

## **ADMINISTRATIVE PANEL DECISION**

Rahmath Pathipagam (Chennai) Private Limited v. Rahmath Publications Private Limited

Case No. D2022-0736

### **1. The Parties**

The Complainant is Rahmath Pathipagam (Chennai) Private Limited, India, represented by Selvam and Selvam, India.

The Respondent is Rahmath Publications Private Limited, India.

### **2. The Domain Name and Registrar**

The disputed domain name <rahmathpublications.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 March 3, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 4, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 March 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 5, 2022.

The Center appointed Shwetasree Majumder as the sole panelist in this matter on April 11, 2022. 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 and the Respondent have a common ancestry. The Respondent is a family member and the uncle of the director of the Complainant. The Complainant is in the business of publishing and translating books under its figurative mark RAHMATH PATHIPAGAM. The Complainant is the registered proprietor of the mark under Indian trademark registration number 4909674 dated March 18, 2021. The Complainant also has Indian registration number 1688259 for RAHMATH PATHIPAGAM (CHENNAI) PRIVATE LIMITED in its favour since May 16, 2008. The Complainant does not have any trademark application or registration for the mark RAHMATH by itself, but has registered domain <rahmath.net> since March 17, 2001.

The disputed domain name was registered on October 21, 2020. The Respondent too is a book publisher and operates its website on the disputed domain name.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it is prominently known under the mark RAHMATH PATHIPAGAM and its variants for publishing Islamic religious books. It is the Complainant's case that while adopting the disputed domain name, the Respondent blindly copied the dominant element RAHMATH from its mark RAHMATH PATHIPAGAM, and added a translation of the second word, "pathipagam" which means "publication" in the Tamil language.

The Complainant alleges that despite relinquishing his rights in the family business since 2000, the Respondent registered the disputed domain name in the year 2020 and has been carrying on business. As such, the Complainant argues that the disputed domain name is registered in bad faith and the Respondent has no legitimate rights in the same.

The Complainant states to have addressed several cease and desist notices to the Respondent in the past, the most recent one among which is dated February 20, 2021 and was submitted as Annex N to the Complaint. The Complainant states that the Respondent replied to its notice on March 16, 2021 but neither the reply nor the earlier communications between the parties have been filed with the Complaint.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, the Complainant must prove, each of the following three elements required under by a preponderance of evidence:

- i. the disputed domain name is identical 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; and

iii. the disputed domain name has been registered and is being used in bad faith

#### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The requirements of paragraph 4(a) of the Policy are conjunctive. A consequence of this is that failure on the part of a Complainant to demonstrate one element of the Policy will result in failure of the complaint in its entirety. Accordingly, in light of the Panel's finding below on registration and use in bad faith, it is unnecessary for the Panel to address the issue of the Complainant's rights in the mark RAHMATH PUBLICATIONS.

#### **B. Rights or Legitimate Interests**

Likewise, in light of the Panel's finding below it is unnecessary for the Panel to address the topic of the Respondent's rights or legitimate interests in the disputed domain name.

#### **C. Registered and Used in Bad Faith**

Particularly noting the Complainant's statement that it had corresponded with the Respondent in the past and the fact that the Respondent's replies to such correspondence were not included in the Complaint, the Panel considered it appropriate to conduct a limited search of the relevant national trade mark database. The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 4.8 states that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. A search in the records of the Indian Trademarks Office revealed that the Respondent is the registered proprietor of the mark RAHMATH RP (figurative mark) depicted as under Indian trademark registration numbers 1607848 and 1607849 in classes 41 and 16 respectively. These applications were filed by the Respondent on October 4, 2007 and as such are prior to the Complaint's applications for its RAHMATH marks. Further, the Respondent has filed several other applications for RAHMATH RP (figurative mark) in August 2021, which are listed as objected on the Indian Trademark Office's website. Also, the records of the Indian Registrar of Companies reflect that the Respondent, Rahmath Publications Private Limited, was incorporated on July 24, 2007 which is only days subsequent to the incorporation of the Complainant on July 13, 2007.

As the above factual recital makes it clear, this is not a garden-variety cybersquatting case. In fact, it is not a cybersquatting case at all. The only arguable reason that the Complainant is seeking relief in this forum is that the property at issue is a domain name. There are far wider issues which have been placed before the Panel in the present case. These issues, whether characterized as being of a commercial nature or involving elements of family law, are not suitable for resolution under the Policy, which is designed to address clear cases of abusive cybersquatting (see, for example, the observations of the UDRP panels in *The Thread.com, LLC v. Jeffrey S. Poploff*, WIPO Case No. [D2000-1470](#), *Kurt Garmaker d/b/a "Repitition Miniature Schnauzers" v. Hilde Haakensen, Axcium Design*, WIPO Case No. [D2015-0993](#) and *IL Makiage Cosmetics (2013) Ltd. v. Mark Rumpler / Mordechai Rumpler / Domains By Proxy, LLC*, WIPO Case No. [D2015-2311](#)). This Panel finds that it will be adequate for a court of competent jurisdiction in India to adjudicate on the rights of the parties in the mark RAHMATH.

In these circumstances, the Complaint under the Policy must fail. In reaching that conclusion, the Panel takes no position on the merits of any wider dispute between the Parties. The Complainant remains free to seek remedies in other *fora* and the Panel notes for completeness that the present finding is confined to the Policy and that it does not seek to influence any such subsequent proceedings, should they be raised.

## 7. Decision

For the foregoing reasons, the Complaint is denied.

*/Shwetasree Majumder/*

**Shwetasree Majumder**

Sole Panelist

Date: April 25, 2022