

## **ADMINISTRATIVE PANEL DECISION**

Compagnie Financiere Richemont SA v. UYJHIFGH DFJDFG  
Case No. D2023-0008

### **1. The Parties**

The Complainant is Compagnie Financiere Richemont SA, Switzerland, represented by Corsearch, United States of America.

The Respondent is UYJHIFGH DFJDFG, Japan.

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

The disputed domain name <vacheron-constantinn.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 2, 2023. On January 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name.

On January 5, 2023, 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 (Whois Privacy Protection Service by MuuMuuDomain) and contact information in the Complaint and confirming that the registrant of the disputed domain name is UYJHIFGH DFJDFG.

The Center sent an email communication to the Complainant on January 5, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On January 5, 2023, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On January 10, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Complainant filed an amended Complaint in English and Japanese on January 10, 2023.

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 Respondent in English and Japanese of the Complaint, and the proceedings commenced on January 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 1, 2023.

The Center appointed Erica Aoki as the sole panelist in this matter on February 22, 2023. 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 commonly known as Richemont, a Switzerland based luxury goods holding company founded in 1988. The Complainant is the parent company of Richemont International, SA, and Vacheron Constantin SA and the ultimate parent company of Richemont DNS Inc. Richemont DNS Inc. is the owner of the domain name <vacheron-constantin.com>.

Vacheron Constantin SA is a Swiss luxury watch and clock manufacturer founded in 1755. It is the second oldest Swiss manufacturer and one of the oldest watch manufacturers in the world with an uninterrupted watchmaking history since its foundation in 1755. It employs approximately 1,200 people worldwide as of 2018, most of whom are based in the company’s manufacturing plants in the Canton of Geneva and Vallée de Joux in Switzerland.

The Complainant, Richemont, owns several trademark registrations for VACHERON CONSTANTIN including the Japanese Registration 457195 registered on December 17, 1954, and the Complainant’s domain name <vacheron-constantin.com> was registered November 13, 1997.

The disputed domain name was registered on November 9, 2022. The disputed domain name resolves to an inactive website and is set up MX-records for the domain name allowing the Respondent to send and receive emails and potentially use for fraudulent email communications.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant is a Switzerland-based jewelry company which includes Jewelry Maison’s and Specialist Watchmakers. The Jewelry Maison’s segment includes businesses, which are engaged in the design, manufacture, and distribution of jewelry products.

Founded in 1755, the Complainant is the second oldest Swiss manufacturer and one of the oldest watch manufacturers in the world with an uninterrupted watchmaking history.

The Complainant has spent substantial time, effort, and money advertising and promoting the VACHERON CONSTANTIN marks and has thus developed substantial goodwill and enjoys widespread consumer recognition.

VACHERON CONSTANTIN is ranked first in Google Searches. As such, there is a measure of goodwill in that anyone looking for luxury watches and conducts a search for VACHERON CONSTANTIN using the Google search engine will be provided first with links to the Complainant’s website.

The Complainant is the owner of the United States, EUIPO, WIPO IR and Japan trademark registrations that consist of the word VACHERON CONSTANTIN. The Complainant owns the exclusive right to several trademarks in connection with watches, jewelry and clothing.

The disputed domain name is set up MX-records for the domain name allowing the Respondent to send and receive emails and potentially use for fraudulent email communications.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in respect of which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

### **A. Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is Japanese. Paragraph 11(a) of the Rules provides that "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding". The Panel may also order that any documents submitted in a language other than that of the proceeding be translated.

However, as noted by previous UDRP panels, paragraph 11 of the Rules must be applied in accordance with the overriding requirements of paragraphs 10(b) and 10(c) of the Rules that the parties are treated equally, that each party is given a fair opportunity to present its case and that the proceeding takes place with due expedition (see, e.g., *General Electric Company v. Edison Electric Corp. General Energy a/k/a Edison GE GEEEEE.COM a/k/a Edison-GE and Edison Electric Corp.*, WIPO Case No. [D2006-0334](#)).

In deciding whether to allow the proceeding to be conducted in a language other than the language of the Registration Agreement, and to require the Complainant in an appropriate case to translate the Complaint into the language of that Agreement, the Panel must have regard to all "the relevant circumstances" of the case. The factors that the Panel should take into consideration include *inter alia* whether the Respondent is able to understand and effectively communicate in the language in which the Complaint has been made and would suffer no real prejudice, and whether the expenses of requiring translation and the delay in the proceedings can be avoided without causing injustice to the Parties.

According to section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), prior UDRP panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include: (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the

webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement.

The Complainant has submitted a request that the language of the proceeding be English.

The Panel notes that the Center notified the Respondent in Japanese and English regarding the language of the proceeding and the Respondent was invited to present his objection to the proceeding being held in English and if the Center did not hear from the Respondent by the specified due date, the Center would proceed on the basis that the Respondent had no objection to the Complainant's request that English be the language of the proceeding. The Respondent had the opportunity to raise objections or make known his preference but did not do so. The Panel further notes that the Center notified the Respondent in Japanese and English of the Complaint, and the Respondent was informed that it could file a response either in Japanese or English, but the Respondent did not file any response.

Taking all these circumstances into account, the Panel finds that it is appropriate to exercise its discretion and allow the proceeding to be conducted in English.

### **B. Identical or Confusingly Similar**

Based on the facts presented by the Complainant, this Panel finds that the Complainant has established its rights in VACHERON CONSTANTIN through registration and use. The Panel finds that that the disputed domain name is confusingly similar to the Complainant's registered trademark, as the disputed domain name includes the Complainant's mark in full, with only the addition of the letter "n" to the word CONSTANTIN, which does not prevent a finding of confusing similarity (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

### **C. Rights or Legitimate Interests**

The Panel finds the following on record in this proceeding under the Policy:

The Respondent is in default and thus has made no affirmative attempt to show any rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy indicates that a registrant may have a right or legitimate interest in a domain name if it uses the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute. In this regard, the Respondent is in no way connected with the Complainant and has no authorization to use any of the Complainant's trademarks. The disputed domain name is set up MX-records for the domain name allowing the Respondent to send and receive emails and potentially use for fraudulent email communications.

There is no evidence on record that the Respondent is or was commonly known by the disputed domain name as an individual, business, or other organization.

There is no evidence on record that 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 Complainant's trademark.

Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel therefore finds that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, under the Policy, paragraph 4(a)(ii).

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

The Respondent has registered the disputed domain name to send and receive emails and potentially use for fraudulent email communications.

The Complainant's trademark was registered before the registration of the disputed domain name and it is evident from the Respondent's use of the disputed domain name that the Respondent knew of the Complainant's VACHERON CONSTANTIN trademark when registering the disputed domain name.

Furthermore, the Complainant's VACHERON CONSTANTIN trademark is distinctive and unique to the Complainant. It is therefore beyond the realm of coincidence that the Respondent chose the disputed domain name without the intention of invoking a misleading association with the Complainant.

The Panel finds that it is most likely that the Respondent was aware of the Complainant's rights in the VACHERON CONSTANTIN trademark at the time the disputed domain name was registered, indicating that such registration was made in bad faith.

Accordingly, and as also supported by the Panel's findings above under the second element of the Policy, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith under the Policy, paragraph 4(a)(iii).

#### **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 <vacheron-constantinn.com> be transferred to the Complainant.

*/Erica Aoki/*

**Erica Aoki**

Sole Panelist

Date: February 24, 2023