

## **ADMINISTRATIVE PANEL DECISION**

**RIWAY (Singapore) Pte Ltd v. Contact Privacy Inc. Customer 0157146059 /  
Chong Jia Ling, Official Deer Placenta  
Case No. D2022-2619**

### **1. The Parties**

The Complainant is RIWAY (Singapore) Pte Ltd, Singapore, represented by Foong Cheng Leong & Co, Malaysia.

The Respondent is Contact Privacy Inc. Customer 0157146059, Canada / Chong Jia Ling, Official Deer Placenta, Singapore.

### **2. The Domain Name and Registrar**

The disputed domain name <purtiermart.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2022. On July 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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 August 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2022. The Respondent did not submit any formal response. The Respondent sent an informal email to the Center on August 5, 2022. Accordingly, the Center sent Commencement of Panel Appointment Process on August 29, 2022.

The Center appointed Sok Ling MOI as the sole panelist in this matter on September 9, 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 part of the Riway International group of companies (“Riway International Group”) which offers for sale, among others, beauty and health supplement products bearing the PURTIER mark. The Riway International Group has developed an international presence in Singapore, Malaysia, Indonesia, Taiwan Province of China, Thailand, Philippines, Myanmar, Japan, Hong Kong, China, and other Southeast Asian markets through a network of authorized distributors.

Since 2008, the PURTIER mark has been used on beauty and health supplement products in Southeast Asian countries. The Riway International Group maintains an official website at “www.purtier.com”.

The Complainant and other entities of the Riway International Group are the registered proprietors of the PURTIER trade marks (word and stylised) across various jurisdictions, including the following registrations in Singapore, Malaysia, the European Union (“EU”) and the United States of America (“United States”):

Jurisdiction	Mark	Registration No.	Registration Date
Singapore	PURTIER	T1300420I	January 9, 2013
Malaysia	PURTIER	2012013216	August 2, 2012
EU	PURTIER	013134821	January 2, 2015
United States	PURTIER	86324289	May 5, 2015

The disputed domain name was registered on March 4, 2020. According to the evidence submitted by the Complainant, the disputed domain name resolved to a website that purports to offer for sale skincare and health supplement products bearing the PURTIER mark.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its trade mark.

The Complainant contends that as the Complainant has not licensed or otherwise authorized the Respondent to use its trade mark, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant contends that the disputed domain name has been registered and used to create confusion and mislead Internet users into believing that the Respondent’s website is in some way connected with or endorsed by the Complainant. The Complainant therefore contends that the Respondent has registered and is using the disputed domain name in bad faith.

For all of the above reasons, the Complainant requests for the transfer of the disputed domain name to the Complainant.

##### B. Respondent

The Respondent did not reply to the Complainant’s contentions. Instead, the Respondent sent an informal email to the Center on August 5, 2022 to inform that the disputed domain name is no longer registered with her care since 2021, and is to be “closed and removed”.

## 6. Discussion and Findings

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following three elements to obtain an order for the disputed domain name to be transferred:

- (i) the disputed domain name registered by the respondent is identical or confusingly similar to a trade mark or service mark in which the complainant has rights;
- (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.

On the basis of the evidence introduced by the Complainant, the Panel concludes as follows:

### A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in PURTIER by virtue of its use and registration of the same as a trade mark.

The disputed domain name incorporates the Complainant's trade mark PURTIER in its entirety. The addition of the word "mart" is insufficient to avoid a finding of confusing similarity between the disputed domain name and the Complainant's trade mark. The addition of the generic Top-Level-Domain ".com" is a standard registration requirement and does not usually impact the analysis of whether the disputed domain name is identical or confusingly similar to the Complainant's trade mark.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trade mark.

Accordingly, the Complainant has satisfied the requirements of the first element under paragraph 4(a) of the Policy.

### B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant bears the burden of establishing that the respondent lacks rights or legitimate interests in the disputed domain name. However, once the complainant makes a *prima facie* showing under paragraph 4(a)(ii), the burden of production shifts to the respondent to establish its rights or legitimate interests in the disputed domain name. It may do so by demonstrating any of the following, without limitation, under paragraph 4(c) of the Policy:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the disputed domain name, even if it has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

See *Taylor Wimpey PLC, Taylor Wimpey Holdings Limited v. honghao Internet foshan co, ltd*, WIPO Case No. [D2013-0974](#).

The Complainant confirms that the Respondent is an authorized distributor of the Riway International Group appointed to market and sell products bearing the PURTIER mark in Singapore through offline channels.

The Complainant also confirms that the Riway International Group does not sell its products on any website or Internet platform, and strongly prohibits its authorized distributors from advertising, promoting or selling any Riway products via any online means. The Complainant also clearly confirms that the Riway International Group has not given any licence, authorization, permission or other right to the Respondent to register any domain name incorporating the PURTIER mark.

There is also no evidence suggesting that the Respondent is commonly known by the disputed domain name or that the Respondent has any rights in the term "purtier".

The Panel notes that the Respondent is using the disputed domain name to publish a website that purports to offer for sale skincare and health supplement products bearing the PURTIER mark. Given the Respondent's clear breach of Riway's authorized distributor's contract not to advertise, promote or sell any Riway products via any online means, the Panel finds that the Respondent is not making a *bona fide* use of the disputed domain name for the purposes of the Policy. The Panel finds instead that the Respondent has intent to, for commercial gain, mislead Internet users into believing that its website is somehow connected with the Complainant, and divert Internet users looking for the Complainant's products and services to the Respondent's website.

The Panel is satisfied that the Complainant has made out a *prima facie* showing that the Respondent lacks rights or legitimate interests in the disputed domain name. The burden of production thus shifts to the Respondent to establish his rights or legitimate interests in the disputed domain name. Since the Respondent has failed to respond, the *prima facie* case has not been rebutted.

Accordingly, the Complainant has satisfied the requirements of the second element under paragraph 4(a) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy sets out four circumstances which, without limitation, shall be evidence of the registration and use of the disputed domain name in bad faith, namely:

- (i) circumstances indicating that the respondent has registered or acquired the disputed 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 trade mark or service mark or to a competitor of the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the respondent has registered the disputed domain name in order to prevent the owner of the trade mark 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) the respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's 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 the respondent's website or location.

There is no doubt that that the Respondent was aware of the Complainant and its trade mark when it registered the disputed domain name, given that it is the authorized distributor of the RiwayInternational Group. The Panel determines that the Respondent's purpose of registering the disputed domain name was to trade on the reputation of the Complainant and its trade mark by diverting Internet users seeking the Complainant's beauty and health supplement products to its own website for financial gain.

Irrespective of whether the products offered on the Respondent's website are genuine or counterfeit, the fact that the Respondent advertises, promotes and/or offers for sale products under the PURTIER mark on its website is a breach of its authorized distributor's contract with the Riway International Group, which is indication of bad faith. If the products offered on the Respondent's websites are not genuine products from the Riway International Group, then the Respondent would be a competitor and the absence of a clear disclaimer of an affiliation between the Respondent and the Complainant is also an indication of bad faith. The Panel is satisfied that the Respondent intends to take advantage of the fame of the Complainant's trade mark to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of the Respondent's website. As such, the Panel is satisfied that the Respondent is using the disputed domain name for *mala fide* purpose and illegitimate financial gain, and the Panel finds that the circumstances referred to in paragraph 4(b)(iv) of the Policy are applicable to the present case.

The Respondent has used identity protection services to conceal her name, address contact information and other details. Such concealment is further evidence of bad faith.

Taking into account all the circumstances, it is adequate to conclude that the Respondent has registered and is using the disputed domain name in bad faith.

Accordingly, the Complainant has satisfied the requirements of the third element under paragraph 4(a) 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 <purmiermart.com> be transferred to the Complainant.

*/Sok Ling MOI/*

**Sok Ling MOI**

Sole Panelist

Date: October 3, 2022