

ADMINISTRATIVE PANEL DECISION

Tissot SA v. Juan Allman, ursula zimmer
Case No. D2024-2847

1. The Parties

The Complainant is Tissot SA, Switzerland, internally represented.

The first Respondent is Juan Allman, Canada. The second Respondent is ursula zimmer, Germany. Together, collectively, “the Respondents”.

2. The Domain Names and Registrars

The disputed domain name <tissot-portugal.com> is registered with 1API GmbH (the “First Registrar”); the disputed domain name <tissot-schweiz.com> is registered with NameSilo, LLC (the “Second Registrar”). Together, collectively, the “disputed domain names” and the “Registrars”.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2024. On July 12, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On July 12, 2024, the Second Registrar transmitted by email to the Center the verification its response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Domain Administrator, PrivacyGuardian.org llc) and contact information in the Complaint. On July 15, 2024, the First Registrar transmitted by email to the Center the verification its response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 15, 2024, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 15, 2024.

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 Respondents of the Complaint, and the proceedings commenced on July 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on August 9, 2024.

The Center appointed Anna Carabelli as the sole panelist in this matter on August 16, 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

Founded in Switzerland in 1853, the Complainant is a designer, manufacturer, seller, and retailer of wristwatches. The Complainant's brand and its products are present in more than 160 countries through more than 14,000 points of sale and nearly 200 mono-brand stores, and actively promoted also on the Complainant's website "www.tissotwatches.com".

The Complainant has collected several awards, it has been named Official Timekeeper and Partner of many disciplines, such as Tour de France, MotoGP, and the NBA, and is recognized as one of the world's most well-known watch brands.

The Complainant owns several trademark registrations for TISSOT, including the following:

- International trademark registration No. 614931 for TISSOT, registered on January 31, 1994, in classes 1 through 42.
- International trademark registration No. 532550 for TISSOT, registered on December 14, 1988, in classes 8 and 14;
- International trademark registration No. 729106 (figurative) for T TISSOT Swiss Watches since 1853, registered on February 23, 2000, in class 14.

The disputed domain names were both registered on June 4, 2024. The evidence in the Complaint is that each of them resolved to active websites that appear copies of the Complainant's official website, seemingly offering several models of TISSOT trademarked products and prominently featuring the Complainant's TISSOT trademark and logo. At the time of this decision, the disputed domain names resolve to webpages displaying the following text:

"Sorry, you have been blocked

You are unable to access tissot-portugal.com (or tissot.schweiz.com)

Why have I been blocked?

This website is using a security service to protect itself from online attacks. The action you just performed triggered the security solution. There are several actions that could trigger this block including submitting a certain word or phrase, a SQL command or malformed data.

What can I do to resolve this?

You can email the site owner to let them know you were blocked. Please include what you were doing when this page came up and the Cloudflare Ray ID found at the bottom of this page."

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- The conditions exist for consolidation of the multiple Respondents/disputed domain names since the circumstances of the case indicate that in all likelihood the Respondents are either the same individual/entity or are operating under common control;
- The Complainant has established rights in the TISSOT trademark by virtue of longstanding use worldwide and several registrations in various jurisdictions;
- The Complainant's TISSOT trademark is distinctive and renowned, as consistently recognized in previous UDRP decisions. See *Tissot S.A. v. Domains By Proxy, LLC / Serkan Ergovan*, WIPO Case No. [D2018-2301](#), *Tissot SA v. 吳才曾 (Wu Cai Zeng)*, WIPO Case No. [D2020-2722](#).
- The disputed domain names are confusingly similar to a trademark in which the Complainant has rights, since they all consist of the Complainant's TISSOT mark with the addition of the geographical element "Schweiz" ("Switzerland" in German) and "Portugal", which does nothing to distinguish the disputed domain names from the Complainant's TISSOT mark;
- The Respondents have no rights or legitimate interests in the disputed domain names since: (i) the Complainant has not authorized or somehow given consent to the Respondents to register and use the disputed domain names, and the Respondents' use of the disputed domain names is neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use. Indeed, the Respondents have linked the disputed domain names to websites that are copies of the Complainant's official website's content, including the Complainant's copyrighted material and logos, in the attempt to impersonate the Complainant;
- The disputed domain names were registered and are being used in bad faith. The Respondents registered the disputed domain names having in mind the Complainant's TISSOT trademark, with the clear intention to capitalize on the Complainant's market position and high reputation for commercial gain.

Based on the above the Complainant requests the disputed domain names be transferred to the Complainant.

B. Respondents

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

6.1 Procedural issues - Consolidation: Multiple Domain Names/Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity/individual, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, having reviewed the available record the Panel notes that both disputed domain names:

- were registered on the same date, i.e., June 4, 2024;
- have the same structure: specifically, the trademark TISSOT followed by a hyphen and the designation of a geographical term (e.g., "Schweiz" and "Portugal").
- directed to websites having the same content and prominently displaying the TISSOT trademark and logo, and currently resolve to webpages displaying similar texts;
- were registered using incomplete or false registration information. The courier was unable to deliver the Center's written communication to ursula zimmer in Germany whose disclosed information reflects two distinct regions in Germany and the written communication to Juan Allman was ultimately forwarded to a third party, which is unsurprising given that the street address disclosed related to an entirely different country than that disclosed for Juan Allman.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

6.2 Substantive issues

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 name. [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 entirety of the Complainant's registered trademark TISSOT is reproduced and recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The addition of the generic Top-Level Domain, such as ".com", is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms, here two different geographical terms, may bear on assessment of the second and third elements, the Panel finds the addition of such geographical terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

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 name. 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 name such as those enumerated in the Policy or otherwise.

Moreover, as noted in Section 6.2 A above, the disputed domain names incorporate the Complainant’s TISSOT mark in its entirety together with different geographical terms, which carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Indeed, as per the uncontested evidence submitted with the Complaint, the Respondent has used the disputed domain names to deliberately cause Internet user confusion through operating a website which prominently displays the Complainant’s mark TISSOT and misleading statement (such as “Copyright © 2024 Tissot” or “Authorised Retailer”), and offers allegedly TISSOT branded products. This cannot constitute fair use.

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, given the reputation of the Complainant’s trademark TISSOT, in the Panel’s view it is difficult to believe that the Respondent did not have in mind the Complainant’s mark when registering the disputed domain names. The fact that the Respondent has used the disputed domain names following registration, to resolve to websites which prominently features the Complainant’s TISSOT trademark, and allegedly offers TISSOT branded products, establishes both the Respondent’s actual knowledge of the Complainant’s rights as at the date of registration of the disputed domain names and the Respondent’s intention to take unfair advantage of those rights. Indeed, the Respondent has used the disputed domain names to capitalize on the goodwill of the Complainant’s TISSOT trademark, and has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s websites.

The above conduct constitutes bad faith registration and use of the disputed domain names under the Policy.

The fact that the disputed domain names currently do not resolve to active websites does not prevent a finding of bad faith.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

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 <tissot-portugal.com> and <tissot-schweiz.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: August 30, 2024