

ADMINISTRATIVE PANEL DECISION

SWISSVAX AG v. Hein Kop

Case No. DNL2025-0021

1. The Parties

The Complainant is SWISSVAX AG (“Swissvax”), Switzerland, internally represented.

The registrant of the disputed domain name is Hein Kop (the “Respondent”), Netherlands (Kingdom of the “Netherlands”).

2. The Domain Name and Registrar

The disputed domain name <swissvax.nl> is registered with SIDN through Registrar.eu.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 19, 2025. On June 20, 2025, the Center transmitted by email to SIDN a request for registrar verification in connection with the disputed domain name.

On June 23, 2025, SIDN 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 26, 2025, providing the information disclosed by SIDN, and inviting the Complainant to amend the Complaint in this light. The Complainant filed an amended Complaint on June 26, 2025.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 27, 2025. In accordance with the Regulations, article 7.1, the due date for Response was July 17, 2025. The Response was filed with the Center on July 2, 2025. The Center received further email communications from the Parties on June 27 and 30, and July 2, 3, and 4, 2025.

On July 4, 2025, SIDN commenced the mediation process. On August 4, 2025, SIDN extended the mediation process until September 4, 2025. On August 21, 2025, SIDN informed parties that the dispute had not been solved in the mediation process.

The Center appointed Willem J. H. Leppink as the panelist in this matter on September 1, 2025. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

The following facts are undisputed.

The Complainant is a company incorporated under Swiss law with its registered office in Fällanden. The company is active in the development, production, and distribution of vehicle care products, including cleaning, polishing, and sealing solutions for automotive surfaces.

The Complainant is the proprietor of the International Registration for the trademark SWISSVAX (word) with number 1414065, registered on February 8, 2018, for class 3 designating several jurisdictions, including, but not limited to, the Benelux, the European Union, the United Kingdom and Switzerland.

SIDN informed the Center that the disputed domain name was first registered on September 27, 2006, and that the date of the current registration by change of registrant is August 21, 2014. The website to which the disputed domain name resolves features various Swissvax products, as well as guides on vehicle care.

Furthermore, it lists the Respondent as the designated point of contact. The disputed domain name also includes a Commercial Register number. The Commercial Register number refers to the registration of the sole proprietorship of the Respondent, also acting as Aequare Consult, which also does business under the names Swissol and Swissvax.

In this matter, the Parties had been collaborating under a distribution agreement. This agreement was terminated on October 27, 2024. There is a disagreement between the Parties regarding the interpretation and implementation of this agreement and the termination of the agreement, as well as the obligations arising therefrom.

5. Parties' Contentions

A. Complainant

To the extent relevant for rendering this decision, the Complainant contends the following.

The Complainant is the owner of the SWISSVAX trademark. The company Anwander & Co. has transferred all naming and distribution rights to the trademarks SWISSOIL and SWISSVAX to the Complainant. Furthermore, the SWISSVAX trademark and company name "Swissoil" have been rebranded as "SWISSVAX". Both designations are to be considered synonymous and interchangeable.

This is evidenced by publicly available documents regarding the trademark transfer filed with WIPO and entries in the Swiss Commercial Register.

The Respondent was an authorized distributor until terminated by notice on October 27, 2024. Moreover, the Respondent has no rights or legitimate interests anymore to be operating under the SWISSVAX trademark.

The Respondent continues to operate the disputed domain name to run an online shop using the SWISSVAX trademark. This is misleading and amounts to an unlawful and unjustified exploitation of the Complainant's goodwill and reputation. Moreover, the Complainant concluded that there is a bad faith registration or use.

B. Respondent

The Respondent contends in an unofficial response to be surprised by the Complaint since he already registered the disputed domain name before the registration of the SWISSVAX trademark.

Moreover, the Respondent contends the following.

The Complainant took the SWISSVAX name and registered it on their own behalf. The Respondent allowed the Complainant to register the trademark, but he was the first to register the disputed domain name. Moreover, in his contract with the Complainant nothing is mentioned about the SWISSVAX trademark.

On June 2, 2025, the Respondent filed an official response stating the disputed domain name was registered prior to the registration of the SWISSVAX trademark. As a result, the registration was not made in bad faith. Moreover, since June 8, 2004, the Respondent has operated his business under the names Swissol and Swissvax, which are officially registered in the Dutch Commercial Register. The Respondent has had valid trade name rights since 2004. These trade names have been used in public commerce, including through the domain <swissvax.nl>, well before the Complainant rebranded or obtained trademark rights.

In regards to the distribution agreement between the Parties, the Respondent states this agreement only refers to transferring domain names such as <swissol.nl> and not <swissvax.nl>.

After termination of the distribution agreement, the Respondent ceased all product sales on the website at the disputed domain name. The website at the disputed domain name now only offers informational content about automotive care and historic distribution. It contains no pricing, no active sales, and no functioning web shop. There is thus no commercial exploitation, confusion, or competition with the Complainant. After termination, the Respondent retained the disputed domain name only to offer historical and customer service information. It continues to reflect the Respondent's trade name registration, which predates the SWISSVAX trademark by over a decade. There is no bad faith or deception.

6. Discussion and Findings

6.1. Preliminary Matter

Before entering into the merits of the case, the Panel addresses the matter of the unsolicited supplemental filings. Article 11.2 of the Regulations stipulates that the Panel shall determine the admissibility of unsolicited filings. Both the Complainant and the Respondent submitted unsolicited supplemental filings, which are generally discouraged, as is described in section 4.6 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").¹ However, when the Complainant proves that the supplemental filing is of utmost importance to the case and it could not have provided the information within its prior complaint, panels may find it justified to accept an unsolicited supplemental filing. The Respondent will then be allowed to respond to the Complainant's unsolicited filing. The Panel is not satisfied that such exceptional circumstances exist. As a general principle, a complainant has "one bite at the apple" in such proceedings. The Panel notes that the Complaint was relatively short and that the Complainant could have anticipated any rebuttals brought forward by the Respondent.

¹ In view of the fact that the Regulations are in large part based on the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), are relevant to this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#))

Although the Panel, from a formal point of view, does not admit these filings, the Panel has obviously read the filings and has come to the conclusion that these filings would not have changed the decision had they been admitted.

6.2. Substantive Matter

Pursuant to article 2.1 of the Regulations the Complainant must prove each of the following three elements:

a) the disputed domain name is identical or confusingly similar to:

I) a trademark or trade name protected under Dutch law in which the Complainant has rights; or
II) a personal name registered in the General Municipal Register (*Gemeentelijke Basisadministratie*) of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which the Complainant undertakes public activities on a permanent basis; and

b) the Respondent has no rights to or legitimate interests in the disputed domain name; and

c) the disputed domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant must demonstrate that it has rights in the trademark and, if so, that the disputed domain name is identical or confusingly similar to the trademark. It should be noted that the first element serves as a standing requirement.

The Panel notes that the Complainant has provided sufficient evidence proving that it has a trademark registration for the SWISSVAX trademark with validity in the Netherlands. Although the Respondent claims prior trade name rights, the Complainant's registration is sufficient to have standing in these proceedings.

The disputed domain name is comprised of the SWISSVAX trademark in its entirety.

The Panel therefore finds that the disputed domain name is confusingly similar to the trademark and that the first element of article 2.1. of the Regulations is satisfied.

B. Rights or Legitimate Interests

Consistent with earlier decisions under the Regulations, the Complainant must prima facie demonstrate that the Respondent has no rights to or legitimate interests in the disputed domain name. If the Complainant succeeds in making out this prima facie case, the burden of production shifts to the Respondent, who will then have to come forward with appropriate allegations or evidence demonstrating a right to or legitimate interests in the disputed domain name. See *Auto 5 v. E. Shiripour*, WIPO Case No. [DNL2008-0027](#).

The Respondent may demonstrate such rights or legitimate interests inter alia through any of the following circumstances based on article 3.1 of the Regulations:

a) before having any notice of the dispute, the Respondent made 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

b) the Respondent as an individual, business or other organization is commonly known by the disputed domain name; or

c) the Respondent is making a legitimate noncommercial use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish or otherwise damage the relevant trademark, trade name, personal name, name of a Dutch public legal entity or name of an association or foundation located in the Netherlands.

The Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name for the reasons listed above under Section 5.A.

The Respondent, however, alleges to have registered the disputed domain name before the SWISSVAX trademark was registered and started using the trade name Swissvax for its business before the trademark was registered.

The Parties apparently do not agree on which rights each of the parties have in relation to the trademark and trade name SWISSVAX.

Given the strong rebuttal by the Respondent and the lack of compelling evidence by the Complainant proving exclusive rights to SWISSVAX and the absence of evidence by the Complainant proving the Respondent's lack of entitlement to use the trade name Swissvax, the Panel cannot come to the conclusion that the Respondent lacks rights or a legitimate interest in the disputed domain name.

Moreover, the Panel notes that the Regulations are not intended to resolve complex commercial or contractual disputes between longstanding parties. The dispute between the Parties appears to be part of an overall conflict as to the status of the distribution agreement. The Regulations were adopted to facilitate the resolution of cybersquatting disputes involving allegations of clearly abusive domain name registration and use, and do not lend themselves to extensive fact-finding by panels.

The Panel notes that certain disputes are more fit for decision in court proceedings, which, for example, provide more extensive means to evaluate whether a contract has been lawfully terminated. See e.g. *NV TKS, Be Watch Ltd v. Tiflo BV*, WIPO Case No. [DNL2010-0062](#); *Avenza Systems Inc. v. Exqte*, WIPO Case No. [DNL2012-0011](#); and *Kirloskar Proprietary Limited v. Kirloskar Pompen B.V.*, WIPO Case No. [DNL2018-0024](#).

Therefore, the Panel concludes that the second element of the Policy has not been met.

C. Registered or Used in Bad Faith

Because the Complainant has failed to meet the second element, the Panel does not need to analyze the issue of bad faith, although the considerations under 6.2.B, underpin that the Complainant has not been able to prove the existence of bad faith for the registration and/or the use of the disputed domain name.

7. Decision

For all the foregoing reasons, the Complaint is denied.

/Willem J. H. Leppink/

Willem J. H. Leppink

Panelist

Date: September 10, 2025