

ADMINISTRATIVE PANEL DECISION

Harry Winston SA and Harry Winston Inc. v. Molly Johnson
Case No. D2024-5169

1. The Parties

The Complainants are Harry Winston SA, Switzerland, and Harry Winston Inc., United States of America, represented by The Swatch Group Ltd., Switzerland.

The Respondent is Molly Johnson, United States of America.

2. The Domain Name and Registrar

The disputed domain name <harrywniston.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 16, 2024. On December 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 17, 2024, 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 Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainants on December 18, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on December 23, 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 Respondent of the Complaint, and the proceedings commenced on December 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2025. A third party sent email communication to the Center on December 23 and 30, 2024, and on January 1, 6, 17, and 19, 2025. Accordingly, the Center notified Commencement of Panel Appointment Process on January 17, 2025.

The Center appointed Federica Togo as the sole panelist in this matter on January 24, 2025. 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 Complaint was filed by Harry Winston SA and Harry Winston Inc. It results from the Complainants' undisputed allegations that they are both wholly-owned subsidiary companies of The Swatch Group AG. In particular, the Complainant Harry Winston, Inc. was founded in 1932 in New York City by the American jeweler Mr. Harry Winston. In 2013, The Swatch Group AG, the worldwide designer, manufacturer, seller, and retailer of wristwatches, fully acquired Harry Winston Inc. and established Harry Winston SA in Switzerland in addition to the already existing Harry Winston Inc. The Complainants operate salons and numerous retail affiliates worldwide in locations such as the United States of America, China, Japan, Singapore, Hong Kong, China, Germany, the United Kingdom, Argentina, and other countries around the world.

The Complainants' use the domain name <harrywinston.com> for their official website.

The Complainant Harry Winston Inc. is the registered owner of several trademarks worldwide for HARRY WINSTON e.g., European Union trademark registration No. 006476634 HARRY WINSTON, registered on September 17, 2008, for goods and services in classes 14, 35, and 36.

The Complainant Harry Winston SA is the registered owner of many trademarks worldwide for HARRY WINSTON, e.g., International trademark registration No. 1178434 HARRY WINSTON, registered on August 07, 2013 for goods and services in classes 14, 35, and 37 and designating amongst others the European Union.

The disputed domain name was registered on December 3, 2024.

Furthermore, the undisputed evidence provided by the Complainants proves that the disputed domain name has been used to send at least one email to a third party, while pretending to be an employee of the Complainants, seemingly in order to obtain improper payment.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name is confusingly similar to the Complainants' registered HARRY WINSTON trademark since it incorporates the entirety of the well-known trademark and trade name HARRY WINSTON without any distinguishing elements, merely switching the letters "n" and "i" ("harrywniston" instead of "harrywinston").

The Complainants further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainants, there are no signs that the Respondent has been commonly known by the disputed domain name, and the Respondent is not in any way related to the Complainants or their business activities nor have the Complainants granted a license or authorized the Respondent to use its trademarks or apply for registration of the disputed domain name. The Respondent is using the disputed

domain name to impersonate the Complainants and to lure the Complainants' customers into paying fraudulent invoices purportedly issued by the Complainants.

Finally, the Complainants contend that the disputed domain name was registered and was being used in bad faith. According to the Complainants, the Respondent has chosen to register and use a domain name that is not only infringing on the Complainants' trademarks and trade names, but furthermore is a deliberate misspelling of the Complainants' official domain name <harrywinston.com>. Thus, it is clear that the Respondent has chosen the disputed domain name with the sole aim to mislead Internet users into believing that its domain name (and a potential website linked to it) is operated, authorized and/or otherwise endorsed or affiliated by the Complainants. Indeed, the Respondent uses the disputed domain name to impersonate the Complainants and to lure the Complainants' customers into paying for fraudulent invoices purportedly issued by the Complainants. Specifically, the Respondent impersonates the Complainants' Sales Executive and, by using a corresponding "[...]"@harrywniston.com" email address, distributes falsified emails in the Complainants' and their employees' name whereby fraudulent wire transfer instructions are provided with the aim to divert payments by the Complainants' customers to the Respondent's bank account.

B. Respondent

The Respondent did not reply to the Complainants' contentions. A third party (the billing contact associated with the disputed domain name) sent emails to the Center on December 23 and 30, 2024, and on January 1, 6, 17, and 19, 2025, stating that the account linked to the email address confirmed in the registrar verification in connection with the disputed domain had apparently already been deleted. So, the email address was no longer relevant.

6. Discussion and Findings

6.1 Procedural issues – Consolidation of the Complainants

The Complaint was filed by both Harry Winston SA and Harry Winston Inc., related corporate entities. In addition, each of the Complainants are individually the owner of registered trademarks for HARRY WINSTON in different jurisdictions.

As set forth in section 4.11.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"): "In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation".

In the light of the above, the Panel finds that the Complainants have a specific common grievance against the Respondent because they share a common legal interest in the trademark rights on which this Complaint is based since both the Complainants own registrations for the trademark HARRY WINSTON and allege a corporate connection. Against this background, the Panel does not see reasons why a consolidated Complaint brought by the Complainants against a single Respondent would not be fair and equitable. Moreover, the Respondent failed to come forward with any allegations or evidence to object the consolidation. For reasons of procedural efficiency, fairness, and equity the Panel therefore accepts the joint Complaint. Therefore, throughout the remainder of the current Decision, the Panel will refer to both the Complainants as "the Complainant".

6.2 Substantive issues

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that

it deems applicable". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

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

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

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 mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

In addition, it is the view of this Panel that merely switching the letters "n" and "i" ("harrywniston" instead of "harrywinston") results to be a common, obvious, or intentional misspelling of the Complainant's trademark, and cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark since the disputed domain name contains sufficiently recognizable aspects of the relevant mark (see [WIPO Overview 3.0](#) at section 1.9).

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, the Panel notes that the disputed domain name consists of a common, obvious, or intentional misspelling of the Complainant's registered trademark HARRY WINSTON, so that this Panel finds it most likely that employing a misspelling in this way signals an intention on the part of the Respondent to confuse users seeking or expecting the Complainant. The Panel finds it most likely that the Respondent registered the disputed domain name with the intention to take advantage of the Complainant's reputation by registering a domain name containing the Complainant's trademark with the intent to mislead Internet users.

Panels have held that the use of a domain name for illegal activity, here, claimed phishing, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. It results from the undisputed evidence before the Panel that the disputed domain name has been used to send at least one email to a third party, while pretending to be an employee of the Complainant, seemingly in order to obtain improper payment. The Panel considers this evidence as sufficient to support the Complainant's credible claim of illegal activity by the Respondent.

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, the Panel shares the view of other UDRP panels and finds that the Complainant's trademark HARRY WINSTON is well known. Therefore, this Panel has no doubt that the Respondent positively knew or should have known the Complainant's trademark when registering the disputed domain names. This is underlined by the fact that the disputed domain name is clearly constituted by a common, obvious, or intentional misspelling of the Complainant's trademark (i.e. the merely switching of the letters "n" and "i" of the Complainant's trademark). Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, [WIPO Overview 3.0](#) section 3.1.4. The Panel shares this view.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As explained above, it results from the undisputed evidence submitted by the Complainant that the disputed domain name has been used for sending fraudulent email in the name of an employee of the Complainant in order to solicit payment. In addition, the use of the disputed domain name in such an illegal scheme additionally demonstrates that the Respondent not only knew of the Complainant, its business, and marks, but also attempted to pass itself off as the Complainant by the name of a Complainant's Sales Executive of the Complainant in order to solicit payment.

Panels have held that the use of a domain name for illegal activity, here, claimed phishing, impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 name <harrywniston.com> be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: February 7, 2025