

## **ADMINISTRATIVE PANEL DECISION**

Patanjali Ayurved Limited v. Harpal Singh Singh  
Case No. D2022-2132

### **1. The Parties**

The Complainant is Patanjali Ayurved Limited, India, represented internally.

The Respondent is Harpal Singh Singh, India.

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

The disputed domain name <patanjali-distributors.org> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 9, 2022. On June 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 14, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on June 15, 2022, 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 amendment to the Complaint on June 16, 2022.

The Center verified that the Complaint together with the amendment to the 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 June 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 18, 2022.

The Center appointed Vinod K. Agarwal as the sole panelist in this matter on July 21, 2022. 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**

In the present case, the Complainant PATANJALI AYURVED LIMITED (abbreviated as the "PATANJALI") is a company formed and registered under the Companies Act, 1956 of India having its registered office at D-26, Pushpanjali, Bijwasan, New Delhi-110061, INDIA and Corporate/ Administrative Office at PATANJALI Food and Herbal Park, Haridwar–Laksar Road, Village: Padartha, Haridwar-249404, Uttarakhand, INDIA.

According to the Complaint, the Complainant is in the business of procuring, processing, manufacturing and marketing of herbal products including medicines, cosmetics and food products, beverages, personal and home care products, extracts and so many similar commodities.

The registration of the disputed domain name was on January 25, 2022. It resolves to a website headed "Pantanjali Franchise" and purporting to sell the Complainant's products.

#### **5. Parties' Contentions**

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

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are applicable to the present dispute.

In relation to element (i), the Complainant contends that the word "PATANJALI" is the registered trademark of the Complainant. The Complainant has been using the said trademark since 2006. The said trademark "PATANJALI" of the Complainant was registered in India with the Registrar of Trademarks on December 22, 2011 (Trademark Registration No. 2254680) in Class 5. The said trademark has been used by the Complainant extensively making it distinctive and synonymous to the Complainant and the services provided under the said trademark. The Complainant has contended that the trademark "PATANJALI" enjoys great reputation and immense goodwill.

That the Complainant is a registered owner of the trademark "PATANJALI" in a large number of other countries under the Trademark Laws of the respective countries, namely, Australia, Switzerland, European Union, Republic of Korea, Norway, New Zealand, Oman, Philippines, Russian Federation, Singapore, UAE, Mauritius, etc.

According to the Complainant, the applications for the registration of the said trademark "PATANJALI" are also pending in Bangladesh, Nepal, Sri Lanka, Bhutan, Thailand, Malaysia, Kuwait, Indonesia, UK, UAE, Canada, USA, Australia, New Zealand, etc.

By virtue of prior adoption, long and continuous use and extensive publicity and promotion, the trade name and trademark "PATANJALI" has acquired goodwill and reputation worldwide amongst the public in general. Thus, it is associated by the public exclusively with the Complainant and their services and products.

The registration of the disputed domain name by the Respondent is confusing inasmuch as it causes the public to believe that the Respondent is associated with the Complainant or a company of the Claimant and also violates the Complainant's PATANJALI trademark rights. Thus, the intention of the Respondent is to create confusion in the market and business circles.

In relation to element (ii), the Complainant contends that the Respondent do not meet any of the situations enumerated in Paragraph 4 of the Policy. The Respondent's use of the domain name has no connection with a *bona fide* offering of goods and services. The Complainant's trademark PATANJALI has become

highly distinctive of the services of the Complainant on account of extensive use, viewership and promotion. The registration of the disputed domain name amounts to taking unfair advantage of the Complainant's reputation and goodwill. It is completely detrimental to the distinctive character of the Complainant's trademark "PATANJALI".

Further, the Respondent is in no way related to the Complainant. The Complainant has not licensed or otherwise permitted or granted to the Respondent an authorization or a right to use their trademark or to apply for or use the disputed domain name incorporating their trademark and that nobody would use the words "PATANJALI" unless seeking to create an impression of an association with the Complainant,

The act of the Respondent constitutes infringement and passing off of the trademark of the Complainant. The Respondent registered the disputed domain name for the sole purpose of creating confusion and misleading the public and the customers of the Complainant. Thus, it is contended that there were no rights or legitimate interests of the Respondent in the disputed domain name.

Regarding the element (iii), the Complainant contends that the disputed domain was registered in bad faith to obtain unfair commercial gain, at the expense of the Complainant and to disrupt the business of the Complainant. The purpose and intent of the Respondent in adopting the disputed domain name is to encash on the name, fame, reputation, image and goodwill of the Complainant which has been built up assiduously over the last many years.

In the disputed domain name the Respondent has added the suffix "distributor" which may wrongly cause visitors to believe that the domain name belongs to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

As has been mentioned above, according to paragraph 4(a) of the Policy, the Complainant must prove the following aspects:

- (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.

### **A. Identical or Confusingly Similar**

According to the information submitted by the Complainant, the Complainant is the owner of the trademark "PATANJALI". The Complainant has provided evidence of registration of the trademark PATANJALI in several countries. There is therefore no ambiguity or doubt regarding the Complainant's ownership rights in the said trademark.

The present dispute pertains to the disputed domain name. It contains the word "PATANJALI". The trademark "PATANJALI" has been created by the Complainant before the disputed domain name was registered by the Respondent. The addition of the word "distributor" does not prevent a finding that the disputed domain name is confusingly similar to the trademark of the Complainant.

Therefore, the Panel finds that the disputed domain name is confusingly similar or identical to the trademarks of the Complainant. Accordingly, the requirement under the first element of the Policy has been satisfied.

## **B. Rights or Legitimate Interests**

According to paragraph 4(c) of the Policy, the Respondent may demonstrate its rights or legitimate interests in the disputed domain name by proving any of the following circumstances:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or 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
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent has not filed any Response in this case. There is no evidence to suggest that the Respondent has become known by the disputed domain name anywhere in the world. The Complainant has not authorized the Respondent to use the name and its trademark "PATANJALI".

It is evident that the Respondent can have no rights or legitimate interests in the disputed domain name. Further, the Complainant has not licensed or otherwise permitted the Respondent to use its trademark or to apply for or use the disputed domain name incorporating the trademark of the Complainant. Further, the Respondent's display of the webpage when considered in its entirety does not constitute *bona fide* offering of services.

Based on the default of the Respondent and the evidence provided in the Complaint, the Panel finds that the above defenses do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

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

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) Circumstances indicating that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that the Complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- (ii) The Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that it has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on its website or location.

The Complainant contends that the purpose and intent of the Respondent in registering and adopting the disputed domain name is to cash in on the name, fame, reputation, image and goodwill of the Complainant

which has been built up assiduously over the last many years.

It is a systematic attempt by the Respondent to derive unfair advantage, wrongful commercial gains and to mislead the public. The Respondent is not making a noncommercial or fair use of the disputed domain name. The Complainant also alleges, which is not rebutted, that the "Respondent is using the domain name to create a website which tarnished the trademark or service mark at issue since it includes malicious statements about the food products".

This and the other evidence submitted by the Complainant leads to the presumption that the disputed domain name was registered and used by the Respondent in bad faith.

The Panel concludes that the registration of the disputed domain name amounts to the registration and use of the disputed domain name in bad faith. Paragraph 4(a)(iii) of the Policy is satisfied.

## **7. Decision**

In the light of the foregoing reasons, the Panel orders that the disputed domain name <pantanjali-distributors.org> be transferred to the Complainant.

*/Vinod K. Agarwal/*

**Vinod K. Agarwal**

Sole Panelist

Date: August 4, 2022