

ADMINISTRATIVE PANEL DECISION

Richemont International S.A v. Christopher Fortner
Case No. D2022-1513

1. The Parties

The Complainant is Richemont International S.A, Switzerland, represented by SILKA AB, Sweden.

The Respondent is Christopher Fortner, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <yoyiwc.net> is registered with Name.com, Inc. (Name.com LLC) (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 27, 2022. On April 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 27, 2022, 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 verified that 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 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 27, 2022.

The Center appointed Kaya Köklü as the sole panelist in this matter on June 21, 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 is a company with its registered seat in Switzerland, founded in 1988. It is globally active in the field of manufacturing and selling luxury goods, including jewelry, watches and leather goods. The Complainant is the owner of various internationally well-known luxury brands, including the IWC trademark, which is globally known for luxury watches.

Among others, the Complainant is the owner of the United States Trademark Registration No. 1205403 for IWC, registered on August 17, 1982 (Annex 5 to the Complaint).

Furthermore, the Complainant holds and operates its official website at "www.iwc.com".

The disputed domain name was registered on July 5, 2016.

The Respondent is reportedly an individual from the United States.

As evidenced by screenshots in the Complaint (Annex 6 to the Complaint), the disputed domain name resolves to a website in English language that prominently uses the Complainant's IWC trademark and various product pictures of the Complainant's IWC watches. On the website linked to the disputed domain name, the promoted watches are explicitly indicated as "Swiss Best IWC Replica Watches".

5. Parties' Contentions

A. Complainant

The Complainant is of the opinion that the disputed domain name is confusingly similar to its IWC trademark.

Furthermore, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Finally, it is argued that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraphs 14(a) and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable and on the basis of the Complaint where no Response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademark 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.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complaint. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#).

It is further noted that the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views stated therein.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has registered trademark rights in the mark IWC by virtue of various trademark registrations worldwide (Annex 5 to the Complaint), including in the United States, where the Respondent is reportedly located.

The Panel further finds that the disputed domain name is confusingly similar to the Complainant's registered IWC trademark, as it fully incorporates the Complainant's trademark. As stated at section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would generally not prevent a finding of confusing similarity. The mere addition of "yoy" does not, in view of the Panel, serve to prevent a finding of confusing similarity between the disputed domain name and the Complainant's IWC trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel further finds that the Respondent has failed to demonstrate any rights or legitimate interests in the disputed domain name.

While the burden of proof on this element remains with the Complainant, previous UDRP panels have recognized that this would result in the often impossible task of proving a negative, in particular as the evidence in this regard is often primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name in order to meet the requirements of paragraph 4(a)(ii) of the Policy. See, *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Panel finds that the Complainant has satisfied this requirement, while the Respondent has failed to file any evidence or make any convincing argument to demonstrate rights or legitimate interests in the disputed domain name according to the Policy, paragraphs 4(a)(ii) and 4(c).

In its Complaint, the Complainant has provided uncontested *prima facie* evidence that the Respondent has no rights or legitimate interests to use the Complainant's IWC trademark in a confusingly similar way within the disputed domain name. There is also no indication in the current record that the Respondent is commonly known by the disputed domain name. In the absence of a formal response, the Respondent has particularly failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or other evidence of rights or legitimate interests in the disputed domain name.

Quite the opposite, it is evidenced by the Complainant that the Respondent uses the disputed domain name to offer counterfeit IWC watches (Annex 6 to the Complaint). In line with section 2.13 of the [WIPO Overview 3.0](#), the Panel is of the opinion that the sale of counterfeit goods can under no circumstances confer any rights or legitimate interests on the Respondent.

In addition, the Panel notes that the nature of the disputed domain name carries a risk of implied affiliation or association, as stated in section 2.5.1 of the [WIPO Overview 3.0](#).

As a conclusion, the Panel finds that the Complainant has also satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

In the Panel's view, the Respondent has registered and is using the disputed domain name in bad faith.

The Panel has no doubt that the Respondent has registered the disputed domain name in bad faith. At the date of registration, the Complainant's IWC trademark was already registered and widely known for many years.

As to use of the disputed domain name in bad faith, the disputed domain name resolves to a website that explicitly promotes counterfeit IWC watches. In view of the Panel, this clearly indicates the Respondent's bad faith in freeriding the Complainant's IWC trademark and underlying reputation to attract Internet users for the Respondent's illegitimate commercial gain.

Taking all facts of the case into consideration, the Panel has no difficulty in assessing the present case as a typical cybersquatting case, which the UDRP was designed to stop. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, 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 <yoyiwc.net> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: July 5, 2022