

ADMINISTRATIVE PANEL DECISION

John Swire & Sons Limited v. Domain Admin, Privacy Protect, LLC
(PrivacyProtect.org) / zenoforex1759 mark, TECHNOCREATI VITY and
zenoforex macaulay, TECHNOCREATI VITY
Case No. D2022-2380

1. The Parties

The Complainant is John Swire & Sons Limited, United Kingdom, represented by Mayer Brown LLP, China.

The Respondent is Domain Admin, Privacy Protect, LLC (PrivacyProtect.org), United States of America (“United States”) / zenoforex1759 mark, TECHNOCREATI VITY, Germany and zenoforex macaulay, TECHNOCREATI VITY, Germany.

2. The Domain Names and Registrar

The disputed domain names <swiresglobal-limited.com> and <swireslimited.net> are registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 30, 2022 in relation to the disputed domain name <swiresglobal-limited.com>. On July 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <swiresglobal-limited.com>. On July 4, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <swiresglobal-limited.com> which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 5, 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 amended Complaint on July 6, 2022. The Complainant filed a consolidated Complaint against <swiresglobal-limited.com> and <swireslimited.net> on July 14, 2022.

On July 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <swireslimited.net>. On July 18, 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.

On July 22, 2022, the Center noted that there appears to be at least *prima facie* grounds sufficient to warrant accepting the Complaint for the Panel's final determination of the consolidation request on appointment.

The Center verified that the Complaint together with the amended Complaints 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 July 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 12, 2022.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on August 18, 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 the parent company of the Swire Group, a highly diversified global business group which has been in operation for over 200 years, its business spanning across a number of areas including property, hospitality, beverage and food chains, aviation, marine services, investment holdings and trading and industrial.

The Complainant owns trademark registrations in various jurisdictions, including the German trademark SWIRE (Reg. No. 30656649, registered on February 16, 2007), the United States trademark SWIRE (Reg. No. 1709588, registered on August 18, 1992) and the United Kingdom trademark SWIRE (Reg. No. UK00001283045, registered on May 19, 1989).

The Complainant further holds the domain name <swire.com> under which the official website of the Complainant is available. The Complainant holds various other domain names incorporating the Complainant's trademark. The Complainant advertises and sells its services through its <swire.com> domain name.

The disputed domain name <swiresglobal-limited.com> was registered on June 20, 2022 and the disputed domain name <swireslimited.net> was registered on March 8, 2022. The disputed domain names resolved to identical websites purporting to belong to one of the Complainant's subsidiaries and copying website content from websites belonging to the Complainant. In the meantime, the websites have been deactivated.

5. Parties' Contentions

A. Complainant

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

B. Respondent

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

6. Discussion and Findings

Based on the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b) and (c) of the Policy, the Panel concludes as follows:

A. Consolidation of the Proceedings

The Panel is empowered by paragraphs 3(c) and 10(e) of the Rules to consolidate multiple domain names in a single complaint on the basis that the domain names are registered by the same domain name holder. Past UDRP panels have clarified that paragraph 3(c) of the Rules extends to consolidation of domain names registered by the same person using different fictitious names or aliases (e.g., *Yahoo!, Inc v Somsak Sooksripanich and Others*, WIPO Case No. [D2000-1461](#); *Amazon.com, Inc. v. Lorna Kang a/k/a Yong Li a/k/a Mahmoud Nadim a/k/a The Data in Bulkregister.com's WHOIS Database is p a/k/a Amjad Kausar*, WIPO Case No. [D2005-0635](#)).

The Complainant alleges that the disputed domain names are controlled by the same unknown owner/registrant. Having reviewed the evidence, the Panel is of the view that the Complainant has established a *prima facie* case that the disputed domain names are held by the same registrant. The Panel has noted, in particular, that:

- 1) The disputed domain names are associated with variations of the registrant name “zenoforex” (“zenoforex1759 mark” and “zenoforex macaulay”);
- 2) The disputed domain names are associated with the same registrant email address;
- 3) The disputed domain names are associated with the same registrant organization (“TECHNOCREATI VITY”);
- 4) The disputed domain names resolved to websites with identical layout and content. The registration of the disputed domain name <swireslimited.net> after the filing of the Complaint against the disputed domain name <swiresglobal-limited.com> and use of the identical website content indicates that the Respondent is the same for both domain names;
- 5) The registrant contact details associated with the disputed domain names are obviously fictitious;
- 6) The Respondent did not submit any response or denial to the allegation that the disputed domain names are registered by the same registrant using fictitious names and details.

In view of the above, the Panel determines that the disputed domain names shall be consolidated under this proceeding in accordance with paragraphs 3(c) and 10(e) of the Rules.

B. Identical or Confusingly Similar

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the SWIRE trademark.

The SWIRE trademark is wholly reproduced in the disputed domain names.

A domain name is “identical or confusingly similar” to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8, “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional

term(s) may however bear on assessment of the second and third elements". Hence, the Panel holds that the addition of the terms "global" and "limited" and the letter "s" to the Complainant's SWIRE trademark does not prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain names. The Complainant contends that the Respondent is neither affiliated with the Complainant nor making any *bona fide* use of the disputed domain names.

Furthermore, the composition of the disputed domain names, wholly incorporating the Complainant's trademark and the terms "global" and "limited" and the letter "s", cannot constitute fair use in these circumstances as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Under the circumstances of this case, including the use of the disputed domain names for impersonating the Complainant and reputation of the Complainant's trademark, it can be inferred that the Respondent was aware of the Complainant's trademark when registering the disputed domain names.

The Panel finds that the reproduction of the Complainant's trademark along with the terms "global" and "limited" and the letter "s" creates a likelihood of confusion between the Complainant's trademark and the disputed domain names.

The evidence and allegations submitted by the Complainant support a finding that the Respondent was engaged in an attempt to pass itself off as the Complainant to conduct a fraud scheme by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its websites for its own commercial benefit. The Respondent therefore used the disputed domain names in bad faith (see *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)).

Accordingly, the Complainant has also fulfilled 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 names <swiresglobal-limited.com> and <swireslimited.net> be transferred to the Complainant.

/Tobias Zuberbühler/

Tobias Zuberbühler

Sole Panelist

Date: September 1, 2022