

ADMINISTRATIVE PANEL DECISION

University Of Patanjali v. Gagandeep Singh
Case No. D2023-2043

1. The Parties

The Complainant is University Of Patanjali, India, represented by Head Legal, India.

The Respondent is Gagandeep Singh, India.

2. The Domain Name and Registrar

The disputed domain name <patanjaliuniversity.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 9, 2023. On May 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 10, 2023, 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 (Namecheap) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 26, 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 amendment to the Complaint on May 29, 2023.

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 May 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 17, 2023.

The Center appointed Dr. Vinod K. Agarwal, Ex Law Secretary to the Government of India, as the sole panelist in this matter on July 18, 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

In India, a University can be established by an Act of the appropriate legislative body. Therefore, the Complainant was established through the University of Patanjali University Act No. 4/2006 passed by the Uttarakhand State Legislature published in the State Gazette on April 5, 2006. The Complainant is having its registered office at Haridwar, India. The Complainant is a University and is a member of the Association of Indian Universities. The Complainant is similar or identical to and functions in the same manner as any other University in India and outside of India.

The Complainant is the owner of the trademark UNIVERSITY OF PATANJALI (in capital letters) registered on August 4, 2016.

The disputed domain name was registered on April 15, 2016, and resolves to a website impersonating the Complainant.

5. Parties' Contentions

A. Complainant

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

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

In relation to element (i), the Complainant contends that, apart from getting the University established through an Act of the State Legislature, the Complaint is based on the trademark UNIVERSITY OF PATANJALI (in capital letters) registered on August 4, 2016 in favour of the Complainant and used in relation to rendering appropriate educational services. Thus, the words "University of Patanjali" is the registered trademarks of the Complainant and the Complainant has been continuously using the trademark since 2010. Copy of the registration certificate of the trademark is attached with the Complaint as an Annexure 3.

The Complainant contends that it is the owner of the common law trademark rights to the UNIVERSITY OF PATANJALI trademark and all other intellectual property rights associated with the use of the UNIVERSITY OF PATANJALI trademark as it relates to the well established brand in India. The trademark of the Complainant is registered in Class 41. The registration is currently valid and subsisting.

The disputed domain name comprises elements of the Complainant's trademark UNIVERSITY OF PATANJALI and is therefore confusingly similar to the Complainant's trademark. By virtue of prior adoption, long and continuous use, and extensive publicity and promotion, the trademark UNIVERSITY OF PATANJALI has acquired tremendous goodwill and enviable reputation worldwide amongst the field of education and public in general.

The use of word "Patanjali University" by the registrant for the disputed domain name is confusing as it causes the public to believe that Respondent is acting on behalf of or under the authority of the UNIVERSITY OF PATANJALI, and also violates the trademark rights of the Complainant. The Complainant has never given either the Respondent or his association/company any authority to operate a domain by using the Complainant's name or trademark and even have not given him any authority to operate, maintain or register a website by using the registered trademark UNIVERSITY OF PATANJALI. The Respondent has no association with the UNIVERSITY OF PATANJALI. It is pertinent to mention that the Respondent is involved in defrauding the innocent public by charging the money for giving the fake admission in the UNIVERSITY OF PATANJALI and such fake advertisement are duly published on the disputed domain name.

The Complainant further contends that the trademark UNIVERSITY OF PATANJALI has not been used by anyone other than the Complainant or its authorized representative. The Complainant has stated that the Respondent is not an authorized representative of the Complainant and has adopted the identical trademark with a view to ride upon the goodwill associated with the Complainant's well known trademark UNIVERSITY OF PATANJALI.

The UNIVERSITY OF PATANJALI trademark is the dominant and recognizable portion of the disputed domain name. The adoption of a well-known trademark with any term, whether descriptive or not, would lead the consumers to believe that the disputed domain name belongs to or is associated with the Complainant owing to the widespread use, goodwill and reputation of the trademark.

In relation to element (ii), the Complainant contends that the Respondent has no "rights or legitimate interests" in the disputed domain name because the Complainant has not granted any permission to the Respondent to use the registered trademark of the Complainant in the disputed domain name. The Respondent does not meet any of the situations enumerated in Paragraph 4(c) of the Policy. The Respondent has no authority to use the registered trademark UNIVERSITY OF PATANJALI. Respondent has not been given the authority to act or speak on behalf of the Complainant. Further that, the Respondent has not been "commonly known by" the disputed domain name.

The unlicensed and unauthorized use of the disputed domain name incorporating the Complainant's trademark is solely with a view to hoard the disputed domain name, misleadingly divert consumers and to tarnish the trademark of the Complainant. There is also no demonstrable preparation to use or actual use of the disputed domain name in connection with any *bona fide* offering of goods or services.

Further that, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain. The Respondent is using the domain name to create a website which tarnished the trademark or service mark at issue. Therefore, the Complainant has satisfied policy, paragraph 4(a)(ii) and Rules, Paragraph 3(b)(ix)(2) that the Respondent has no rights or legitimate interests in the domain name that is the subject of the Complaint.

In relation to element (iii), the Complainant contents that the disputed domain name has been registered and is being used in bad faith. The Respondent has registered the disputed domain names primarily for the purpose of disrupting the business of the Complainant. The Respondent has booked the disputed domain name with the ill intention just to harm the goodwill of the Complainant and to confuse the public at large. The Respondent may

use the disputed domain name to attempt to attract Internet users for personal gain by creating a likelihood of confusion with the Complainants' mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website. Further, the disputed domain name containing the trademark UNIVERSITY OF PATANJALI further confuses the public as to the source of the information included on the website. Therefore, the Respondent is using the disputed domain name in bad faith, and the Respondent's use of the disputed domain name creates confusion as to the source of the information found on the website under the domain name.

Therefore, the registration and use of the disputed domain name by the Respondent is in bad faith and the requirement of paragraph 4(a)(iii), 4(b) of the Policy read along with the Rules, paragraph 3(b)(ix)(3) has been established.

B. Respondent

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

6. Discussion and Findings

As has been stated above, according to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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

In the first instance, the Complainant holds registered trademark rights in the UNIVERSITY OF PATANJALI trademark, which automatically confers standing for purposes of the Policy.

The disputed domain name includes the trademark of the Complainant, inversed and omitting the term "of". Given that the Complainant's trademark remains recognizable, the disputed domain name is confusingly similar to the trademark of the Complainant. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Therefore, the Panel finds that the disputed domain name is confusingly similar or identical to the trademarks of the Complainant.

B. Rights or Legitimate Interests

According to paragraph 4(c) of the Policy, the Respondent may demonstrate its rights to or legitimate interest 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.

There is no evidence to suggest that the Respondent has become known by the disputed domain name anywhere in the world. As per the Whols, the Respondent is known by the name of Mr. Gagandeep Singh. The Complainant has not authorized the Respondent to use the Complainant's name and trademark.

It is evident that the Respondent can have no rights legitimate interests in the disputed domain name. The Respondent is using the disputed domain name to impersonate the Complainant and such illicit activity through the confusingly similar disputed domain name can never confer rights or legitimate interests upon a response. [WIPO Overview 3.0](#), section 2.13.

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. Lastly, construction of the disputed domain name creates an impression of an association with the Complainant, contrary to the fact, which cannot constitute fair use.

Based on the evidence in the Complaint, the Panel finds that the above circumstances 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 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 website or location or of a product or service on its website or location.

The Complainant has contended that the disputed domain name is being used by the Respondent with the intention to deceive Internet users intentionally, with a view to trade upon or cash on the name, fame, reputation, image and goodwill acquired by the Complainant. Further that the Respondent has registered the disputed

domains name in bad faith with the ill intention to harm the goodwill of Complainant and to confuse Internet users seeking and expecting to find the Complainant at the disputed domain name. The Respondent has used the disputed domain name to attempt to attract Internet users for personal gain by creating a likelihood of confusion with the Complainants' mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

While the registration of the Complainant's trademark postdates the registration of the disputed domain name, the fame and unique qualities of the trademarks UNIVERSITY OF PATANJALI, which was used by the Complainant well prior to the registration of the disputed domain name, makes it extremely unlikely that the Respondent created the disputed domain name independently without any knowledge of the Complainant's trademark. Such finding is reinforced given the impersonating use to which the disputed domain name was put.

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

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

7. Decision

In the light of the foregoing reasons, namely, that the disputed domain name is confusingly similar to the trademark in which the Complainant has a right, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered in bad faith and is being used in bad faith, in accordance with paragraphs 4(i) of the Policy and Rule 15 of the Rules, the Panel orders that the disputed domain name <patanjaliuniversity.com> be transferred to the Complainant.

/Vinod K. Agarwal/

Vinod K. Agarwal

Sole Panelist

Date: August 1, 2023