfizer (#171). Annex 6a.

The Complainant claims that the disputed domain name is confusingly similar with the trademark SWISS LIFE in which the Complainant has rights; and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.^[11] The Respondent has not been authorized to use the SWISS LIFE trademark in any manner whatsoever, including as a domain name.

The Complainant asserts that the impersonation of its identity and the unauthorized reference to and use of the SWISS LIFE trademark confirms that the Respondent registered and used the domain name in bad faith merely for commercial gain with a view to carrying out fraudulent activities and taking unfair advantage of the Complainants' rights in the famous SWISS LIFE-brand, by confusing Internet users into believing that the disputed domain name or the in truth non-existing financial institution was operated by or authorized by the Complainants.

B. Respondent

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

6. Discussion and Findings

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

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the 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.

Considering these requirements, the Panel rules as follows:

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the trademarks SWISS LIFE on the basis of its multiple trademark registrations in Switzerland, the European Union, France, United Kingdom, United States, India and Spain. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.2.1).

It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark. Such findings were confirmed, for example, within section 1.7 of the [WIPO Overview 3.0](#). The Respondent's incorporation of the Complainant's SWISS LIFE trademark in full in the disputed domain name is evidence that the disputed domain name is confusingly similar to the Complainant's mark. Mere addition of the term "national" (which is a geographical generic expression) in the disputed domain name does not prevent a

finding of confusing similarity between the disputed domain name and the Complainant's SWISS LIFE mark because the Complainant's SWISS LIFE mark remains clearly recognizable in the disputed domain name. As noted in [WIPO Overview 3.0](#), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element." Furthermore, the addition of the gTLD ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights, meaning that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In accordance with paragraph 4(a)(ii) of the Policy, the Complainant must prove that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel observes that there is no relationship, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Panel also finds that there is no indication that the Respondent is commonly known by the disputed domain name because the Respondent's name is "DH Email Hosting, David david", which has no apparent connection with the SWISS LIFE trademark.

The Respondent used the disputed domain name in an unlawful attempt to fraudulently impersonate the Complainant by way of the web page. Specifically, the Respondent used the Complainant's trademark disputed domain name and provides wrong information about his name and identity as well as his alleged registered office. The Respondent also includes in its website a potentially fraudulent email with the extension based on the disputed domain name. The Panel concludes that the Respondent deliberately chose to include the Complainant's SWISS LIFE trademark in the disputed domain name, in order to achieve commercial gain by misleading third parties, and that such use cannot be considered as a legitimate noncommercial or fair use.

The Panel further finds that the disputed domain name carries a risk of implied affiliation with the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

With regard to the bad faith at the time of registration, the Panel notes that it is not likely that the Respondent was not aware of the Complainant and its SWISS LIFE trademark. On the contrary, the Panel finds that it is likely that the Respondent was aware of the Complainant and its rights and reputation in the SWISS LIFE mark at the time the disputed domain name was registered. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names 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. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Panel further bears in mind that the manner in which the disputed domain name was used indicates that the Respondent registered the disputed domain name with the intention to impersonate the Complainant, which makes it impossible that the Respondent was not aware of the Complainant's rights at the time of registration of the disputed domain name. The use of the Complainant's trademark on its website, a physical address unrelated to a financial institution, as well as the inclusion of an email address with the domain extension evidences the Complainant's bad faith.

The Panel concludes that the disputed domain name was registered and is being used in bad faith and that consequently, the Complainant has satisfied the requirement under paragraph 4(a)(iii) 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, <swisslifernational.com> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: April 29, 2022