DECISION OF THE THIRD-PARTY DECIDER

RICHEMONT INTERNATIONAL SA / YE GENRONG

Dispute N° 44350 : piaget.be

1. Parties

1.1. Complainant: RICHEMONT INTERNATIONAL SA
Established at 10, Route des Biches
CH-1752 Villars-Sur-Glâne, Switzerland

Represented by:

Luca Barbero, Attorney at Law, having his office Via Tripoli 104/106, 10137 Torino, Italy

1.2. Domain Name Holder:
YE GENRONG
Established at Zhejiangsheng lishuishi jiefanggjie 3 hao
323001 LISHUI – ZHEJIANG, China

2. Domain Name

Domain Name: piaget.be
registered on 28 May 2010

Hereafter referred to as « the Domain Name »

3. History of the procedure

On 21 May 2014, the Complainant filed a Complaint regarding the Domain Name "piaget.be" with the CEPANI, the Belgian Centre for Arbitration and Mediation ("Cepani"), in accordance with the CEPANI Rules for Domain Name Dispute Resolution ("the Rules") and the terms and conditions for domain name registrations under the ".be" domain operated by DNS.be ("the Policy").

Cepani informed the Domain Name Holder of the Complaint, but the Domain Name Holder submitted no Response.

On 4 July 2014, Cepani informed the Complainant and the Domain Name Holder that the undersigned had been appointed as the Third-Party Decider to settle the dispute pursuant to the Rules. The undersigned has filed its Statement of Independence with the Secretariat of Cepani.

The deliberations were closed on 11 July 2014.

Cepani invited the Third-Party Decider to render his decision by 25 July 2014.

4. Facts

4.1. The Complainant

The Complainant, Richemont International SA, owns several of the world's leading companies in the field of luxury goods and owns a number of well-established brands such as IWC, VACHERON&CONSTANTIN, BAUME&MERCIER, JEAGER-LECOULTRE and PIAGET.

The Complainant owns several international and national trademark registrations for "PIAGET" worldwide, including the following:

- International Registration No. 133699 for PIAGET, registered on December 24, 1947 and duly renewed thereafter, in class 14, designating i.a. Benelux;

- International Registration No. 376084 for PIAGET, registered on February 03, 1971 and duly renewed thereafter, in class 14, designating i.a. Benelux;

- International Registration No. 5399945 for PIAGET, registered on March 31, 1971 and duly renewed thereafter, in classes 03 06 08 09 14 16 18 20 21 25 28 33 34, designating i.a. Benelux;

- International Registration No. 408586 for PIAGET, registered on July 03, 1974 and duly renewed thereafter, in classes 08 16 18 20 22 23 24 25 26 27 and 34, designating i.a. Benelux;

- National Trademark Registration for China No. 517552 for PIAGET, of April 20, 1990, in class 14.

The Complainant registered the term "PIAGET" in over 230 domain names and operates its official website (www.piaget.com) as its primary presence on the Internet for global promotion. Via the registration of the PIAGET term and variations thereof in the different domain names, Complainant tailors the websites to the different countries and languages (see e.g. www.piaget.cn dedicated to Chinese consumers).

On 28 May 2010, the Domain name holder registered the Domain Name "piaget.be".

From the evidence produced by the Complainant, it appears that the website displayed under the Domain Name contained various sponsored links to third parties' commercial websites. Besides the links to third-parties' commercial websites offering for sale PIAGET products, there were also links to pages offering for sale watches/jewelry of the Complainant's competitors.

Moreover, a notice was published on the website stating that the Domain Name is offered for sale. Internet users clicking on this announcement were redirected to a SEDO platform where de Domain Name "piaget.be" was indicated as being for sale with a listing price of 6.200 EUR.

On 2 October 2013, a web agency instructed by the Complainant contacted the Domain Name Holder asking about his intentions regarding the Domain Name and the possible availability and conditions to assign it to the Complainant. In the absence of any response, the web agency sent a reminder on 9 October 2013. On 25 October 2013, the Domain name holder replied: "*8000euro, thank you!*".

On 11 December 2013, the Complainant sent a cease and desist letter to the Domain Name Holder through its legal representative. This letter requested the Domain Name Holder to cease any use of the Domain Name and to transfer it to the Complainant. On 12

December 2013, the Domain Name Holder replied and requested 8.000 EUR for the assignment of the Domain Name. The Complainant's representative replied to such communication, reiterating the contents of the cease and desist letter and highlighting the fact that the Complainant was not prone to offer the requested amount of 8.000 EUR, being well beyond the reasonable out-of-pocket costs the Domain Name Holder might have disbursed in relation to the Domain Name. Despite a reminder sent on 19 December 2013, no further reply has been received from the Domain Name Holder.

In light of the above, the Complainant decided to file a Complaint before the CEPANI in order to enforce its intellectual property rights and to request the assignment of the Domain Name "piaget.be".

4.2. The Domain Name Holder

The name of the registrant of the disputed Domain Name "piaget.be" is not disclosed in the WHOIS records.

In view of the present Complaint, the Complainant's legal representative contacted the competent authorities on 29 January 2014 and obtained the disclosure of the full data of the registrant of the Domain Name, namely Ye Genrong.

The Domain Name Holder did not submit any Response. No further information about the Domain Name Holder is available.

5. Position of the parties

5.1. Position of the Complainant

The Complainant requests the Third-Party Decider to order the transfer of the Domain Name since all conditions provided for in the DNS Policy (article 10.b.1) are fulfilled.

The Complaint relies upon the following grounds:

- *The Domain Name is identical or confusingly similar to the trademarks in which the Complainant has rights*

  The Complainant argues that the Domain Name "piaget.be" registered by the Domain Name Holder is identical to the trademarks it owns.

  The Complainant points out that the distinctive sign "PIAGET" is reproduced in its entirety in the Domain Name without any prefixes or suffixes, nor any additional element that might distinguish the Domain Name from the trademarks. The only difference between the trademarks and the Domain Name is the suffix ".be", but this suffix is generally accepted as being irrelevant.

- *The Domain Name Holder has no rights or legitimate interests in respect of the Domain Name*

  According to the Complainant, the Domain Name Holder (as an individual, business or other organization) is not commonly known by the Domain Name, nor does he hold any rights to the name that are recognized under Article 10 b.3 of the DNS Policy.

  The Domain Name Holder is not a licensee or an authorized agent of the Complainant or in any other way authorized to use the Complainant's trademarks PIAGET.

  The use of the Domain Name displaying a web page where sponsored links were published and products/services of competitors were advertised, along with the Complainant's, is to be considered neither as a bona fide offering of goods or

services nor as a legitimate non-commercial or faire use of the disputed Domain Name, without intent for commercial gain, also in view of the fact that the Domain Name Holder is certainly gaining, a.o. from the click-through commissions, on the sponsored links.

In addition, the Complainant highlights that the Domain Name Holder, besides offering for sale the Domain Name on a Sedo platform for 6.200 EUR, requested 8.000 EUR in order to transfer the Domain Name to the legitimate trademark owner, thus demonstrating the absence of any legitimate interest on his side and that his sole aim when registering "piaget.be" was to obtain undue commercial benefit from the exploitation of the Complainant's well-known trademarks.

Finally, the Complainant argues that it is a consolidated principle that the burden of proof lies on the Complainant. However, satisfying the burden of proving a lack of the Domain Name Holder's rights or legitimate interests in respect of the Domain Name according to article 10 b.1 (ii) of the DNS Policy is quite onerous, since proving a negative circumstance is always more difficult than establish a positive one. Accordingly, it is sufficient for the Complainant to show a prima facie evidence in order to shift the burden of proof on the Domain Name Holder.

In light of the above, the Complainant concludes that, prior to any notice of dispute, the Domain Name Holder did not use, and had not made any demonstrable preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods and services and that there is no indication that he is making a legitimate and non-commercial or fair use of the Domain name.

- *The Domain Name was registered or is being used in bad faith*

The Complainant asserts that many elements of the case show evidence of the Domain Name Holder's bad faith, both when registering the Domain Name and when using it.

  - *The Domain Name Holder registered the Domain Name in bad faith*

In light of the use of the distinctive sign "PIAGET" since as early as the second half of the XIX century and since the intensive use of the trademarks and the well-known character these PIAGET trademarks acquired over the years which has been recognized worldwide, the Domain Name Holder could not have possibly ignored the existence of the Complainant's trademarks at the time of the registration of the identical Domain Name.

This behavior in itself clearly shows that the Domain Name Owner chose this Domain Name only in order to take advantage of the Complainant's reputation and in order to attract internet users to his website, which – in itself or in connection with the use made by the Domain Name Holder of "piaget.be" – already proves the Domain Name Holder's bad faith.

  - *The Domain Name Holder is using the Domain Name in bad faith*

According to the Complainant, it is equally obvious that the Domain Name Holder is using "piaget.be" in bad faith.

The disputed Domain Name, at the time of filing the Complaint, referred to a web page where internet users could find a number of sponsored links to various commercial websites offering for sale watches of competitors and products bearing the PIAGET trademarks. The Domain Name Holder earned commissions whenever an internet user visited the website and clicked on one of the sponsored links. Such a conduct where the Domain Name Holder sought or realized commercial gain indicates the Domain Name Holder's bad faith.

The Complainant argues that article 10.b.2 of the DNS Policy is applicable to the present case since such use of "piaget.be" clearly demonstrates that the Domain

Name is intentionally used to attract, for commercial gain, Internet users to the Domain Name Holder's website and those of competitors of the Complainant, by creating likelihood of confusion with the Complainant's trademarks.

Furthermore, the fact that the Domain Name Holder listed "piaget.be" for sale on the Sedo platform at 6.200 EUR and in his letter to the Complainant at 8.000 EUR aimed at ascertaining his intentions. The amounts of 6.200 EUR and 8.000 EUR are certainly to be considered to be well in excess of the out-of-pocket costs directly related to the Domain Name.

The Domain Name Holder's request of 8.000 EUR and the offer for sale of "piaget.be" on the SEDO platform create a strong impression that the Domain Name was registered primarily for the purpose of selling it to the Complainant being the trademark owner or to a competitor of the Complainant, for valuable consideration in excess of the costs directly related to the Domain Name.

As additional circumstance of the Domain Name Holder's bad faith, his failure to reply to the Complainant's communication and reminders has also to be taken into consideration.

Furthermore, the Complainant argues that the Domain Name Holder has engaged in a pattern of registrations where he is the registrant of domain names which correspond to well-known names or trademarks in which he has no apparent rights and which, in most cases, are used for similar purposes. Such inference is demonstrated by the fact that the Domain Name Holder has been engaged in three prior proceedings under the UDRP Policy in which he was found to have abusively registered and used third parties' trademarks and by the fact that he is also the registrant of other domain names corresponding to registered trademarks, such as "googlemail.ch", "drscholls.net", "Gatorade.org", "delonghi.in".

As a final circumstance evidencing bad faith, the Claimant states that the Domain Name Holder's contact information is prima facie incorrect. While the city Lishui exists in China and is located in the Zhejiang province, the physical address zhejiangsheng lishui shi jiefang jie 3 hao lishui 323001, China does not correspond to any prima facie existing location. According to the researches made by the Complainant's representative on an internet search engine, no street named "zhejiangsheng lishui shi jiefang jie" is in fact prima facie existing in Lishui.

For these reasons, the Complainant requests the Third Party Decider to order the transfer of the Domain Name.

5.2. Position of the Domain name holder

The Domain name holder did not file a Response to the Complaint.

6. Discussion and conclusions

Pursuant to article 16.1 of the Rules, the Third-Party Decider shall decide on the Complaint following the parties views and in accordance with the dispute resolution policy, the registration agreement and following the provisions of these Rules.

According to article 10.b.1 of the DNS Policy, the Complainant must provide evidence of the following:

- the Domain Name Holder's domain name is identical or confusingly similar to a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and

- the Domain Name Holder has no rights or legitimate interests in the domain name; and

- the Domain Name Holder's domain name has been registered or is being used in bad faith.

If the Domain Name Holder does not submit a Response, the proceedings shall continue and the Third-Party Decider shall decide the dispute on the basis of the Complaint and such pursuant to article 6.4 of the Rules.

6.1. The Domain Name is identical or confusingly similar to trademarks of the Complainant

The relevant part of the Domain Name is PIAGET as the ".be" extension must not be taken into account, according to the well-established case law of Cepani (see e.g. Cepani cases n° 44038, 44030, 44021, 44025, 44240 and 44160).

This part of the Domain Name must be compared with the Complainant's trademarks. None of these trademarks for which the certificate of registration is provided, are merely word marks. They are all word+device trademarks.

As a result, none of the trademarks are identical to the Domain Name.

But since the word PIAGET is an essential distinctive element of the trademarks and this word is identical to the Domain Name, the Third-Party Decider comes to the conclusion that the Domain Name is confusingly similar to the trademarks owned by the Complainant.

The Domain Name Holder has not disputed this similarity.

As a consequence, the first condition set forth in article 10.b.1 (i) of the DNS Policy is met.

6.2. The Domain Name Holder has no rights or legitimate interests in the Domain Name

Through the Domain Name, the Domain Name Holder makes use of the Complainant's trademarks without any authorization of the Complainant.

Pursuant to article 10.b.3 of the DNS Policy, the Domain Name Holder's rights or legitimate interest to the Domain Name can be proved by certain circumstances. Article 10.b.3 of the DNS Policy gives a non-exhaustive list of such circumstances:

* prior to any notice of the dispute, the Domain Name Holder used the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services or made demonstrable preparations for such use; or

* the Domain Name Holder (as an individual, business or other organization) has been commonly known by the Domain Name, even if he has acquired no trademark; or

* the Domain Name Holder is making a legitimate and non-commercial or fair use of the Domain Name, without intent to misleadingly divert consumers for commercial gain or to tarnish the trademark, trade name, social name or corporation name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity at issue.

Since the Complainant reasonably asserts that the Domain Name Holder does not have any rights or legitimate interests, the burden of proof lies on the Domain Name Holder, who has to prove that he actually does have rights or legitimate interests.

The Domain Name Holder has not filed any Response. He has therefore a fortiori not provided any explanation or evidence, which may establish his rights and/or legitimate interests in the Domain Name, so that Complainant's contentions are not contradicted.

The Third-Party Decider therefore concludes that the Domain Name Holder has no right or legitimate interest in the Domain Name.

Consequently, the condition stated under article 10.b.1(ii) of the DNS Policy is also fulfilled.

6.3. The Domain Name is registered or used in bad faith

Pursuant to article 10.b.2 of the DNS Policy, the Domain Name Holder's bad faith can be demonstrated by certain circumstances. Article 10.b.2 of the DNS Policy gives a non-exhaustive list of such circumstances:

* circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity, or to a competitor of the complainant, for a price that exceeds the costs directly related to the acquisition of the domain name; or

* the domain name was registered in order to prevent the owner of a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or a name of a geographical entity to use the domain name and that the domain name holder has engaged in a pattern of such conduct; or

* the domain name was registered primarily for the purpose of disrupting the business of a competitor; or

* the domain name was intentionally used to attract, for commercial gain, Internet users to the domain name holder's web site or other on-line location, by creating confusion with the complainant's trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of a geographical entity as to the source, sponsorship, affiliation, or endorsement of the domain name holder's web site or location or of a product or service on his web site or location; or

* the domain name holder has registered one or more personal names without the existence of a demonstrable link between the domain name holder and the registered domain names.

Without any Response from the Domain Name Holder to the Complaint, it is sufficiently evidenced by the Complainant that the Domain Name was registered and is being used in bad faith.

As a consequence, also the condition stated in Article 10.b.1(iii) of the DNS Policy is fulfilled.

7. Decision

Pursuant to article 10.e of the DNS Policy, the Third-Party Decider hereby rules that the Domain Name registration for the "piaget.be" Domain Name is to be transferred to the Complainant.

Brussels, 25 July 2014

The third-party decider
Renaud Dupont

(Signature)