

## **ADMINISTRATIVE PANEL DECISION**

**SWATCH AG v. Amine I am Abdullah, Swatchcollabs**  
**Case No. D2024-5303**

### **1. The Parties**

The Complainant is SWATCH AG, Switzerland, internally represented.

The Respondent is Amine I am Abdullah, Swatchcollabs, France.

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

The disputed domain name <swatchcollabs.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 December 24, 2024. On December 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Contact Privacy Inc. Customer 0170776526) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 24, 2024, 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 January 3, 2025.

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 January 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 27, 2025. The Respondent sent an email communication to the Center on December 24, 2024, expressing its willingness to settle. The Complainant did not request a suspension to explore settlement options. The Respondent also sent several email communications to the Center on December 26, 2024, as well as on January 5, 7 and 10, 2025. The Response was filed with the Center on January 26, 2025.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on February 13, 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**

According to the Complaint, the Complainant has used the trademark SWATCH since 1983 in connection with wristwatches, which mark is distinctive and has become famous. In addition to wristwatches, said mark has been used in connection with apparel, sunglasses, and other items. The Complainant uses a website at “www.swatch.com” to promote said items. It also operates physical branded retail stores in multiple countries, and a number of e-commerce shops. An independent article published on “Bloomberg” dated November 21, 2017 describes a “fashion watch revolution” of the 1980s and 1990s which was led by the Complainant’s “Swatch” brand.

The Complainant is the owner of multiple registered trademarks in respect of the SWATCH mark, including, for example, European Union Registered Trademark Number 226316 for a figurative mark consisting of the stylized word SWATCH, registered on November 12, 1998 in Class 14.

The Complainant has engaged in various collaborations with its sister watch companies that are part of the same corporate group to create watches and watch collections, such as, for example, the Bioceramic “MoonSwatch” collection, also known as “Omega X Swatch”, and the “SCUBA FIFTY FATHOMS”, also known as “Blancpain X Swatch”.

The disputed domain name was registered on January 7, 2024. The website associated with the disputed domain name bears to be operated by an entity named “Swatchcollabs” and claims to offer “exclusive watch straps from Swatch collaborations” for sale, describing itself as “specialists in Swatch watch straps”.

In about August 2024, the Complainant made a copyright complaint to the Respondent’s web hosting company regarding the use of certain images of its watches, which it says were taken from its website. The Respondent filed a counter-notice and also wrote to the Complainant stating that it had not used such photographs and had commissioned independent images from a photographic agency, to whom it had sent watches for photographs to be taken of its watch straps. The Respondent also generally took issue with the Complainant’s concerns and stated that its website was not in competition with the Complainant (the Complainant apparently not selling watch straps at that time) and that there was nothing misleading on its website as to source or sponsorship. The Respondent stated that it was open to reaching an amicable settlement, but the Parties have been unable to do so.

#### **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 disputed domain name encompasses the entirety of the Complainant’s registered SWATCH mark combined with the term “collabs”, which is an abbreviation of “collaboration”, that the addition of such a term would not prevent a finding of confusing similarity under the first element of the Policy, and that the technically required domain name extension “.com” may be disregarded when assessing whether the disputed domain name is identical or confusingly similar to a trademark.

The Complainant also contends that there are no signs that the Respondent has been commonly known by the disputed domain name, that the Respondent is not in any way related to the Complainant or its business

activities, and that the Complainant has not granted a license or authorized the Respondent to use the Complainant's SWATCH trademark. The Complainant adds that the Respondent is not making a bona fide offering of goods or services but is selling watch straps of a third-party brand under the disputed domain name, which creates confusion and misleads Internet users into believing that the Respondent is endorsed, sponsored and/or otherwise affiliated with the Complainant. Specifically, the Complainant notes that the term "collabs" in the disputed domain name triggers an inference of affiliation as it is suggestive of a collaboration between the Parties where none exists, and that the Respondent's website consists largely of the Complainant's copyright protected images which are used without the Complainant's authorization and misleadingly combined with third-party watch straps to suggest the Complainant's affiliation or endorsement. The Complainant also asserts that the Respondent does not disclose its (non) relationship with the Complainant on said website, that on the contrary, the Respondent uses misleading statements such as "we've established exclusive partnerships", "exclusive watch straps from Swatch collaborations", and misleadingly designates its products as "Omega x Swatch Straps" and "Blancpain x Swatch Straps".

The Complainant submits further that images of counterfeit watches are being used to present the watch straps sold by the Respondent, suggesting illegal activity. The Complainant asserts that the "Oki Data" test (see: *Oki Data Americas, Inc. v. ASD, Inc*, WIPO Case No. [D2001-0903](#)) does not apply in this case because the second element of the test requiring that the "Respondent must use the site to sell only the trademarked goods; otherwise, it could be using the trademark to bait Internet users and then switch them to other goods" is not made out, given that the Respondent is selling third-party watch straps. The Complainant asserts that it is not possible to conceive of any legitimate use of such a specific and confusingly similar domain name, being a combination of the Complainant's renowned SWATCH mark and the abbreviated term for "collaboration".

The Complainant contends that the Respondent has registered a highly confusing domain name and is using it in an intentionally confusing manner, which it says is a clear indication of bad faith registration and use, adding that the Respondent did not remove such confusing use when the Complainant issued a copyright complaint to the Respondent's hosting platform, but rather filed a counter-notice. The Complainant adds that it offered the Respondent another opportunity to resolve the dispute, but the Respondent denied any trademark or copyright infringement, insisting that it had not used the Complainant's images. The Complainant also asserts that the Respondent is using images of counterfeit watches to present the Respondent's watch straps, adding that the use of a domain name for illegal activity is a clear indication of bad faith registration and use.

The Complainant states that the composition of the disputed domain name is frequently used by trademark owners to operate their online presences in relation to a collaboration, and that the Respondent is thereby depriving the Complainant from reflecting its trademarks on the Internet for any current or future collaborations, being a further indication of bad faith registration and use. Finally, the Complainant submits that the term "collabs" in the disputed domain name enhances the wrong impression that the disputed domain name will resolve to a website sponsored by or affiliated with the Complainant.

## **B. Respondent**

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Respondent contends that the Complainant failed to have its website shut down by the hosting company due to presenting inadequate evidence, and that the Complainant did not attempt to resolve the issue between the Parties amicably. It asserts that "the contested photos were replaced or removed immediately", such that its diligence demonstrates its good faith. It adds that the Complainant's failure to contest the use of the disputed domain name for several years weakens its position. It states that the Complainant's allegation as to the Respondent's use of counterfeit watches is without proof, producing a receipt apparently from the Complainant for the purchase of two genuine watches, a "Mission to Jupiter" watch and a "Mission to the Moon" watch. The Respondent asserts that it had its own photographs taken for its straps, some of which were edited, and insists that it did not take a single photograph from the Complainant's website, adding that "all the photos you indicated have been removed".

The Respondent contends that the term “swatchcollabs” is a business name/acronym composed of three elements: “s” for strap, “watch” for watches, and “collabs” for collaboration, adding that this is not derived from the Complainant’s mark. The Respondent provides examples of domain names which it says are used by companies selling watch straps compatible with Swatch watches, and which it has noted as incorporating the first part of this acronym, namely <swatchclock.com>, <swatchstraps.net>, <myswatchstyle.com>, <swatchbandsworld.com>, and <swatchstraponline.com>. (The Panel notes that the websites associated with all but the first of these domain names do not appear to resolve.)

The Respondent submits that the website associated with the disputed domain name follows the Respondent’s original site “www.moonbracelet.fr” which it says replicates the semantics used for the disputed domain name, and which now forwards to the present website, noting that if the Respondent had intended to take unfair advantage of or to cause confusion with the SWATCH mark, it would have immediately used the term “Swatch”. (The Panel notes that this site does not seem to resolve.) The Respondent adds that as its original site performed well in France, the Respondent wished to prioritize the English market, but that <moonbracelet.com> was not available, and that it therefore created the disputed domain name according to the said acronym.

The Respondent states that the disputed domain name and its previous incarnation were active long before the Complainant launched its own strap range in 2025, indicating that the Respondent’s activity is not an opportunistic reaction. The Respondent contends that the Complainant’s motivation is to obtain unfairly the Respondent’s acquired notoriety, Internet traffic and search engine optimization efforts, established over years of effort, for its own benefit, adding the disputed domain name has the top ranking for “almost all keywords of interest to [the Complainant]”.

The Respondent states that the Complainant’s “Moonswatch” watch has been the best-selling watch since 2022, and that it was natural for the Respondent to commence its business by offering straps for this product, adding that it plans to expand its site to include new collaborations from other brands, and that it has already added the Blancpain collaborations. The Respondent notes that, since 2023, none of its customers have been confused between the Respondent’s website and that of an official site, as may be confirmed by thousands of user comments. The Respondent adds that it uses terms such as “strap for Swatch X Omega” or “strap for collaborations” in a descriptive and not misleading manner without implying any official affiliation, that each product is presented with a description indicating its independence from the Complainant’s brand, and that its “About Us” page and FAQs explain its business and independence.

The Respondent asserts that the Complainant has been unable to point to any place on the website associated with the disputed domain name where the Respondent claims to have a collaboration with the Complainant, noting that on all pages it is clear that the Respondent is a separate company. In the event of its success in the administrative proceeding, the Respondent proposes to add “explicit mentions on our site, stating there is no affiliation with Swatch, Omega, or Blancpain” and to collaborate with the Complainant to ensure non-competitive use of the disputed domain name.

## **6. Discussion and Findings**

### **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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“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. The Panel notes that many of the registered trademarks cited by the Complainant, including that mentioned in the Factual Background above, are figurative in nature. However, these largely consist of a stylized version of the word SWATCH in respect of which the word element may be excised straightforwardly from the graphical element (the latter not being a dominant portion of the mark and not overtaking the former in prominence) for the purposes of comparison to the disputed domain name. [WIPO Overview 3.0](#), section, 1.10.

Although the addition of other terms, here, “collabs” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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 based upon its averments that the Respondent has not been commonly known by the disputed domain name, is not related to the Complainant or its business activities, is not a licensee of or otherwise authorized to use the Complainant’s SWATCH trademark, is not making a bona fide offering of goods or services, and is selling third-party watch straps in a manner which creates confusion and misleads Internet users into believing that the Respondent is endorsed, sponsored and/or otherwise affiliated with the Complainant. The Complainant asserts, in particular, that the term “collabs” in the disputed domain name triggers an inference of affiliation and is suggestive of a collaboration between the Parties. The Complainant also submits that the Respondent makes use of its copyrighted images without permission, and has used counterfeit watches to display its products, on the website associated with the disputed domain name. Finally, the Complainant notes that the terminology on the Respondent’s website is misleading in significant respects.

The Panel therefore turns to the Respondent’s case in rebuttal. The Respondent’s position is that it is using the disputed domain name to sell compatible third-party watch straps for the Complainant’s products, and that it is entitled to do so. The Respondent explains that the domain name for its original website did not use the string “swatch” and that the disputed domain name uses this term as an acronym where “s” stands for strap, “watch” for watches, and “collabs” for collaboration, adding that others use the same acronym in the same way. Consequently, the essence of the Respondent’s case is that it is making fair use of the disputed domain name, and it is appropriate for the Panel to consider the core factors on fair use as described in the [WIPO Overview 3.0](#), section 2.5, noting first the fundamental point that a respondent’s use of a domain name will not be considered “fair” if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant’s mark often being central to this inquiry.

The Panel disregards the Respondent’s previously used domain name as irrelevant to the considerations of whether it has rights or legitimate interests in the disputed domain name. This issue must be determined with reference to the disputed domain name itself and the related website content, and not any historic use of another domain name. The first aspect to consider is the composition of the disputed domain name.

[WIPO Overview 3.0](#), section 2.5.1. This is not identical to the Complainant's mark, whereby it would typically carry a high risk of implied affiliation by virtue of any such identity. Instead, the disputed domain name consists of a trademark plus an additional term, in which circumstance panels under the Policy have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.

The additional term in the disputed domain name, "collabs", is not one with "an inherent Internet connection" as section 2.5.1 of the [WIPO Overview 3.0](#) describes. It is rather one of the "in between" terms relating to the trademark owner's field of commerce, denoting a collaboration, which may or may not by itself trigger an inference of affiliation, and would normally require a further examination by the Panel of the broader facts and circumstances of the case – particularly including the associated website content – to assess potential respondent rights or legitimate interests.

However, before leaving the topic of the disputed domain name's composition, the Panel notes that it has reached the view that an inference of affiliation is triggered by such composition in this particular case, even before the website content is brought into consideration. It must first be noted that the disputed domain name begins with the Complainant's well-known SWATCH trademark. There does not appear to be any dispute between the Parties as to the extent and reach of the Complainant's mark, with the Respondent itself asserting that the Complainant produces "the best-selling watch". Given the admitted fame of this mark, which is both prominent and recognizable in the disputed domain name, the Respondent's claim to an alternative acronym for "swatch" where the "s" represents the word "strap" may be discounted. The Respondent produces no evidence that this acronym is widespread or is even understood by the relevant public, while on the contrary, the fame of the Complainant's SWATCH mark is undeniable. This is how the disputed domain name would be read, and not as any acronym. The Respondent does provide examples which it says illustrate the alleged acronym use, however, the Panel found that all but one of the websites associated with the domain names concerned appear to be inactive. The single active website ("www.swatchoclock.com") did not refer to watch straps but pointed to a website selling what were alleged to be genuine used SWATCH watches. As such, this example was not using an acronym relating to watch straps at all and was intentionally referencing the Complainant's SWATCH mark in the domain name, which the Panel finds is most likely to be the same as the disputed domain name itself.

The Panel identifies two possible objective readings of the disputed domain name arising from the fact that it juxtaposes the Complainant's mark with the word "collabs", accepting for that purpose the Parties' respective cases that this word is an abbreviation of the word "collaborations". The first of these is that it references "SWATCH collaborations". This could perhaps be described as a term describing the Complainant's commercial activities, meaning those watches that have been created by the joint efforts of two of the Complainant's parent company's house brands, such as the "Omega X Swatch", and the "Blancpain X Swatch". The Panel can well appreciate that members of the relevant public who are familiar with the Complainant's watches and/or its house brands may read the disputed domain name in that particular way. The second, and perhaps more obvious or universally understood reading of the disputed domain name is that it is making reference to collaborations between a third-party such as the owner of the disputed domain name (in this case, the Respondent) and the Complainant, in the more conventional sense of a business partnership rather than necessarily a collaboration between the Complainant's house brands. This appears to be the meaning that the Complainant reads into the disputed domain name. In any event, the Panel is of the view that no matter which reading one makes of it, the disputed domain name is unequivocally referencing the Complainant's brand and collaborations of some kind which the Internet user would assume were authorized by the Complainant, in light of the prominent use of the Complainant's mark. Consequently, the disputed domain name triggers a high inference of affiliation in and of itself.

The Panel does not place any credence in the Respondent's suggestion that the disputed domain name is a combination of "s" (for "strap") and "watch" and "collabs" and note that this appears to be a reverse-engineered justification that in reality undermines the Respondent's credibility.

Turning to the use to which the disputed domain name has been put, the Panel disagrees with the Respondent when it says that it is clear on all pages of its website that the Respondent is a separate company, that terms such as "strap for Swatch X Omega" or "strap for collaborations" make it clear that

these are third-party rather than official SWATCH products, or that each product is presented with a description indicating its independence from the Complainant's brand. To take the latter point first, the Panel selects as its example the Complainant's Annex G.2, a screenshot of the website associated with the disputed domain name which was produced in connection with the Complainant's allegation of copyright infringement. This refers to the product named "MoonSwatch Camo Rubber Strap". The item description states that this is "a bold and rugged accessory designed to enhance your Omega x Swatch watch" but in no way expresses the fact that it is not an official product of the Complainant or is in fact an unofficial accessory. Secondly, the Panel notes that allegedly descriptive terms such as "strap for Swatch X Omega" or "strap for collaborations" likewise do not clearly express the fact that these are not official products of the Complainant. Examples of the ways in which this might have been achieved with greater clarity would perhaps be "compatible strap [...]" or "unofficial strap [...]". Likewise, the footer on the website associated with the disputed domain name does not specify the third-party nature of the products offered on the website when it says, "Swatchcollabs is an E-commerce store exclusively offering straps designed for Moonswatch watches and Scuba Fifty Fathoms. These watches are from the Swatch x Omega and Swatch x Blancpain collaborations." While the Respondent asserts that its "About Us" page does make the position clear, the Complainant's Annex G.14 suggests otherwise, in that it states, "we've established exclusive partnerships to create straps [...]", describes the site as "your premier destination for exclusive watch straps from Swatch collaborations", and adds "we pride ourselves on our commitment to excellence and authenticity." Much as the Respondent would have it otherwise, in the absence of any clarifying words, these statements signal an official/exclusive relationship with the Complainant to provide authentic SWATCH straps, and do not bear reference to an independent arrangement selling unofficial or unauthorized (by the Complainant) third-party products. Consequently, the Panel finds that the website associated with the disputed domain name compounds the impression of affiliation/endorsement already established by the composition of the disputed domain name, rather than providing any clarification on this issue.

Turning briefly to the question of commercial activity, [WIPO Overview 3.0](#), section 2.5.3, the Panel notes that judging whether a respondent's use of a domain name constitutes a legitimate fair use will often hinge on whether the corresponding website content prima facie supports the claimed purpose (here, for alleged referential use), is not misleading as to source or sponsorship, and is not a pretext for tarnishment or commercial gain. In light of its assessment of the Respondent's website, and for the reasons described above, the Panel finds that such site is misleading as to source or sponsorship. There is no clear and prominent statement that the Parties are not affiliated and/or that the products offered for sale are unofficial third-party items.

In the context of the second element assessment, both of the Parties also mention in their respective submissions the "Oki Data test" derived from *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). This case refers generally to the situation of a reseller or distributor, noting for completeness that the Respondent here is neither a reseller nor distributor of the Complainant. It establishes the proposition that the providers of goods or services relating to a third-party trademark, using a domain name that contains that trademark, may (subject to what has become known as the "Oki Data test") be making a bona fide offering of such goods and services, and thus have a legitimate interest in the domain name concerned. Such case is discussed more fully in the [WIPO Overview 3.0](#), section 2.8, which begins by noting that the principles expressed in section 2.5 (already discussed above) underpin those which follow. The "Oki Data test" requires the following cumulative requirements to be made out, namely, (i) the respondent must actually be offering the goods or services at issue; (ii) the respondent must use the site to sell only the trademarked goods or services; (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark. In the present case, it is clear to the Panel that the website associated with the disputed domain name does not meet the requirements of items (ii) and (iii) above. A failure to meet any one of these requirements would be fatal to the Respondent's case on this element of the Policy. Consequently, the "Oki Data test" does not avail the Respondent in the circumstances of this case.

Finally, on this topic, the Panel notes that there is a dispute between the Parties as to the alleged re-use of the Complainant's copyright material and alleged display of counterfeit watches on the website associated with the disputed domain name. The Panel notes that it is not capable of assessing whether watches are

counterfeit or not, and the Complainant's allegation in this respect is not accompanied by any form of specific evidence which would allow the Panel to draw any reasonable conclusions on the balance of probabilities. Consequently, the Panel need not consider the Complainant's related allegations, or the receipts produced by the Respondent, allegedly for the purchase of genuine watches from the Complainant. With regard to the Respondent's alleged reproduction of the Complainant's copyright materials, the Panel accepts that the Complainant's evidence of side-by-side comparisons does appear to illustrate the proposition that at least one image of its watches has been reproduced by the Respondent, with an alternative strap cut and pasted over it, such that the bezel has been partially over-pasted by the strap. The Respondent asserts that it had its own photographs taken but, crucially, provides no supporting evidence of this, such as, for example, the provision of image meta data and/or (assuming a third-party professional photographer was involved as the Respondent alleges) details of its contractual arrangements with the photographer or a declaration by that person. Nevertheless, in light of its assessment above along the lines of the [WIPO Overview 3.0](#), section 2.1, the Panel does not require to reach any final conclusion on the copyright issue for the purposes of the second element assessment.

In the above circumstances, the Panel finds that the Respondent has not rebutted the Complainant's prima facie showing and has not demonstrated its rights or legitimate interests in the disputed domain name according to the criteria in paragraph 4(c) of the Policy or otherwise.

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.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take unfair advantage of a trademark owned by (usually) the complainant. *Instagram, LLC v. Domains By Proxy, LLC / Masud Rana, D-limit Ltd*, WIPO Case No. [D2022-0250](#).

There is no doubt in the present case that the Respondent registered the disputed domain name with an awareness of the Complainant's rights, as it acknowledges these while asserting that it is using the disputed domain name to sell its third-party watch straps for the Complainant's products, with no intent to mislead or cause confusion, or otherwise to take unfair advantage of the Complainant's mark.

However, it is particularly notable on the question of the Respondent's intent at the point of registration that, when faced with the present Complaint under the Policy, the Respondent introduced a new explanation as to its intent which it did not raise in previous correspondence, namely that "swatch" in the disputed domain name represents an acronym where "s" stands for "strap" and, by implication, has nothing to do with the Complainant's well-known mark. This is plainly disingenuous, given that the associated website claims to sell third-party watch straps for the Complainant's SWATCH branded watches, particularly those of its house brand collaborations. This assertion is indicative of bad faith in and of itself as it has evidently been reverse engineered in an attempt to fit the facts of the case and to disguise the Respondent's true intent.

As discussed above, the Panel is satisfied that the disputed domain name misleadingly suggests an affiliation with or endorsement by the Complainant, or otherwise impersonates the Complainant, as it is highly suggestive of being an official domain name of the Complainant, and/or something specifically authorized by it due to the prominent presence of the SWATCH mark. It is inherently likely to cause confusion, and on the balance of probabilities, the Panel finds that the Respondent was aware of the potential for such. The Respondent insists that it has never had any complaints from its customers, however, this on its own does not avail it, as that would be the case not only if customers were not confused, but also if the deception inherent in the disputed domain name, and continued on the website associated with it, had been reasonably successful. In any event, the Panel assesses the disputed domain name and associated website content in terms of the objective likelihood of confusion rather than whether any actual

confusion has taken place to date. The Panel considers that the likelihood of confusion is substantial here for the reasons already discussed.

The Panel has also found that the website content compounds the misleading nature of the disputed domain name, in that it does not make it clear that the Respondent and/or its products are in no way affiliated with the SWATCH mark owner, nor is it clear (contrary to what the Respondent asserts) that the products sold there are manufactured by a third party and are neither sanctioned nor approved by the Complainant. Even had the website clarified the issue, this would not necessarily cure the misleading nature as to source or sponsorship inherent in the disputed domain name.

With regard to the alleged copyright infringement, the Panel considers that this can be relevant to the question of use in bad faith in the particular circumstances of the case. The Panel accepts that the Complainant's side by side comparisons appear to show reproductions of the images taken from its website. The Respondent denies making any such copies, however, the Panel notes specifically that the Respondent makes inconsistent statements in the Response, alleging (without supporting evidence that would readily have been available to it) that its images were taken by a third party, while stating at the same time that "the contested photos were replaced or removed immediately". The Panel asks itself why the Respondent would consider it necessary to remove any "contested photos" if there were no issue with the Complainant's copyright because the Respondent had commissioned all such images itself. This apparent contradiction could hardly be described as indicative of the Respondent's good faith in its use of the disputed domain name.

The Respondent asserts that there is significance in the fact that the use of the disputed domain name follows the use of its original domain name <moonbracelet.fr>, adding that if it had wished to target the SWATCH brand, it would have done so at the outset of its commercial activities. The Panel finds this argument to be unpersuasive. What matters is how the disputed domain name has been used and what the Respondent's intent was when it registered it, not whether it registered and/or used a previous domain name allegedly in good faith. When the Respondent came to register the disputed domain name, it could have selected many variants of "moonbracelet", a term in which it effectively alleges that it has already built up goodwill in France, or indeed to have selected an entirely different name, without this having to refer to the Complainant's well-known SWATCH mark in the prominent manner that it has in the disputed domain name.

The Respondent asserts that there is nothing misleading on the website associated with the disputed domain name but, on the contrary, the Panel has found that there are a number of misleading statements referring to the Respondent's "exclusive partnerships", "exclusive watch straps from Swatch collaborations", and its self-description as "specialists in Swatch watch straps". The more accurate position is that the Respondent deals in unofficial, third party manufactured, watch straps intended for use with the Complainant's SWATCH watches. The Respondent also avers that each of its products is presented with a description indicating its independence from the Complainant's brand, when this is not the case. The Respondent's "About Us" page misleadingly states in its first line "your premier destination for exclusive watch straps from Swatch collaborations". The Respondent's watch straps do not come "from SWATCH collaborations" with it (rather the collaboration is one of the Complainant and one of its family brands), and the Respondent knows this. The Respondent states that its FAQs explain its independence from the Complainant, yet none of the questions deal with that issue. Indeed, the Respondent points to no elements of its website where it makes the lack of affiliation and endorsement clear to the public, such as by way of a prominent disclaimer. The website content is accordingly indicative of use in bad faith in the circumstances of this case.

The Respondent suggests that there is some significance in the fact that the Complainant did not offer its own replacement straps for its products until 2025, and that the Respondent has therefore been filling this gap in the market in good faith. This misses the point. It does not matter whether the Complainant makes such straps or did not make them in the past. It does matter if the Respondent is suggesting via the disputed domain name and associated website that its products are endorsed by (or that its business is affiliated with) the Complainant. The prominent selection of the Complainant's SWATCH mark in the composition of the disputed domain name and on the associated website, together with the misleading wording and descriptions discussed above, are not the actions of a trader operating in good faith with the intent to sell third-party products compatible with the brand owner's product that are clearly designated as such. This is the case

whether the Complainant makes its own products of this nature or not. The Respondent's use of the disputed domain name can only be seen as taking unfair advantage of the Complainant's rights in its trademark.

Finally, the Respondent asserts that the Complainant's position is weakened by its failure to contest the use of the disputed domain name "for several years". This is factually inaccurate. The disputed domain name was registered in January 2024. By August 2024, the Complainant was already raising an issue with the Respondent's web host. By December 2024, it filed the present Complaint. This is not a failure to address the matter for several years, and, indeed, could hardly be described as dilatory in any way. Furthermore, mere delay between the registration of a domain name and the filing of a complaint neither bars a complainant from filing such case, nor from potentially prevailing on the merits. [WIPO Overview 3.0](#), section 4.17. Accordingly, there is nothing before the Panel to suggest either that there has been delay, or (if it were relevant given a substantial delay) that the Respondent has in any way made detrimental reliance upon the Complainant's failure to address the issue. The Respondent may have intended for the Panel to take its use of its previous domain name, not the subject of the Complaint, into consideration for this purpose but that is not appropriate. Even if it had been relevant, such use is said to have begun relatively recently, in 2023, but in any event the previous domain name did not use the Complainant's SWATCH mark.

In all of the above circumstances, the Panel has concluded that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website, in terms of paragraph 4(b)(iv) of 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 <swatchcollabs.com> be transferred to the Complainant.

*/Andrew D. S. Lothian/*

**Andrew D. S. Lothian**

Sole Panelist

Date: February 27, 2025