

## **ADMINISTRATIVE PANEL DECISION**

Kalyan Jewellers India Limited v. Subha Bharat  
Case No. D2024-5279

### **1. The Parties**

The Complainant is Kalyan Jewellers India Limited, India, represented by Altacit Global, India.

The Respondent is Subha Bharat, Australia, represented by Archer Softech, India.

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

The disputed domain name <kalyanjewellers.com> is registered with Netregistry Wholesale Pty Ltd (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 19, 2024. On December 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 30, 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 ("Unknown registrant" / REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 3, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint with arguments and evidence to justify the refiling of the Complaint. The Complainant filed an amended Complaint on January 10, 2025.

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 January 27, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2025. The Response was filed with the Center on February 19, 2025.

The Center appointed Steven A. Maier as the sole panelist in this matter on February 21, 2025. 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.

On March 1, 2025, the Center received an unsolicited supplemental filing from the Complainant, to which the Respondent replied on March 2, 2025.

#### 4. Factual Background

The Complainant operates a jewelry business under the trademark KALYAN JEWELLERS, registered in numerous jurisdictions, e.g. Indian trademark no. 631593, registered on December 8, 2003.

The disputed domain name was registered on October 15, 2004, and resolves to a website with the heading “KALYANJEWELLERS.COM DIY JEWELLERY SUPLIES AUSTRALIA”.

On August 27, 2020, a prior panel under the UDRP rendered a decision concerning the disputed domain name in *Kalyan Jewellers India Limited v. Antony Adam*, WIPO Case No. [D2020-1615](#). While the named respondent in that case was Antony Adam, the respondent submitted that the beneficial owner of the disputed domain name was in fact Subha Bharat, i.e., the Respondent in the present proceeding.

The panel in the above-referenced case found that the Complainant had failed to establish, for the purposes of the third element of the Policy, that the respondent had registered the disputed domain name in bad faith. The complaint was therefore denied.

The Complainant subsequently issued proceedings concerning the disputed domain name in the High Court of Judicature at Madras, India, against parties including both Antony Adam and Subha Bharat. By way of a judgment dated February 19, 2024, that court ordered (among other matters) that the defendants transfer the disputed domain name to the plaintiff, i.e., the Complainant.

While there appear to have been changes in the registrar of the disputed domain name between 2020 and 2024, it is not apparent to the Panel when the registrant of the disputed domain name was changed from Antony Adam to Subha Bharat. However, there is no evidence before the Panel that there was any change in the beneficial ownership of the disputed domain name between the date of the decision in the previous proceeding and the date of the present Complaint. In these circumstances, the Panel finds the present proceeding to constitute an effective refiling of the previous complaint, i.e., proceedings between the same parties concerning the same disputed domain name.

The Panel also notes that the Complainant refers in its present Complaint to “the refiling of this complaint.”

As discussed in section 4.18 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”):

“A refiled case is one in which a newly-filed UDRP case concerns identical domain name(s) and parties to a previously-decided UDRP case in which the prior panel denied the complaint on the merits [...]

Panels have accepted refiled complaints only in highly limited circumstances such as (i) when the complainant establishes that legally relevant developments have occurred since the original UDRP decision, (ii) a breach of natural justice or of due process has objectively occurred, (iii) where serious misconduct in the original case (such as perjured evidence) that influenced the outcome is subsequently identified, (iv) where new material evidence that was reasonably unavailable to the complainant during the original case is presented, or (v) where the case has previously been decided (including termination orders) expressly on a “without prejudice” basis.”

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant refers to an observation by the panel in the above-referenced 2020 proceeding that, while that proceeding had not been successful: "The Complainant is, of course, free to challenge Respondent's claims in court where a fuller record can be developed." The Complainant submits that it filed the Indian High Court proceedings "in compliance with the WIPO decision."

The Complainant contends that the refiling of the complaint is "necessary" because the Respondent has disregarded the order of the Indian court and has obstructed the transfer of the disputed domain name to the Complainant. The Complainant submits, in particular, that the Respondent frustrated the transfer of the disputed domain name by changing its registrar. The Complainant claims that this matter also constitutes new evidence of bad faith on the part of the Respondent.

The Complainant repleads its case concerning the three elements required to be established under the Policy, namely, that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and has been used in bad faith.

The Complainant requests the transfer of the disputed domain name.

### **B. Respondent**

The Respondent refers to the decision in the 2020 proceeding, and in particular to the findings of the panel in that proceeding that, in the light of matters including other uses of the term "kalyan", the Complainant could not establish that the disputed domain name had been registered in bad faith.

The Respondent submits that the subsequent proceedings in the Indian High Court were "without any jurisdiction", that the registrar of the disputed domain name had been changed prior to the issue of those proceedings, and that the Complainant has misleadingly stated it was unaware of the change of registrar.

The Respondent objects to the refiling of the complaint and contends that none of the circumstances mentioned in section 4.18 of [WIPO Overview 3.0](#) is of application in this case. The Respondent submits, in particular, that the decision in the 2020 case was not made on a "without prejudice" basis.

The Respondent contends that the judgment of the Indian High Court (which it says was obtained without jurisdiction and on an ex parte basis) has no significance to proceedings under the UDRP, which exists primarily to determine cases of cybersquatting.

The Respondent also repleads its case concerning the three elements to be established under the Policy.

The Respondent submits that the Complainant has taken no action in respect of numerous other third-party domain names that include the term "kalyanjewellery" or similar terms and is interested only in obtaining the disputed domain name, i.e. the ".com" version of the name.

The Respondent contends that the present proceeding is baseless and requests a finding of Reverse Domain Name Hijacking against the Complainant.

## **6. Discussion and Findings**

### **A. Parties' Unsolicited Supplemental Filings**

Neither the Rules nor the Supplemental Rules make provision for supplemental filings, except at the request of the panel. Paragraph 10 of the Rules grants the panel to conduct the proceeding "with due expedition". Therefore, UDRP panels are typically reluctant to countenance delay through additional rounds of pleading and normally accept supplemental filings only to consider material new evidence or provide a fair opportunity to respond to arguments that could not reasonably have been anticipated. See [WIPO Overview 3.0](#), section 4.2.

Noting the Panel's findings below, the Panel finds it unnecessary to consider the Parties unsolicited Supplemental Filings.

### **B. Merits**

The UDRP is a domain name dispute resolution policy which operates independently of national courts of law. Proceedings brought under the UDRP are determined solely on the basis of the Policy, and panels under the UDRP do not have the remit to decide contractual, trademark, or other civil disputes which are properly the province of the courts. Panel decisions made under the UDRP are not binding on national courts, and decisions of national courts are, equally, not determinative of proceedings brought under the Policy, although it remains within the panel's discretion to determine the relevance to ascribe to such proceeding in the UDRP context (see section 4.14 of [WIPO Overview 3.0](#)).

In this case, the Complainant bases its refiling of the Complaint on the order of the Indian High Court, apparently requiring that the disputed domain name be transferred by the Respondent to the Complainant, the purported Respondent's conduct of repeated transfer of the disputed domain name between different registrars during and after the Indian High Court case, and the current use of the disputed domain name displaying the heading "KALYANJEWELLERS.COM DYI JEWELLERY SUPLIES AUSTRALIA". While the Respondent challenges the jurisdiction of the Indian High Court, the Panel would not be persuaded in any event to admit the Complainant's refiled complaint and to order the transfer of the disputed domain name to the Complainant. The panel in the 2020 proceeding determined, under the terms of the Policy, that the Complainant had failed to establish that the disputed domain name had been originally registered in bad faith, and that the complaint must therefore fail. The Panel finds there to be nothing in the Complainant's current submissions that requires the original panel's findings in that regard to be reevaluated, or which otherwise meets any of the criteria mentioned in section 4.18 of [WIPO Overview 3.0](#) for a refiled claim to be accepted. Moreover, the Panel notes that a court has already opined upon the matter and the UDRP does not provide a mechanism for the enforcement of the orders of national courts, which is a matter for the Complainant more properly to pursue through the court system. For the avoidance of doubt, the Panel does not regard the observations of the panelist in the 2020 case as an invitation to refile the complaint following any court proceedings.

The Panel therefore declines to admit the refiled complaint.

### **C. Reverse Domain Name Hijacking**

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking: [WIPO Overview 3.0](#), section 4.16.

While the Panel finds the present Complaint to be misconceived for the reasons set out above, the Panel does not consider that a finding of Reverse Domain Name Hijacking is appropriate in all the circumstances of the case.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: March 7, 2025