

ADMINISTRATIVE PANEL DECISION

MHG IP Holding (Singapore) PTE. Ltd. v. NYS Softech
Case No. D2024-2730

1. The Parties

The Complainant is MHG IP Holding (Singapore) PTE. Ltd., Singapore, represented by Luthra & Luthra Law Offices, India.

The Respondents (see further the discussion below) are NYS Softech, India, and Anantara Club Hotels & Resorts Private Limited, India represented by Ravi Kumar & Co, India.

2. The Domain Name and Registrar

The disputed domain name <anantaraclubs.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 4, 2024. On July 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 5, 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 (the Complaint lists in different places, either “Registration Private” or “Anantara Club Hotels and Resorts Pvt. Ltd.”) 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 amendment to the Complaint on July 9, 2024.

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 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 30, 2024. The Response was filed with the Center on July 23, 2024, by the Respondent's Authorized Representative. The Respondent with the email address provided in the Registrar's verification filed the same Response on July 24, 2024.

The Center appointed Nick J. Gardner as the sole panelist in this matter on July 29, 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 following background does not appear to be disputed by the Respondent and the Panel accepts it as factually accurate. The Complainant and its affiliates own and operate resorts and spas. The Complainant is a subsidiary of Minor International PCL which operates over 530 hotels, resorts, and serviced suites in 56 countries. Minor International PCL has been in operation for 50 years.

The Complainant and its affiliates have since 2000 operated the ANANTARA brand of hotels, resorts, and spas. Currently, there are over 50 Anantara hotels and 30 Anantara spas in countries in Asia, the Middle East, Africa, and Europe.

Anantara hotels, resorts and spas have received a total of 11 top accolades at the World Spa Awards 2020, with Anantara Spa being recognized as the World's Best Hotel Spa Brand for four consecutive years. Named the World's Best Hotel Spa Brand at the 2017, 2018, and 2019 World Spa Awards, Anantara Spa has also retained this title in 2020. The Complainant has filed detailed evidence as to widespread recognition of the Complainant's reputation as a provider of luxury hotel and spa services.

Worldwide revenue for resorts and spas operating under the ANANTARA brand in 2021 was approximately USD 316 million. In 2019, r 24,550 guests stayed at or visited ANANTARA resorts and spas. As is typical of an international hotel and resort operator, the Complainant has a strong Internet and social media presence.

The Complainant is in the process of launching an ANANTARA resort in India, to be located in Jaipur, Rajasthan.

The Complainant owns registered trademarks for the term ANANTARA. These include, for example, India Registration No. 5175785 for ANANTARA registered on October 16, 2021 in respect of, amongst other things, "spa treatment and body massage". These trademarks are referred to as the ANANTARA trademark in this decision. The Complainant also owns a large number of registered trademarks which comprise a logo which includes the word ANANTARA.

The Complainant also offers a Club Points Ownership program under the brand name ANANTARA VACATION CLUB. This club was established by the Complainant in 2010 and is a vacation ownership program. The Complainant operates the cited club through a website linked to the domain name <anantaravacationclub.com>, which was registered on October 21, 2010.

The Disputed Domain Name was registered by the Respondent on January 23, 2024. It resolves to a website (the "Respondent's website"). This website offers travel agency-related services, for example, the booking of flights and the reservation of hotels, on an international basis. The Respondent's website does not appear to involve the Respondent promoting any hotels or spas which it owns or operates.

5. Parties' Contentions

A. Complainant

The Complaint is lengthy and goes into great detail. In essence it contends that the Complainant has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, the Complainant contends that its ANANTARA trademark is very well known, prestigious and widely associated with luxury hotels and spas.

The Complainant says that the Respondent “is impersonating the Complainant’s business under its well-known and highly reputed brand, to usurp illegal profits”.

B. Respondent

The Response is short. In it the Respondent says that its name is ANANTARA CLUB HOTELS & RESORTS PRIVATE LIMITED and that it is legitimately registered with the appropriate authorities in India. It says its business is as a travel agent and tour operator and is not related to running clubs, hotels or resorts. It denies that the Disputed Domain Name is “similar to any other person”. It denies that the Disputed Domain Name was registered in bad faith.

6. Discussion and Findings

Preliminary Matters – Respondent Identity

Registrar verification identified the Respondent as being an entity identified as NYS Softech with an address in India. The Response has been filed by lawyers and states that the Respondent’s name is Anantara Club Hotels & Resorts Private Limited. This company had also been identified by the Complainant in the Complaint as the Respondent. Furthermore the Respondent’s website identifies Anantara Club Hotels & Resorts Private Limited as the entity operating the website.

No explanation has been provided by the Respondent as to how (if at all) Anantara Club Hotels & Resorts Private Limited is related to NYS Softech or why the latter is the named registrant according to the Registrar.

As provided by paragraph 1 of the Rules, the respondent in any particular case is the “holder” of the disputed domain name in issue. While the holder of a domain name is generally taken to be the registrar-disclosed registrant, there may be evidence in certain cases that another party is the beneficial owner of the domain name in issue. In such cases, the panel retains a discretion to add that party as a respondent in the proceeding or to substitute that party as respondent for the registrar-disclosed registrant.

In these circumstances, the Panel considers it more likely than not that Anantara Club Hotels & Resorts Private Limited is the substantive Respondent and considers it appropriate to add “Anantara Club Hotels & Resorts Private Limited” as an additional respondent in this proceeding.

Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- (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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the ANANTARA trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

While the addition of other terms (here “clubs”) may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

Based on the available record, the Panel finds the first element of the Policy has been established. Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy “when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name” (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). It is established that, where a mark is the distinctive part of a disputed domain name, the disputed domain name is considered to be confusingly similar to the registered mark (*DHL Operations B.V. v. DHL Packers*, WIPO Case No. [D2008-1694](#)).

It is also established that the addition of a descriptive term (such as here “clubs”) to a disputed domain name has little, if any, effect on a determination of confusing similarity between the domain name and the mark (*Quixtar Investments, Inc. v. Dennis Hoffman*, WIPO Case No. [D2000-0253](#)); furthermore, mere addition of a generic or descriptive term does not prevent a finding of confusing similarity under the first element (*PRL USA Holdings, Inc. v. Spiral Matrix*, WIPO Case No. [D2006-0189](#)).

It is also well established that the generic Top-Level Domain (“gTLD”), in this case “.com”, does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#).

Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use the ANANTARA trademark. The Complainant has prior rights in the ANANTARA trademark which precede the Respondents’ registration of the Disputed Domain Name. The Complainant has therefore established a prima facie case that the Respondents do not have any rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see for example *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Respondent’s case would appear to be that it has operated its business via the Respondent’s website prior to any complaint being made. The Panel does not know when the Respondent’s business commenced. The Respondent’s Website bears a copyright notice dated 2024 and the Disputed Domain Name was registered on January 23, 2024. The Panel infers that the Respondent’s business commenced at a date no earlier than January 23, 2024. Clearly in these circumstances paragraph 4(c)(i) is potentially applicable.

The only issue then is as to the meaning of bona fide. It seems to the Panel that paragraph 4(c)(i) cannot simply apply if a business exists which has deliberately adopted another person's trademark as its name, otherwise the Policy would be inapplicable to all cases in which a respondent was operating a business, which is clearly not its intention. The words bona fide must encompass the Respondent's knowledge and motives in choosing the name in question – if done deliberately to trade off, or take advantage of the Complainant's name or reputation, then the bona fide requirement is not met.

The Panel considers this is a case where the bona fide requirement is not met. There is no evidence that anyone other than the Complainant and the Respondent use that term in commerce. At the very least these facts call for some explanation from the Respondent as to why it adopted the term "Anantara" as part of what it says is its name. Despite being represented by lawyers the Respondent has not provided any such explanation. It is also curious that the Respondent's claimed name includes the words "club hotels and resorts" when the Respondent's business does not appear to involve it owning or operating any club hotels or resorts. Again an explanation is called for but none has been provided. Furthermore the Response is silent as to whether the Respondent was aware of the Complainant when it registered the Dispute Domain Name – given the extent of the Complainant's reputation, and the Respondent's business being that of a travel agent, the Panel infers it is more likely than not that the Respondent was aware of the Complainant. Absent an explanation from the Respondent the Panel concludes the Respondent included the term "Anantara" in its trading name because of its association with the Complainant – that does not establish a bona fide offering of services.

Although not expressly raised by the Respondent the Panel has considered the possibility that paragraph 4(c)(ii) of the Policy might also be applicable. However any claim to the benefit of 4(c)(ii) requires supporting by evidence and none has been provided – see [WIPO Overview 3.0](#) at section 2.3.

Overall the Panel concludes that the Complainant's case is sufficient to have expected the Respondent to explain relevant facts if it contended it had a legitimate interest unrelated to the Complainant, and it has failed to do so. The Panel infers that in these circumstances the Respondent has not rebutted the inference raised by the Complainant.

Accordingly, the Panel finds the Respondent has no rights or any legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the 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 your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site 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 your web site or location or of a product or service on your web site or location.

In the present case, the Panel accepts the point made by the Respondent that it is not in the same line of business as the Complainant. It is however in a very similar area. The Complainant operates an international hotel and spa business. The Respondent provides travel agency and related services on an international basis and including the facilitated booking of third-party hotels. The Panel adopts again the reasoning above as to the fact that only the Complainant and the Respondent use the term "Anantara" in commerce, that term is distinctive to the Complainant and no explanation has been provided by the Respondent as to why it chose to adopt that term. Further as discussed above the Response is silent as to the Respondent's knowledge of the Complainant when it registered the Disputed Domain Name.

In the present circumstances, the distinctive nature of the ANANTARA trade mark, and the evidence as to the extent of the reputation the Complainant enjoys in the ANANTARA trade mark, and the confusingly similar nature of the Disputed Domain Name to the ANANTARA trade mark, and the lack of any explanation from the Respondent as to why it registered the Disputed Domain Name leads the Panel to conclude the registration and use was in bad faith.

The Panel concludes that it is highly unlikely that the Respondent selected the Disputed Domain Name independently and without knowledge of the Complainant or its services. The Panel considers it was likely than not that the Respondent was by use of the Disputed Domain Name seeking to suggest it had a connection with the Complainant in the course of trade, by suggesting that it was a part of the Complainant's business, or was authorised by the Complainant. It is neither. As such its behaviour amounts to that specified in paragraph 4(b)(iv) of the Policy as being evidence of registration and use in bad faith, namely "by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site 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 your web site or location or of a product or service on your web site or location."

Accordingly the Panel finds that the Complainant has established the third element 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 disputed domain name <anantaraclubs.com> be transferred to the Complainant

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: August 15, 2024