

ADMINISTRATIVE PANEL DECISION

HDFC Bank Limited v. Domain Admin, Xedoc Holding SA
Case No. D2024-4351

1. The Parties

The Complainant is HDFC Bank Limited, India, represented by Samvad Partners, India.

The Respondent is Domain Admin, Xedoc Holding SA, Luxembourg, represented by Paul Keating, Law.es, Spain.

2. The Domain Name and Registrar

The disputed domain name <hdfcmutualfund.com> is registered with Sea Wasp, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 22, 2024. On October 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 29, 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 (Jewella Privacy – 5b19c, Jewella Privacy LLC Privacy ID# 884979) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 30, 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 November 4, 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 November 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2024. The Response was filed with the Center on November 30, 2024. On December 9, 2024, the Complainant filed a supplemental filing.

The Center appointed Andrew D. S. Lothian, Gerald M. Levine, and Saisunder Nedungal Vidhya Bhaskar as panelists in this matter on January 17, 2025. The Panel finds that it was properly constituted. Each member of 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.

On January 20, 2025, the Complainant filed a further supplemental filing, and the Respondent filed a supplemental filing.

4. Factual Background

According to the Complaint, the Complainant is a public limited company incorporated under the laws of India, and is one of India's largest private banks, providing a wide range of banking services, both retail and treasury operations. The Complainant says that its promoter entity, HDFC Limited was established in 1977, and that the promoter has since merged into the Complainant with effect from July 1, 2023, transforming the Complainant into a financial services conglomerate, and retaining the intellectual property rights of its predecessors in the "HDFC" brand dating back over 47 years. The Complainant notes that it has a subsidiary that is known as HDFC Mutual Fund, which was incorporated on December 10, 1999, and that the latter has a website at "www.hdfcfund.com" which showcases its mutual fund services.

The Complainant gives details of a wide range of national and global awards which it has received in 2023 and 2024.

The Complainant produces a list indicating that it is the owner of a wide range of registered trademarks incorporating the mark HDFC. For example, the Complainant is the owner of Indian Registered Trademark Number 1426533 for the word mark HDFC, registered on March 3, 2006, in Class 36.

According to Whois records, the disputed domain name was registered on September 23, 2003. A screenshot produced of the website associated with the disputed domain name by the Complainant (undated) shows a landing page consisting of PPC advertising related to the Complainant's line of business. As the Panel is unsure when this screenshot was taken, it visited the website associated with the disputed domain name and noted that it currently redirects to a page at "www.above.com", apparently without advertising, but which states that the disputed domain name may be for sale and invites offers to be made in USD. The Panel does not know to whom such offers would be directed, and the Respondent effectively asserts that they would not be addressed to the Respondent, because it has no relationship with the provider of the said page.

The Respondent is a Luxembourgish company and is an investor in domain names. It is no stranger to cases under the Policy. On the whole, however, it has been more successful than not in defending those domain name registrations which it holds that have been challenged under the UDRP. For example, complaints in respect of domain name registrations held by the Respondent were denied in WIPO cases in 8 out of 12 cases, including the three most recent cases in 2018, and 2023. In cases before the Forum, the corresponding denial figure is 6 out of 10 cases. The most recent case at the Forum is a transfer case, in which the Respondent failed to submit a Response, which the Respondent explains as being due to the indisposition of its counsel at the time. The five cases immediately preceding the most recent at the Forum are all denial cases covering a period from 2008 to 2020. In the present case, the Respondent raises issues surrounding whether the disputed domain name is properly part of its holding, complicated by the passage of time, albeit accepting that at least on the face of matters it has been named as the "current registrant" by the Registrar.

Before the Response was filed, the Parties engaged in correspondence with a view to exploring the prospects of settlement. The Respondent has unconditionally offered to transfer the disputed domain name to the Complainant since the Parties' first communication. It has apologized and expressed its embarrassment and perplexity at being named as the holder of the disputed domain name. In two

declarations made on penalty of perjury, its director/legal counsel goes into considerable detail as to its investigations concerning the somewhat opaque history of the disputed domain name, insofar as this can be determined after the passage of time. These details do not need to be rehearsed here, in light of the Panel's disposal of the case.

Negotiations between the Parties broke down as a result of matters beyond the scope of the administrative proceeding. The nature of the Response, as discussed below, is a "Stipulation to Transfer" whereby the Respondent requests the Panel to transfer the disputed domain name without considering the merits under the Policy. The Complainant opposes such request and seeks a full decision on the merits.

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. It argues that the Respondent has no rights or legitimate interests therein, and that the Respondent registered and is using the disputed domain name in bad faith. It sets out details of its rights in the trademark described in the factual background section above.

B. Respondent

The Response focuses on the Respondent's "Stipulation to Transfer", as discussed below. While the Respondent makes certain arguments in its supplemental filing which might be considered as relating to the merits of the Complaint, and/or to the manner in which it has been named as the Respondent in this case, there is no need to rehearse these in light of the Panel's disposal below.

C. Complainant's supplemental filing

The essence of the Complainant's supplemental filing is that it seeks a decision on the merits, the Parties' attempts at settlement (which are discussed) having failed.

D. Respondent's supplemental filing

The Respondent's supplemental filing sets out in somewhat more detail than the Complainant's supplemental filing the Parties' attempts at negotiating a settlement in this case, and the manner by which the Parties reached an impasse. It also extends certain aspects of the Response that relate to whether the "Stipulation to Transfer" is an appropriate disposal of the administrative proceeding, matters relating to the history of the disputed domain name, and matters which might be said to touch upon the merits, which the Panel does not need to repeat here in light of its decision as discussed below.

6. Discussion and Findings

6.1 Preliminary issue – Parties' supplemental filings

Paragraph 12 of the Rules expressly provides that it is for the panel to request, in its sole discretion, any further statements or documents from the parties it may deem necessary to decide the case. Unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel. Panels have repeatedly affirmed that the party submitting or requesting to submit an unsolicited supplemental filing should clearly show its relevance to the case and why it was unable to provide the information contained therein in its complaint or response (e.g., owing to some "exceptional" circumstance). WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 4.6.

In the present case, the Panel is content to admit the Parties' respective supplemental filings, with the exception of the Complainant's second supplemental filing which effectively included only matters already filed in the case, namely the Complaint and Annexes, the Amended Complaint and Annexes, and the Complainant's already filed supplemental filing.

6.2 Preliminary issue – Respondent's Consent to Transfer

It is clear from previous cases under the Policy and also from the collected consensus views set out in [WIPO Overview 3.0](#), section 4.10 that a respondent's consent to transfer of the domain name concerned, as provided here, can be a sufficient basis for an order for transfer by the Panel without the need for substantial consideration of the merits in terms of paragraph 4(a) of the Policy. The section goes on to note that it is a matter for the Panel's discretion as to whether to proceed thereafter to a merits-based decision. One circumstance in which some panels have exercised their discretion to conduct a merits-based review in the past has been where the complainant requests this, as is the case here.

After careful consideration, and detailed deliberations, the Panel has unanimously decided to exercise its discretion not to provide a merits-based review in this somewhat exceptional case. It is clear to the Panel that both Parties want the disputed domain name to be transferred. This is the remedy that the Complainant seeks, and it is what the Respondent offers. The Panel has been presented with a full account of the negotiations of the Parties in which they attempted to settle this matter. It is apparent from what passed between the Parties in correspondence that the case came very close to settling but that the sticking point was that, in addition to a transfer of the disputed domain name, the Complainant sought a number of undertakings from the Respondent in respect of matters that are beyond the scope of the Policy.

Given its limited mandate, the Panel is unable to express any opinion upon, or to discuss in any detail, the impasse that the Parties reached, or to comment upon the reasons by which they reached it. However, the Panel notes that the question of whether it will proceed, or not proceed, to a decision on the merits should not be viewed as a lever to be deployed by either party in settlement negotiations, this being a matter exclusively for the Panel's discretion depending upon the circumstances of each individual case. In the present case, the Panel is satisfied that there is agreement between the Parties over the single aspect of which the Panel is seized, namely the remedy requested in the Complaint, which is the transfer of the disputed domain name.

There are complex issues raised in the present case concerning how the disputed domain name comes to be held by the Respondent, involving at least a 15 year history, if not a history dating back to the original registration date of 2003, over two decades ago. It is difficult, and in present circumstances unnecessary, for the Panel to attempt to disentangle this history, although it has spent considerable time during its initial deliberations trying to do so on the basis of the record before it, and on the basis of other publicly available data concerning the Whols history of the disputed domain name, the history of the Registrar, the history of multiple proxy services that have held the disputed domain name, and the history of the Respondent's involvement with the Policy. Nevertheless, the Panel has not reached any firm or final conclusion on the merits here, and it does not require to do so in order to grant the remedy sought by the Complainant under the Policy, given the Respondent's consent to transfer.

In these circumstances, the Panel orders transfer of the disputed domain name on the basis that the Respondent has unequivocally consented to the transfer of the disputed domain name, and that the Parties' failure to conclude a settlement on wider matters by negotiation does not negate the effectiveness of the Respondent's consent to transfer.

6.3 Substantive issues

A. Identical or Confusingly Similar

By virtue of its decision to transfer the disputed domain name to the Complainant, to which the Respondent has consented, the Panel does not require to reach a concluded position on paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

By virtue of its decision to transfer the disputed domain name to the Complainant, to which the Respondent has consented, the Panel does not require to reach a concluded position on paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

By virtue of its decision to transfer the disputed domain name to the Complainant, to which the Respondent has consented, the Panel does not require to reach a concluded position on paragraph 4(a)(iii) 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 <hdfcmutualfund.com> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Presiding Panelist

/Gerald M. Levine/

Gerald M. Levine

Panelist

/Saisunder Nedungal Vidhya Bhaskar/

Saisunder Nedungal Vidhya Bhaskar

Panelist

Date: January 31, 2025