

ADMINISTRATIVE PANEL DECISION

MHG IP Holding (Singapore) Pte. Ltd. v. NowFloats Support, NowFloats
Case No. D2024-4911

1. The Parties

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

The Respondent is NowFloats Support, NowFloats, India.

2. The Domain Name and Registrar

The disputed domain name <antaaraspa.com> (the “Disputed Domain Name”) 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 27, 2024. 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 November 28, 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 (ANTAARA SPA) and contact information in the Complaint.

The Center sent an email communication to the Complainant on November 29, 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 December 2, 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 December 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 23, 2024.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on December 30, 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 owns and operates resorts and spas in multiple locations in the world. The Complainant's parent company, Minor International PCL, currently operates multiple hotels, resorts, serviced suites and restaurants, together with a global spa business with over 70 branded spas around the world. The Complainant's group owns a hotel chain, ANANTARA hotels, which also specializes in spa services.

The Complainant owns various word and figurative trademarks for the ANANTARA mark, the ANANTARA logo, and its' variations in multiple jurisdictions. The relevant trademark registrations include, inter alia:

- the Indian Trademark Registration No. 5175781 for ANANTARA in Class 3 registered on October 16, 2021,
- the Indian Trademark Registration No. 5175784 for ANANTARA in Class 43 registered on October 16, 2021,
- the Indian Trademark Registration No. 5175777 for  in Class 35 registered on October 16, 2021,
- the Indian Trademark Registration No. 5175776 for  in Class 3 registered on October 16, 2021,
- the Indian Trademark Registration No. 5175780 for  in Class 44 registered on October 16, 2021,
- the Indian Trademark Registration No. 5175783 for ANANTARA in Class 36 registered on October 16, 2021,
- the Indian Trademark Registration No. 5175785 for ANANTARA in Class 44 registered on October 16, 2021,
- the Indian Trademark Registration No. 5175779 for  in Class 43 registered on October 16, 2021,
- the International Trademark Registration No. 1429924 for ANANTARA in Classes 3, 36, 43, and 44 registered on June 29, 2018, and
- the Brunei Trademark Registration No. 39795 for  in Class 42 registered on June 24, 2008 (the "Complainant's Trademark").

The Complainant's Trademark is also fully incorporated in the Complainant's domain name <anantara.com> registered on November 8, 2000, which resolves to the Complainant's primary website (the "Complainant's Website").

The Disputed Domain Name was registered by the Respondent on January 18, 2021, many years after the Complainant first registered the Complainant's Trademark. At the time of filing of the Complaint and at the time of the rendering of this Decision, the Disputed Domain Name resolved to website offering spa services such as massages, body scrubs, manicure and pedicures etc. (the "Respondent's Website").

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:

- (a) The Disputed Domain Name is nearly identical or confusingly similar to the Complainant's Trademark. The Complainant's Trademark is almost entirely reproduced in the Disputed Domain Name. The addition of the other term "spa", which could also refer to the Complainant's services, increases the likelihood of confusion that the Respondent is associated with the Complainant.
- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has no legitimate interests in the Disputed Domain Name due to the Complainant's earlier registration and use of the Complainant's Trademark and the Complainant's Domain Name. Furthermore, the Disputed Domain Name appears to be registered by the Respondent to cause confusion and mislead Internet users into believing that the Disputed Domain Name is associated with the Complainant and that the services offered on the Respondent's Website have been authorized and/or licensed by the Complainant. The Respondent was well aware of the Complainant's Trademark when registering the Disputed Domain Name and has misappropriated the goodwill and reputation of the Complainant's Trademark for its own commercial gain.
- (c) The Respondent has registered the Disputed Domain Name and is using it in bad faith. The Respondent has registered and used the Disputed Domain Name to mislead and divert Internet users to the Respondent's Website for commercial gain by creating confusion as to the source and association of the Respondent's Website with the Complainant. Given the goodwill and reputation that the Complainant has acquired in the Complainant's Trademark, the Respondent's registration and use of a domain name that is nearly identical to the Complainant's Trademark show evidence of bad faith. The Disputed Domain Name is an infringement on and misrepresentation of the Complainant's Trademark, and the Respondent has used the Disputed Domain Name to pass off its services as that of the Complainant's.

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 is required to prove each of the following three elements:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 by the Respondent in bad faith.

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 Panel Views on Selected UDRP Questions, Third Edition, ("[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 Panel finds that the ANANTARA trademark is two letters different from the "antaara" being a misspelling of the Complainant's trademark. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.9.

Furthermore, the addition of other terms (here "spa") would not prevent a finding of confusing similarity under the first element. The nature of such additional term may however bear on assessment of the second and third elements. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests & C. Registered and Used in Bad Faith

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.

In the present case, the Respondent did not submit a Response. The fact that the Respondent did not submit a Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

The Panel notes the distinctiveness and worldwide reputation of the Complainant's Trademark, and the fact that the Complainant has not provided authorization of any kind to the Respondent to use the Complainant's Trademark or to apply for or use any domain name incorporating the Complainant's Trademark. The Panel also notes that the addition of the other term "spa" in the Disputed Domain Name, a descriptive term associated with massages and other relaxation treatments and services, also coincides with the services provided by the Complainant under the ANANTARA brand.

However, the Panel finds that, before notice to the Respondent of the dispute, the Respondent may have potentially used the Disputed Domain Name and a name correspondent to the Disputed Domain Name in connection with a bona fide offering of services. [WIPO Overview 3.0](#), section 2.2. While the Complainant contends that the Respondent's Website impersonates the Complainant's business under the "ANANTARA" brand, there is no evidence to show that the Respondent's Website is bogus with an intent of impersonation. The Respondent's Website adopted a visually distinctive design and logo that are different from those of the Complainant, and it also stated that its business, with the name of "Antaara Spa", was a spa in Nagpur in India established in 2015 without making any reference to the Complainant or any of its particulars. An

Internet search ¹of the business address provided in the Respondent's Website also suggests that it appears to be the legitimate address of Antaara Spa's business location where its spa services are provided. In view of the above, the Panel notes that this case exceeds the relatively limited "cybersquatting" scope of the UDRP, and would be more appropriately addressed by a court of competent jurisdiction (see section 4.14.6 of the [WIPO Overview 3.0](#)). Past UDRP panels, their governing instruments, and legislative background, are all clear that the Policy was designed to prevent extortionate or abusive behavior also known as "cybersquatting" and cannot be used to litigate all disputes involving domain names. See *Philippe Dagenais designer inc. / Philippe Dagenais v. Groupe Dagenais MDC inc. (formerly Philippe Dagenais Mobilier Décoration Conseils Inc.) / Mobilier Philippe Dagenais*, WIPO Case No. [D2012-0336](#); *Bugatti International S.A. v. Jacques Pensini, Point Office / Philippe Schriqui*, WIPO Case No. [D2022-2805](#); *Les Editions Jalou v. Sidharth Saigal and Chalk Media FZE*, WIPO Case No. [D2023-1430](#); and *Anniversary University, LLC v. The History Factory*, WIPO Case No. [D2023-2180](#). A panel may decide that the administrative proceeding is not an appropriate forum to evaluate certain contentions of the parties, while it has not been provided the full set of facts (or authority) necessary to make that determination. See *Pinnacle Intellectual Property v. World Wide Exports*, WIPO Case No. [D2005-1211](#).

The Panel is not in a position to make findings on the factual and legal questions discussed above, which would require a far more complete evidentiary record than what has been provided by the Parties.

As such, the Panel will not rule on the second and third elements of the Policy.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: January 13, 2025

¹ Noting the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, panels may undertake limited factual research into matters of public record if they would consider such information useful to assessing the case merits and reaching a decision. [WIPO Overview 3.0](#), section 4.8.