

ADMINISTRATIVE PANEL DECISION

MHG IP Holding (Singapore) PTE. LTD. v. Ramesh K Patel, Krish softweb Solution

Case No. D2022-4155

1. The Parties

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

The Respondent is Ramesh K Patel, Krish softweb Solution, India.

2. The Domain Name and Registrar

The disputed domain name <hotelanantaragreens.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 3, 2022. On November 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 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 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 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2022. The Respondent sent an informal email to the Center on November 28, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on December 20, 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. Identity of Respondent

In the Respondent's informal email to the Center dated November 28, 2022, the Respondent asserted that the registration details for the disputed domain name were incorrect and that the correct registrant name was "anantaragreens hotel". The Respondent provided a street address in Gujarat, India for this party, together with email and telephone contact details. The Respondent added: "as per confirmation with the owner he is not ready to renew the domain".

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 this case, the Respondent makes a bare assertion that a party named "anantaragreens hotel" is in fact the owner of the disputed domain name. However, the Respondent provides no evidence concerning the nature of this supposed party (*i.e.* whether it is a limited company, a trading name of an individual or otherwise). Nor does the Respondent explain why the registrar-disclosed name and not that of the other party remains registered in connection with the disputed domain name, the Panel noting also that it is the responsibility of the registrant of a domain name to ensure that correct registration details are maintained.

In these circumstances, the Panel sees no basis upon which to add or substitute the supposed party "anantaragreens hotel" as a respondent in this proceeding. The registrar-disclosed registrant shall therefore remain the sole Respondent in the proceeding.

5. Factual Background

The Complainant is a company registered in Singapore. It is an owner and operator of hotels, resorts and spas under the name and trademark ANANTARA.

The Complainant is the owner of numerous registrations for trademarks comprising or incorporating the name ANANTARA in various territories around the world. Those registrations date from at least 2002 and include, for example:

- Thailand trademark registered under application number 454276 for a figurative mark ANANTARA RESORT & SPA together with a logo, registered on March 27, 2002 in International Class 43;
- European Union Trade Mark registration number 009542821 for a figurative mark ANANTARA VACATION CLUB together with a logo, registered on May 23, 2011 in International Classes 35 and 43; and
- Australia trademark registration number 1247760 for a figurative mark ANANTARA and a logo, registered on February 2, 2009 in International Classes 43 and 44 for goods and services including "hotel services".

The disputed domain name was registered on January 7, 2016.

The Complainant exhibits evidence that the disputed domain name has resolved to a website headed "WELCOME TO HOTEL ANANTARA GREENS", claiming to provide a leisure and business hotel with 25 rooms, a restaurant and a swimming pool. The website provides email and telephone contact details, but does not appear to provide an address or any information concerning the location of the hotel.

6. Parties' Contentions

A. Complainant

The Complainant states that it owns, operates and/or manages over 50 luxury hotels and premium services apartments under the ANANTARA mark, located in the Middle East, Far East and Africa among other regions. It submits that it has continuously traded under the ANANTARA trademark since 2000.

The Complainant states that it has operated a website at "www.anantara.com" since 2000 and that it has a significant social media presence with, for example, 18,000 subscribers to its YouTube channel and around 19,000 followers on each of Twitter and Instagram.

The Complainant claims to have earned sales revenue of USD 316.2 million in 2021 from its various ANANTARA resorts and spas. It submits that its ANANTARA hotels and other services have been recognized in leading travel publications including Forbes, Conde Nast Traveler and Harper's Bazaar and exhibits examples of such media coverage.

The Complainant submits that it receives numerous visitors to its resort hotels and spas from India, including 1,447 such visitors in 2015 and 24,550 such visitors in 2019.

The Complainant contends that, as a result of these matters, its trademark ANANTARA is widely known worldwide, including in India, in connection with luxury hotel and related services and that the mark ANANTARA is distinctive of, and exclusively associated with, the Complainant and those services.

The Complainant submits that the disputed domain name is identical or confusingly similar to its ANANTARA trademark. It states that the mark ANANTARA is the prominent and essential feature of the disputed domain name and that the inclusion of the term "hotel" adds to the likelihood of confusion between the disputed domain name and the Complainant's trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that the Respondent is not licensed or authorized to use its ANANTARA trademark and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name. Instead, the Complainant contends that the Respondent is using the disputed domain name to take advantage of the Complainant's trademark and to generate web traffic for its website by misrepresenting a connection between the disputed domain name and the Complainant.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It states that there is no credible or legitimate reason for the Respondent to have registered the disputed domain name and that it can only have done so in order to usurp the goodwill and reputation associated with the Complainant's ANANTARA trademark. The Complainant contends that the purpose of the Respondent's website is to deceive the public at large and to place at risk both the Complainant's reputation and the Internet users so deceived.

The Complainant requests a transfer of the disputed domain name.

B. Respondent

While the Respondent sent an informal email to the Center on November 28, 2022, it did not file a formal Response in this proceeding.

7. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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

The Complainant has established that it is the owner of registered trademark rights in the mark ANANTARA. The disputed domain name includes that trademark in full, preceded by the term “hotel” and followed by the term “greens”, neither of which prevent the Complainant’s trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant’s submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a formal Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise.

While the Respondent has used the disputed domain name for the purpose of a website purporting to promote the “Hotel Anantara Greens”, the Panel is not persuaded that that website is genuine (see further below) and finds instead, on balance, that the Respondent registered and has used the disputed domain name in order to target and take unfair advantage of the Complainant’s ANANTARA trademark. Such conduct cannot give rise to rights or legitimate interests for the purposes of the Policy and the Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant has established to the satisfaction of the Panel that its mark ANANTARA is widely known in the travel sector and is uniquely associated with the Complainant and its resort hotels, spas and related services. The Panel also finds the mark ANANTARA to be highly distinctive, there being no evidence that it has any “dictionary” meaning or that it is commonly used in commerce otherwise than by the Complainant.

The Respondent has operated a website promoting what purports to be a hotel named the “Hotel Anantara Greens”. However, the Respondent has submitted no material response to the Complainant’s claims and has therefore provided no explanation for its choice of this name for the supposed hotel, nor indeed any evidence that the hotel actually exists. Having reviewed the Respondent’s website, which is incomplete, provides very little information about the hotel and does not even mention its location, the Panel concludes on balance that the website is not genuine and has been created as a pretext for the registration of the disputed domain name.

Given that the disputed domain name combines the name and mark ANANTARA with the term “hotel” and is used for a website purportedly promoting hotel services, the Panel infers in the circumstances that the Respondent registered the disputed domain name in the knowledge of the Complainant’s distinctive

ANANTARA trademark and with the intention of confusing Internet users into believing the Respondent's website to be owned or operated by, or otherwise legitimately associated with, the Complainant.

The Panel finds further 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 trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel also comments that the Respondent's failure to file a formal Response, together with its ambiguous statement in its email that: "as per confirmation with the owner he is not ready to renew the domain", does nothing to dispel the impression of registration and use of the disputed domain name in bad faith.

The Panel finds in the circumstances that the disputed domain name has been registered and is being used in bad faith.

8. 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, <hotelanantaragreens.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: January 3, 2023