

## **ADMINISTRATIVE PANEL DECISION**

### **Google LLC v. Carolina Rodrigues, Fundacion Comercio Electronico Case No. D2023-1354**

#### **1. The Parties**

The Complainant is Google LLC, United States of America, represented by Fidus Law Chambers, India.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

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

The disputed domain name <गूगल.com> (the “Domain Name”) 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 March 29, 2023. The same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 30, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private, Domain By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 30, 2023, 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 April 3, 2023.

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 April 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 28, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on May 5, 2023. 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 Complainant operates a widely used Internet search engine under the trademark GOOGLE. In addition to search technologies and related activities, the Complainant is well known for a wide range of goods and services, including online advertising, web browser software, email services, mobile phones, laptops, and its accessories. The search engine service under the trademark GOOGLE is available in more than 150 interface languages.

The Complainant has registered the trademark GOOGLE all over the world, including Indian trademark for GOOGLE transliterated in Hindi, No. 1513045, registered on December 13, 2006. The Complainant's trademark rights have been recognized in numerous UDRP decisions.

According to the Complainant, the Respondent registered the Domain Name on May 26, 2020. The Domain Name resolved to a Pay-Per-Click ("PPC") website that *inter alia* provided links referring to "google" and stated that the Domain Name is available for sale.

#### **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 Domain Name. The Complainant provides evidence of trademark registrations and argues common law rights by virtue of long and continuous use. Moreover, the Complainant's trademark has been declared well-known and/or a famous mark in several jurisdictions. The Domain Name entirely subsumes the Complainant's trademark (Hindi transliteration of the trademark GOOGLE) in an identical adoption of the Complainant's trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent reproduces the Complainant's trademark in the Domain Name without any authorization from the Complainant. The Respondent is not making any commercial or fair use of the Domain Name. On the contrary, the Respondent is merely attempting to cash in based on the reputation of the Complainant's trademark.

The Complainant believes that the Respondent must have been aware of the Complainant and its trademark when the Respondent registered the Domain Name. The Complainant argues that the Respondent was and is to create a likelihood of confusion with the Complainant's trademark. The fact that the Respondent has failed to host any legitimate content on the Domain Name or use it for any *bona fide* offering of goods/services, and offered the Domain Name for sale, demonstrate that the Respondent has registered the Domain Name in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

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

The first element functions primarily as a standing requirement. The 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 established that it has rights in the trademark GOOGLE and its Hindi transliteration,

गूगल. The Domain Name is identical to the Complainant's trademark in Hindi language. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.

The Panel finds that the Domain Name is identical to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

### **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.

While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The use of the Domain Name is rather evidence of bad faith, see below. Moreover, the composition of the Domain Name points to an intention to confuse Internet users seeking or expecting the Complainant.

The Panel finds that the Complainant has made out an un rebutted *prima facie* case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

### **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.

It is highly likely that the Respondent was aware the Complainant and its prior rights, based on the fame of the Complainant and the composition of the Domain Name. The Panel notes that the Respondent has not offered any explanation as to why the Respondent registered the Domain Name, nor used it for any *bona fide* offering. The Domain Name has been offered for sale and resolved to a PPC website with links referring to the Complainant. These are all clear indications of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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 Domain Name <गूगल.com> be transferred to the Complainant.

/Mathias Lilleengen/

**Mathias Lilleengen**

Sole Panelist

Date: May 16, 2023