

ADMINISTRATIVE PANEL DECISION

MHG IP Holding (Singapore) PTE. Ltd. v. brijesh kumar
Case No. D2024-3783

1. The Parties

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

The Respondent is brijesh kumar, India.

2. The Domain Name and Registrar

The disputed domain name <clubanantara.com> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 17, 2024. On September 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 18, 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 September 18, 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 September 19, 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 September 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2024. The Respondent sent an email communication to the Center on September 26, 2024. The Complainant requested the suspension of the proceeding on October 14, 2024. The Center sent the notification of suspension on October 14, 2024. As the Parties did not reach an agreement, the proceeding was reinstated on November 15, 2024. On the same day, the Center informed the commencement of panel appointment process.

The Center appointed Knud Wallberg as the sole panelist in this matter on November 20, 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's group owns, operates and manages over 50 luxury hotels, resorts and premium serviced apartments, and over 30 spas, under the mark ANANTARA in Asia, the Middle East, Africa, and Europe. Worldwide revenue for resorts and spas under the ANANTARA brand in 2023 was USD 815.5 million.

The ANANTARA trademark has been in use since 2000 and the Complainant is the owner of a large number of registered trademarks for ANANTARA in more than 30 jurisdictions around the world, including:

- Malaysian trademark Nos. 01005467 and 01005468 (both figurative), registered on February 26, 2004, and May 18, 2005, respectively, in classes 35 and 43 respectively;
- Indian trademark Nos. 5175781, 5175783, and 5175785, registered on October 16, 2021, in classes 3, 36, and 44 respectively; and
- Australian Registration No. 1964293, registered on June 29, 2018.

The Complainant also offers a Club Points Ownership program under the "ANANTARA VACATION CLUB". This club was established by the Complainant in the year 2010 and is a vacation ownership program.

The Complainant has operated a website at "www.anatara.com" since 2000 and at "www.anantaravacationclub.com" since 2010.

The disputed domain name was registered on November 24, 2023. The disputed domain name is currently inactive, but at the time of filing of this Complaint the disputed domain name resolved to an active webpage which appeared to promote services that was offered by the Complainant.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's ANANTARA mark, since it is identical to the mark save for the addition of the term "club" as prefix, being descriptive of the services provided thereunder and also aiding to similarity with the Complainant's ANANTARA VACATION CLUB mark.

The Complainant further submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Finally, the Complainant submits that the disputed domain name was registered and is being used in bad faith. It is thus apparent that the Respondent has registered and used the disputed domain name for a website in order to deceive public at large and create confusion as to the source and association of the Respondent's website with the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions. On September 26, 2024, the Respondent sent an email stating:

"I would like to clarify that I am not the actual owner of the domain clubanantara.com. My role has been solely that of a web developer for the site. The actual ownership of the domain lies with the main company owner, as per the previously discussed terms.

After discussions with the company, they have decided not to continue with the domain clubanantara.com moving forward. Consequently, the domain has been released and will no longer be in use".

6. Discussion and Findings

Respondent's identity

The Respondent's informal communications suggest that the Respondent is not the beneficial holder of the disputed domain name. The Panel notes that paragraph 1 of the Rules defines "Respondent" as "the holder of a domain-name registration against which a complaint is initiated" and that the appointed panel retains discretion to determine the respondent against which the case should proceed. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.4.5

The Panel notes that little is known about the person who asked for a website development. The Panel finds in the present case there is no evidence on the existence and nature of any relationship between the listed registrant and the beneficial holder which would allow the Panel to consider that the beneficial holder should be treated as a further Respondent. Noting that Brijesh Kumar is the registrant confirmed by the Registrar, the Panel has decided to consider that Brijesh Kumar is the Respondent.

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 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 ANANTARA mark is reproduced within the disputed domain name. 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 other terms here, "club", 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.

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 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 record, 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.

Furthermore, the Panel finds that the composition and use of the disputed domain name to impersonate the Complainant can never confer rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 present case, the Panel notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, 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 of a service on the Respondent’s website. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

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 <clubanantara.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: December 4, 2024