

ADMINISTRATIVE PANEL DECISION

Bharti Airtel Limited v. Airtel Domain

Case No. D2024-2704

1. The Parties

The Complainant is Bharti Airtel Limited, India, represented by Intl Advocare, India.

The Respondent is Airtel Domain, India.

2. The Domain Name and Registrar

The disputed domain name <airtel121.com> (the “Disputed 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 July 2, 2024. On July 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 2, 2024, 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 (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 2024, 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 July 9, 2024.

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 July 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 5, 2024.

The Center appointed Saisunder Nedungal Vidhya Bhaskar as the sole panelist in this matter on August 16, 2024. 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 is one of the leading telecom companies offering a wide range telecommunication, broadband, satellite television and Internet services under the flagship brand AIRTEL. The Complainant was originally incorporated under the name “Bharti Tele-Ventures Limited” in 1995 and subsequently its name was changed to Bharti Airtel Limited in 2006. The Complainant renders telecommunication services and operations in multiple countries across Asia and Africa with a network spanning over five continents.

The Complainant is the registered proprietor of the mark AIRTEL and other AIRTEL formative trademarks across various classes in India, an indicative list of which is given below:

TM Application number	Trademark	Class	Date
648684	AIRTEL	9	December 14, 1994
1623142	AIRTEL	41	November 21, 2007
1623143	AIRTEL	42	November 21, 2007

Further, the Complainant also holds registrations for its flagship brand AIRTEL and its formative marks in various other jurisdictions including United States of America, United Kingdom, European Union, Singapore, Kuwait, Malaysia, and United Arab Emirates.

The Complainant’s mark AIRTEL has also been recognised as well-known trademark by Indian courts and the Indian Trademarks Registry. The Complainant also has registered and owns various domain names that include the trademark AIRTEL as part of its name such as “www.airtel.com,” “www.121airtel.com,” “www.121airtel.in”, “www.airtelmoney.com”, “www.airtelworld.com”, etc. The Complainant claims that it has taken widespread efforts and also incurred huge expenses to promote its AIRTEL trademark throughout the world, including in India through various social, print and digital media advertisement campaigns and hence the public at large associates the mark AIRTEL with the Complainant alone.

The Disputed Domain Name was registered on June 28, 2023, and the same is parked for sale and as a pay-per-click (“PPC”) through a landing page of the Registrar. The Complainant submitted evidence showing that the disputed domain name was used to send fraudulent emails impersonating the Complainant.

5. Parties’ Contentions

A. Complainant

In the light of the above factual background concerning the proprietary rights and common law rights enjoyed by the Complainant in respect of its well-known trademark AIRTEL, the Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

The Complainant contends that the Disputed Domain Name is confusingly similar to its AIRTEL trademark, that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and that the Respondent registered and is using the Disputed Domain Name in bad faith to commit fraud. The Complainant further contends that there is no bona fide use of the Disputed Domain Name by the Respondent. Also, the Complainant further contends that not only has the Respondent adopted the Complainant’s trademark AIRTEL as part of the Disputed Domain Name without authorization or consent, but also the registration has been done to perpetuate fraud and extort money from innocent and unsuspecting consumers. The Complainant asserts that it has from time to time taken legal action for protecting the AIRTEL mark and has relied upon some of the previous successful court actions, civil suits and domain name dispute actions that it had initiated with respect to its trademarks.

B. Respondent

The Respondent did not reply to the Complainant's contentions and bearing this in mind and in this background, the Panel shall draw such adverse inferences from the absence of the Respondent's reply as it considers appropriate in the circumstances.

6. Discussion and Findings

For this Complaint to succeed in relation to the Disputed Domain Name 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

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 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 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 entirety of the mark is reproduced within the Disputed Domain Name along with the additional numerical element "121". It is pertinent to note that the Complainant not only holds rights trademark for AIRTEL but also owns few domain names such as <121airtel.com> and <121airtel.in>, which are confusingly similar to the Disputed Domain Name. It is also pertinent to note that the Complainant provides comprehensive customer care services to its customer through its distinctive helpline number "121", and hence any usage of the numerical element 121 along with the trademark AIRTEL of the complainant in any form or manner has to be construed as being confusingly similar to the trademark of the Complainant. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the element "121" may bear an assessment of the second and third elements, the Panel finds the addition of such element does not prevent a finding of confusing similarity between the Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Accordingly, 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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent's lacks rights or legitimate interests in a domain name may result in the difficult 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 (although the burden of proof always remains on the complainant). 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 available records, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant's 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 Respondent's name per Registrar is "Airtel domain", and paragraph 4(c)(ii) of the Policy is thus potentially relevant. However, noting the fraudulent use of the disputed domain name, it is likely that the Respondent adopted this name and registered the disputed domain name in order to impersonate the Complainant, which cannot give rise to rights or legitimate interests. The Respondent has not used the Disputed Domain Name in connection with a bona fide offering of goods or services but is merely using it as a parked webpage displaying PPC links. It is also to be noted that the Respondent has been using the Disputed Domain Name to perpetrate a fraud to extort money from innocent and unsuspecting consumers. Panels have categorically held that the use of a domain name for illegal activity (e.g., phishing, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. WIPO Overview, section 2.13.1.

Further, UDRP panels have found that domain names identical to a complainant's trademark carry high risk of implied affiliation. Even where (as here) a domain name consists of a trademark plus an additional term, UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1. Thus, this Panel is of the view that the composition of the Disputed Domain Name carries a risk of implied affiliation.

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.

In the light of the well-known status of the AIRTEL trademark of the Complainant in India, where the Respondent is located coupled with the Complainant's usage of the numerical element 121 in respect of its customer care services in India, the Respondent's adoption of the Disputed Domain Name carrying the AIRTEL trademark along with the numerical element 121 in entirety, is evident of the fact that the Respondent targeted the Complainant while registering the Disputed Domain Name. Accordingly, in the Panel's view, the bad faith is evidently established.

Having reviewed the available record, the Complainant has adduced evidence indicating fraudulent practices indulged in by the Respondent intended to scam innocent and unsuspecting consumers, the Panel finds that the Disputed Domain Name has been registered and used in bad faith. [WIPO Overview 3.0](#), section 3.4.

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 <airtel121.com> be transferred to the Complainant.

/Saisunder Nedungal Vidhya Bhaskar/
Saisunder Nedungal Vidhya Bhaskar
Sole Panelist
Date: August 29, 2024