

ADMINISTRATIVE PANEL DECISION

Patanjali Ayurved Ltd. v. ritwik pandey, self
Case No. D2023-2964

1. The Parties

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

The Respondent is ritwik pandey, self, India.

2. The Domain Name and Registrar

The disputed domain name <yogagrampatanjali.com> 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 July 11, 2023. On July 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 13, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 14, 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 July 18, 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 July 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 18, 2023.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on August 23, 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, Patanjali Ayurved Ltd., is a company registered under Companies Act, 1956 having its registered office in India. 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 many other similar goods. The Complainant is the owner of the registered trademark PATANJALI in India, which is supported by the certificate of registration, including the trademark No. 2254680, registered on December 22, 2011.

The disputed domain name was registered on February 17, 2023 and at the time this Decision was drafted, the disputed domain is an active website, offering ayurveda based treatment.

5. Parties' Contentions

A. Complainant

The Complainant claims to be the owner of the registered trademark PATANJALI in India, which is supported by the certificate of registration. The Complainant further claims that it is the owner of the common law trademark rights to the PATANJALI trademark and all other intellectual property rights associated with the use of the PATANJALI trademark as it relates to the well-established brand in India and worldwide. The Complainant also claims to own several trademark registrations containing the mark PATANJALI in other jurisdictions around the world including Australia, Canada, the European Union, New Zealand, Singapore, Switzerland, the United Arab Emirates, the United Kingdom, the United States of America, etc. The Complainant has claimed the use of the mark PATANJALI continuously since 2006.

The Complainant states that the Respondent registered the disputed domain name on February 17, 2023. The Complainant alleges that the disputed domain name is confusingly similar to its registered trademark PATANJALI. Based on these claims, the Complainant states that it has satisfied the elements required under paragraph 4(a)(i) of the Policy and paragraphs 3(b)(viii) and 3(b)(ix)(1) of the Rules.

The Complainant asserts that the Respondent has no association with the Complainant and that the Complainant has not authorized the use of the disputed domain name by the Respondent. The Complainant also states that the Respondent's i) use of the disputed domain name has no connection with a *bona fide* offering of goods and services; ii) adoption of the disputed domain name is to confuse the public and to take undue advantage of the goodwill associated with the Complainant's registered trademark PATANJALI; iii) use of the disputed domain name is not legitimate noncommercial or fair and free from the intent to commercial gain by diverting consumers or to tarnish the trademark or service mark at issue, particularly since it includes malicious statements about the food products. For this reason, the Complainant alleges that the Respondent does not have any "rights or legitimate interests" in the disputed domain name and further claims to have satisfied the elements contained in paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules.

Further, the Complainant claims to have satisfied paragraph 4(a)(iii) of the Policy and paragraph 3(b)(ix)(3) of the Rules on the grounds that the Respondent has registered the disputed domain name primarily for disrupting the business of the Complainant and with the ill intent of harming the goodwill of the Complainant and confuse the public at large. The Complainant further envisages that the disputed domain name can be used by the Respondent to attract Internet users for personal gain by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of its website. Further, the Complainant states that the disputed domain containing the mark PATANJALI creates a confusion in the minds of the public as to the source of the information included on its website.

B. Respondent

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

6. Discussion and Findings

To transfer the disputed domain name from the Respondent, the Complainant must prove the following elements as per paragraph 4(a) of the Policy:

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

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Further, since the Respondent has not submitted its reply in the case at hand, this Panel finds it appropriate case to "decide the dispute based upon the complaint" as per paragraph 5(f) of the Rules read with paragraphs 14(a) and 14 (b) of the Rules.

Having considered the Complainant's case and the evidence available, the Panel finds as follows.

A. Identical or Confusingly Similar

As stated above, the Complainant has established its rights in and to the trademark PATANJALI (figurative mark).

As mentioned in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO's Overview 3.0](#)") at section 1.10, the panel's assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that "design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element.

On this basis, trademark registrations with design elements would *prima facie* satisfy the requirement that the complainant show "rights in a mark" for further assessment as to confusing similarity."

Given the above, the Panel finds that the Complainant's trademark registration constitutes "*prima facie* evidence of the validity of the trademark", as held in *Backstreet Productions, Inc., v. John Zuccarini, CupcakeParty, Cupcake Real Video, Cupcake-Show and Cupcakes-First Patrol*, WIPO Case No. [D2001-0654](#).

Further, "where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing" as explained in section 1.7 of the [WIPO Overview 3.0](#).

The Panel has no difficulty in finding that the Complainant's registered trademark PATANJALI is wholly incorporated in the disputed domain name and is easily recognizable despite in the disputed domain name.

The last element to be considered is the use of the additional terms “yogagram” in the disputed domain name. The Panel has personal knowledge that the term “yogagram” is a descriptive term, finding its origin in the Indian languages, Sanskrit. It translates to a “village of Yoga”. Be that as it may, section 1.8 of the [WIPO Overview 3.0](#) clearly states that “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical...) would not prevent a finding of confusing similarity under the first element.”.

For these reasons, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark PATANJALI.

B. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name by demonstrating that:

- i) it owns the trademark PATANJALI;
- ii) the Respondent is not related in any way to the Complainant;
- iii) neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark PATANJALI, or apply for registration of the disputed domain name, by the Complainant;
- iv) the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use and that it was registered to misleadingly divert consumers and to tarnish the Complainant’s trademark.

The Panel finds that a *prima facie* case is made by the Complainant, pursuant to which, the burden shifts to the Respondent to come forward with an appropriate allegations and relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Further, there is nothing on the record to show that the Respondent is known as the disputed domain name. The Respondent has failed to file a Response in this proceeding.

Since the Respondent in the case at hand failed to come forward with any allegations or evidence in this regard to rebut the Complainant’s *prima facie* case, this Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name (see *Deutsche Lufthansa AG v. Mustermann Max, Muster AG*, WIPO Case No. [D2015-1320](#); *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#); *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#)). The Complainant is therefore deemed to have satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

[WIPO Overview 3.0](#), section 3.1.4 states that “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”.

The Complainant has claimed the use of the trademark PATANJALI since 2006 and its trademark is widely known in India and internationally. The Panel has confirmed that PATANJALI is included in the official list of “well-known” marks published by the Indian Trade Marks Registry. The Panel finds bad faith on the ground that it is inconceivable that the Respondent, who resides in India, could not have known of the Complainant’s well-known trademark PATANJALI. In fact, and as rightly contended by the Complainant, the disputed domain name was registered and is being used in bad faith also because of the following:

- i) the Respondent should have known of the Complainant's well-known trademark also because of its wide presence in India;
- ii) registering the disputed domain name despite such knowledge is an indicator of bad faith there is a great likelihood that actual or potential unwary visitors to the Respondent's present web page resolving on this disputed domain names, will be induced to believe that the Complainant has authorised or licensed the actions of the Respondent or authorized the Respondent to register the disputed domain name.

Given this and as previously found in similar cases, this Panel holds that the Respondent, who is also based in India, ought to have had knowledge of the Complainant's trademark PATANJALI prior to the registration of the disputed domain name, which is a clear indication of bad faith. See *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#); *Caesar World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#).

Moreover, section 3.2.1 of the [WIPO Overview 3.0](#) includes additional circumstances and particular factors, which the Panel may consider in assessing whether the Respondent's registration of a domain name is in bad faith. One such circumstance includes: "(i) the nature of the domain name (e.g., ... a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant's area of activity or natural zone of expansion)". The present case is a classic example of the circumstance being described here. The Respondent in the case at hand, has registered the disputed domain name incorporating the Complainant's mark PATANJALI plus an additional term "yogagram", which corresponds to the Complainant's area of activity. Lastly, the Respondent also used the photographs of one of the most prominent yoga experts in India, who is most closely associated with the Complainant.

See *Barclays Bank PLC v. PrivacyProtect.org / Sylvia Paras*, WIPO Case No. [D2011-2011](#) and *Swarovski Aktiengesellschaft v. WhoisGuard Protected / Peter D. Person*, WIPO Case No. [D2014-1447](#).

The Panel has no hesitation in finding that the disputed domain name is registered by the Respondent in bad faith.

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 disputed domain name, <yogagrampatanjali.com> be transferred to the Complainant.

/Meera Chature Sankhari/

Meera Chature Sankhari

Sole Panelist

Date: September 6, 2023