

ADMINISTRATIVE PANEL DECISION

Patanjali Yogpeeth v. MANOJ KUMAR, Patanjali Franchies, and suman sekhar
Case No. D2022-1381

1. The Parties

The Complainant is Patanjali Yogpeeth, India, represented internally, India.

The Respondents are MANOJ KUMAR, Patanjali Franchies, and suman sekhar, India.

2. The Domain Names and Registrars

The disputed domain name <onlineyoggrambooking.org> is registered with Network Solutions, LLC (the “First Registrar”).

The disputed domain names <onlineyoggramdivyayoga.net>, <patanjaliyoggram.net>, <theyoggram.net>, and <yoggramofficial.com> are registered with Wix.com Ltd. (the “Second Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 18, 2022. On April 19, 2022, the Center transmitted by email to the Registrars, a request for registrar verification in connection with the disputed domain names. On April 20, 2022, the First Registrar and Second Registrar transmitted by email to the Center, its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 21, 2022, 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 April 22, 2022.

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 May 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 30, 2022.

The Center appointed Shwetaree Majumder as the Sole Panelist in this matter on June 7, 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 is the registered owner, user and proprietor of the mark YOG GRAM in India. The Complainant has registered the trademark YOG GRAM with the Indian Trademarks Registry, under the registration numbers, 3569237, 3569238, 3569240, and 3569239, all registered on December 27, and 28, 2017, with use since 2009.

The disputed domain names <onlineyoggramdivyayoga.net>, <yoggramofficial.com>, <patanjaliyoggram.net>, <onlineyoggrambooking.org>, and <theyoggram.net> were registered on December 18, December 21, 2021, February 16, 2022, November 3, 2021, and March 9, 2022, respectively. The disputed domain names resolves to websites offering such as herbal products and yoga programs.

5. Parties' Contentions

A. Complainant

The Complainant states that they are a registered charitable trust, registered in India, under The Indian Trusts Act, 1882 and that they are currently operating hospitals, schools, wellness centres, colleges etc. in India and overseas. The Complainant claims that they own the trademark YOG GRAM which is in use since 2009. The Complainant has filed copies of Indian trademark registration certificates for its mark YOG GRAM along with the Complaint as Annex 3. The Complainant has stated that they have no association with the Respondents and that they have neither given the Respondents the authority to operate a domain bearing the mark YOG GRAM nor have they given the Respondents any authority to operate, maintain or register a website by using the mark YOG GRAM.

The Complainant argues that the disputed domain names use the mark YOG GRAM in order to induce the public into believing that the Respondents are acting on behalf of or under the authority of the Complainant and thereby defrauding Internet users by charging money for bookings by publishing fake advertisements (Annex 2). According to the Complainant, the Respondents registered the disputed domain names after the Complainant began using their trademark YOG GRAM in year 2009. The Complainant argues that the Respondents have no rights or legitimate interest in the disputed domain names, as the Complainant has not granted permission to the Respondents to use the disputed domain names. The Complainant further asserts that the Respondents use of the disputed domain names have no connection with a *bona fide* offering of goods and services and that disputed domain names are used to confuse the public and take undue advantage of the goodwill of the Complainant and its registered trademark YOG GRAM and that the same amounts to bad faith use and registration. The Complainant claims that the Respondents are attempting to attract Internet users by using the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondents websites.

B. Respondents

The Respondents did not formally reply to the Complainant's contentions.

6. Preliminary issue: Consolidation of Respondents

The Panel has considered the possible consolidation of the Complaint for the disputed domain names. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2, "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

The Panel notes the following features of the disputed domain names and arguments submitted by Complainant in favour of the consolidation of the disputed domain names:

- the disputed domain names, <onlineyoggramdivyayoga.net>, <yoggramofficial.com>, <patanjaliyoggram.net>, and <onlineyoggrambooking.org> resolves to their respective websites on which the contact the phone number is commonly displayed on each website.
- the disputed domain name <patanjaliyoggram.net>, and <theyoggram.net> resolves to their respective websites on which the email address is displayed commonly on both websites.

All the above, along with the fact that the named Respondents did not submit any arguments to rebut this inference is taken into account by the Panel.

The Panel finds that the consolidation of the disputed domain names is fair to the Parties, and Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint (if indeed there is more than one Respondent for these disputed domain names), but have chosen not to rebut the consolidation (see [WIPO Overview 3.0](#), sections 4.11.1 and 4.11.2; *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#)). Based on the Complaint, the Panel finds that it is more likely than not that the Domain Names are in common control of one entity; hence, the Panel grants the consolidation for the disputed domain names (and will refer to these Respondents as "Respondent").

7. Discussion and Findings

As per paragraph 5(e) of the Rules, where a respondent does not submit a response, in the absence of exceptional circumstances, the panel may decide the dispute based upon the complaint. The Panel does not find any exceptional circumstances in this case preventing it from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a response. As per paragraph 14(b) of the Rules, where a party does not comply with any provision of the Rules, the panel may draw such inferences as it considers appropriate. It remains incumbent upon the Complainant to make out its case in all respects under paragraph 4(a) of the Policy.

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 names are 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 names; and
- iii. the disputed domain names have been registered and are 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 Complainant has produced trademark registration certificates in India, in respect of the mark YOG GRAM. The disputed domain names incorporate the Complainant's mark YOG GRAM in its entirety, together with other terms like "online", "booking", and "official". Referring to the [WIPO Overview 3.0](#), sections 1.7 and 1.8, the Panel finds that the relevant trademark is recognizable within the disputed domain names and that the addition of other terms does not prevent a finding of confusing similarity (see *Hoffmann-La Roche AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org / Conan Corrigan*, WIPO Case No. [D2015-2316](#)).

The generic Top-Level Domains ("gTLDs") ".com", ".net", and ".org" are generally disregarded for the purposes of comparison under this element (see [WIPO Overview 3.0](#), section 1.11).

In view of the above-mentioned findings, the Panel concludes that the disputed domain names are confusingly similar to the Complainant's trademark and that the requirement of paragraph 4(a)(i) of the Policy stands satisfied.

B. Rights or Legitimate Interests

The consensus view of the second element under paragraph 4(a) of the Policy requires the Complainant to establish on a *prima facie* basis that the Respondent lacks rights or legitimate interests in the disputed domain names. As previously stated above, that the Complainant has exclusive rights in the trademark YOG GRAM, which predates the registration of the disputed domain names. Furthermore, the disputed domain names are resolving to websites that display information related to the Complainant's goods and services. The websites also display booking/reservation pages, fake advertisements and packages, and even menus which are aimed at getting Internet users to spend their money. These offerings of goods and services are neither *bona fide* nor legitimate/noncommercial fair use.

The view of previous UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy has been summarized in section 2.1 of the [WIPO Overview 3.0](#), which states: "While the overall burden of proof in UDRP proceedings is on the complainant, [...] 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 to demonstrate its rights or legitimate interest in the domain name."

The Respondent has failed to file a response to rebut the Complainant's *prima facie* case or to advance any claims as to rights or legitimate interests in the disputed domain names (particularly, in accordance with paragraph 4(c) of the Policy).

Accordingly, the Panel finds the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The third element requires that the Complainant must demonstrate that the disputed domain names have been registered and are being used in bad faith according to paragraph 4(a)(iii) of the Policy. Bad faith is understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark (see section 3.1 of the [WIPO Overview 3.0](#)). As per paragraph 4(b) of the Policy, the Complainant must satisfy that any one of the listed non-exclusive scenarios constitutes evidence of a respondent's bad faith. In the present case, the Complainant has claimed that the Respondent has registered and is using the disputed domain names with the

intention to disrupt the Complainant's business (4(b)(iii) of the Policy) and that the Respondent is intentionally attempting to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites (4(b)(iv) of the Policy).

The contents of the websites to which the disputed domain names resolves, promotes/displays general and specific information that relates to the Complainant's work and business activities. This demonstrates the Respondent had prior knowledge/awareness of the trademark YOG GRAM and its associated services (see *NVIDIA Corporation v. Brent Angie/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtection.org*, WIPO Case No. [D2014-1171](#)). The websites purport to offer information about the Complainant's services in relation to health and wellness. The Respondent has opted to display offers for purchase and online booking platforms for booking tents, cottages etc. on its websites, thus directly profiting from the Internet traffic it attracts and deviating the customers who are looking to visit the Complainant's website. For example, the impugned websites at the disputed domain names <theyoggram.net>, and <onlineyoggrambooking.org>, display menus and information related to the Complainant's services and goods, while the impugned website at the disputed domain name <yoggramofficial.com> displays a monthly package for accommodation. All of this is disruptive of the Complainant's business and creates an impression of sponsorship, affiliation or endorsement of the Respondent's websites by the Complainant.

Thus, the Complainant has been able to satisfy that the registration and use of the impugned domains is in bad faith under the conditions set out at paragraph 4(b)(iii) and (iv) of the Policy, in that, by using the disputed domain name, 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 its website, and thereby disrupting the business of the Complainant.

The Panel notes that the Complainant has extensively used its YOG GRAM trademark for a long time before the registration of the disputed domain names, including using it on the Internet. The Respondent's probable purpose in registering the disputed domain names, which incorporate the entire trademark of the Complainant, and thereafter creating websites which allude to the Complainant's business, is, in the Panel's view, to capitalize on the reputation of the Complainant's mark.

As set out in the [WIPO Overview 3.0](#), section 3.1.4, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Here, there is no doubt that the Complainant's mark YOGGRAM is a recognised and popular mark, in particular in India where the Parties are located. Hence, the Panel is satisfied that the Respondent knew, or in any event ought to have known, of the mark's existence.

The Panel therefore concludes that the disputed domain names were registered and is being used in bad faith.

Absent any formal response from the Respondent, little is known about the Respondent. The Respondent has not availed themselves of the opportunity to present any case of good faith that it might have had, and, in view of the circumstances, the Panel cannot conceive of any. The Panel finds that on the balance of probabilities, the Respondent's conduct in registering and using the disputed domain name constitutes opportunistic bad faith under the Policy.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of Policy.

7. Decision

For the foregoing reasons, in accordance with paragraph 4(i) of the Policy and Rule 15 of the Rules, the Panel orders that the disputed domain names, <onlineyoggramdivyayoga.net>, <yoggramofficial.com>, <patanjaliyoggram.net>, <onlineyoggrambooking.org>, and <theyoggram.net> be transferred to the Complainant.

/Shwetasree Majumder/

Shwetasree Majumder

Sole Panelist

Date: June 23, 2022