

ADMINISTRATIVE PANEL DECISION

**Brewing Gadgets General Trading LLC, and Goutham Kumbargerri Srinath v.
Suhas Dwarakanath
Case No. D2023-3949**

1. The Parties

The Complainants are Brewing Gadgets General Trading LLC (“First Complainant”), and Goutham Kumbargerri Srinath (“Second Complainant”), United Arab Emirates (“UAE”), represented internally.

The Respondent is Suhas Dwarakanath, India.

2. The Domain Name and Registrar

The disputed domain name <brewinggadgets.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 September 21, 2023. On September 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 22, 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 (RegistrationPrivate) and contact information in the Complaint. The Center sent an email communication to the Complainants on September 27, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on September 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 October 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 26, 2023.

The Center appointed John Swinson as the sole panelist in this matter on October 31, 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 First Complainant, Brewing Gadgets General Trading LLC, was incorporated in 2014. The First Complainant uses the domain name <brewinggadgets.com> to sell items relating to coffee, such as kettles, glasses, and grinders.

The Second Complainant, Goutham Kumbargerri Srinath, owns the trademark BREWING GADGETS.

The Complaint includes evidence of trademark registrations owned by the Second Complainant in India, the Kingdom of Saudi Arabia, and the UAE. An example trademark registration is Indian trademark number 5549725 for BREWING GADGETS and device that was registered on July 29, 2022.

The Complaint also includes evidence showing significant use of the BREWING GADGETS by the Complainants for more than 10 years.

The First Complainant is the exclusive licensee of the BREWING GADGETS trademark.

The Second Complainant owns and uses domain names such as <brewinggadgetsindia.com>, <brewinggadgets.asia>, <brewinggadgets.co>, <brewinggadgets.coffee> and <brewinggadgets.net>.

At one time, the Respondent was employed as a manager of Moksha Trading FZE. According to the Complaint, Moksha Trading FZE was a “permitted user” authorized by the Second Complainant to use the BREWING GADGETS trademark from 2011 to 2014.

The Respondent was appointed as a Manager of Moksha Trading FZE in December 2011 and resigned from his position as Manager on July 27, 2013. While he was Manager, he used an email address at the “[...]@brewinggadgets.com” domain.

The disputed domain name was registered on November 17, 2018.

The disputed domain name resolves to a registrar-generated pay-per-click (“PPC”) website. The PPC advertisements on this website include links for gadgets, beer making equipment, and bottle supplies.

5. Parties’ Contentions

A. Complainant

The Complainants contend that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the Respondent was a former employee of the Complainants or of a business associated with the Complainants, and knowingly registered the disputed domain name to profit from the Complainants’ reputation.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainants must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have 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.

The *onus* of proving these elements is on the Complainants.

Paragraph 15(a) of the Rules directs the Panel to decide the 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.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainants 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.

Based on the available record, the Panel finds the Complainants have shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel also finds that the Complainants have shown unregistered trademark rights in the BREWING GADGETS mark dating back to August 1, 2011; [WIPO Overview 3.0](#), section 1.3.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainants have established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants' *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel considers that, before any notice of the dispute, the Respondent had not made demonstrable preparations to use the disputed domain Name in connection with a *bona fide* offering of goods or services.

The website at the disputed domain name are Registrar parking pages featuring PPC links. The Complainants have provided evidence that some of these links relate to the Complainants industry, and potentially to some of the Complainants' competitors which, also noting the former relationship between the Parties, does not amount to a *bona fide* use of the disputed domain name under the Policy.

Based on the available record, the Panel finds the second element of the Policy has been established.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Complaint states that the Respondent was employed by the Complainants and also states that the Respondent was employed by Moksha Trading FZE, which was a "permitted user" authorized by the Second Complainant to use the BREWING GADGETS trademark from 2011 to 2014. The Complaint is unclear and inconsistent in respect of this issue.

The Second Complainant filed for trademark registrations for BREWING GADGETS in 2022, after the disputed domain name was registered in 2018.

The lack of clarity regarding the Respondent's employment and the fact that the trademark was filed after the disputed domain name was registered is not, however, fatal for the Complainants. The Complainants provide evidence of use and reputation prior to 2018, and the evidence also shows that the Respondent was clearly aware of the BREWING GADGETS trademark during the period 2011 to 2013 and was involved with the BREWING GADGETS business.

Given these facts, there is no doubt that the Respondent was fully aware of the Complainants, and of the BREWING GADGETS business, at the time he registered the disputed domain name more than five years after he ceased working for Moksha Trading FZE. It seems that the Respondent registered the disputed domain name with the intention of trading off the reputation of the Complainants and diverting Internet traffic from the Complainants to his own website. The Panel finds that the Respondent registered the disputed domain name in bad faith. See *teamtechnik Maschinen und Anlagen GmbH v. Edgar Bechtle, EBechtle LLC / edgar Bechtle*, WIPO Case No. [D2015-2270](#).

The disputed domain name is used to host PPC parking pages some of which compete with the Complainants, which is an indicator of bad faith use under paragraph 4(b)(iv) of the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <brewinggadgets.org> be transferred to the Complainants.

/John Swinson/

John Swinson

Sole Panelist

Date: November 15, 2023