

## ADMINISTRATIVE PANEL DECISION

Patanjali Ayurved Limited v. ayur patanjali, WTIS  
Case No. D2022-2134

### 1. The Parties

The Complainant is Patanjali Ayurved Limited, India, internally represented.

The Respondent is ayur patanjali, WTIS,<sup>1</sup> India.

### 2. The Domain Name and Registrar

The disputed domain name <ayurpatanjali.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 9, 2022. On June 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 14, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 28, 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 July 8, 2022. In addition, the Center sent requests for clarification and modification on June 10 and 28, and July 7, 2022, to which the Complainant replied on June 13 and 29, 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 July 8, 2022. In accordance with the Rules, paragraph 5,

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<sup>1</sup> At the time of filing the Complaint, the relevant Whois information showed a privacy or proxy service, “Registration Private, Domains By Proxy, LLC”; the Complainant filed an amendment to the Complaint to add the Registrar confirmed underlying registrant, “ayur patanjali, WTIS”. In the present circumstances, the Panel considers the Registrar-confirmed underlying registrant details of the disputed domain name to constitute the concerned Respondent at issue.

the due date for Response was July 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 29, 2022.

The Center appointed Ashwinie Kumar Bansal as the sole panelist in this matter on August 8, 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 a company formed and registered under the Indian Companies Act, 1956, having its registered office at New Delhi and Corporate/Administrative Office at Haridwar. The Complainant is in the business of procuring, processing, manufacturing and marketing of herbal products including medicines, cosmetics and food products, beverages, personal and home care products, extracts and many similar commodities.

The Complainant is the owner of the trademark PATANJALI (the "Trademark PANTAJALI") which has been registered in India under trademark number 2254680, dated December 22, 2011. The Complainant has also registered the Trademark PATANJALI in several other jurisdictions.

The disputed domain name <ayurpatanjali.com> was registered on January 8, 2022. The disputed domain name resolves to an active website, advertising ayurvedic products including products of the Complainant.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant in its Complaint has, *inter alia*, raised the following contentions:

The Complainant has been using the Trademark PATANJALI since 2006 and it has been in operation continuously to date. The Complainant is the owner of the common law trademark rights of the Trademark PATANJALI and all other intellectual property rights associated with the use of the Trademark PATANJALI. The Trademark PATANJALI is a well-established brand in India and other countries. The Complainant has registered the Trademark PATANJALI in the Indian Trademarks Registry.

The disputed domain name and the website "www.ayurpatanjali.com" have come to the notice of the Complainant. The Respondent registered the disputed domain name, after the Complainant began using the Trademark PATANJALI.

The use of registered Trademark PATANJALI by the Respondent for the disputed domain name is confusing as it causes the public to believe that the Respondent is acting on behalf of or under the authority of the Complainant and violates the Complainant's Trademark rights. The Complainant has never given either the Respondent or his association/company any authority to operate the disputed domain name and has not given him any authority to operate, maintain, or register a website by using the registered Trademark PATANJALI.

The Complainant further contends that the Respondent has no association with the Complainant. The disputed domain name is identical and/or confusingly similar to the Trademark PATANJALI in which the Complainant has earlier rights. Moreover, neither the Complainant nor its Board of Managers, have authorized to use the confusingly similar and/or identical disputed domain name by the Respondent.

The Complainant has also contended that the Respondent has no "rights or legitimate interests" in the disputed domain name because the Complainant has not granted any permission to the Respondent to use

the disputed domain name. The Respondent's use of the disputed domain name has no connection with a *bona fide* offering of goods and services. Furthermore, no authority has been bestowed upon the Respondent either to govern the registered Trademark or to act or speak on behalf of the Complainant.

The Complainant contends that the Respondent has not been commonly known by the disputed domain name. The disputed domain name of the Respondent is identical or confusingly similar to the Complainant's registered Trademark PATANJALI. The disputed domain name is used just to confuse the public and to take the undue advantage of the goodwill of the registered Trademark PATANJALI. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain. It misleads and diverts consumers and seeks to tarnish the Trademark PATANJALI. Furthermore, the Respondent is using the disputed domain name by creating a website which has tarnished the Trademark since it includes malicious statements about the Complainant's food products.

The Complainant further contends that the Respondent has registered the disputed domain name primarily with the purpose of disrupting the business of the Complainant. The Respondent has booked the disputed domain name with the ill intention just to harm the goodwill of the Complainant and to confuse the public at large.

The Complainant contends that the Respondent may use the disputed domain name to make an attempt to attract Internet users for personal gain by creating a likelihood of confusion with the Complainants' Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Moreover, the disputed domain name containing the registered Trademark PATANJALI further confuses the public as to the source of the information found on the website.

The Complainant also contends that the Respondent has registered the disputed domain name for the purpose of disrupting the business of a competitor and is using the domain name in bad faith, and the Respondent's use of the disputed domain name creates confusion as to the source of the information found on the website under the disputed domain name.

The Complainant contends that the use of registered Trademark PATANJALI by the Respondent for the disputed domain name is wholly illegal and arbitrary in nature.

The Respondent has registered the disputed domain name to misappropriate illegally and without authority, the Complainant's registered Trademark which is an exclusive property of the Complainant.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

As per paragraph 5(f) of the Rules, where a respondent does not submit a substantive response, in the absence of exceptional circumstances, the panel shall 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 substantive response. As per paragraph 14(b) of the Rules, where a party does not comply with any provision of the Rules, the panel is to draw such inferences there from as it considers appropriate.

It remains incumbent on the Complainant to make out its case in all respects under paragraph 4(a) of the Policy, which sets out the three elements that must be present for the proceeding to be brought against the Respondent, which the Complainant must prove to obtain a requested remedy. It provides as follows:

"Applicable Disputes. You are required to submit to a mandatory administrative proceeding in the event that a third party (a 'complainant' asserts to the applicable Provider, in compliance with the

Rules of Procedure, that

(i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) you have no rights or legitimate interests in respect of the domain name; and

(iii) your domain name has been registered and is being used in bad faith.

In the administrative proceeding, the complainant must prove that each of these three elements are present.”

The Panel will address all the three aspects of the Policy listed above hereunder:

#### **A. Identical or Confusingly Similar**

The Panel has considered and examined all the documents submitted by the Complainant in support of its claim that the Complainant has been using and has various registrations for the Trademark PATANJALI.

The Complainant has furnished evidence of its rights in the Trademark PATANJALI. He has provided details of some of its Trademark registrations and common law rights which have accrued to it due to long and substantial use of the Trademark PATANJALI not only in India, but also in certain other parts of the world. There is no doubt that the Complainant has rights in the Trademark PATANJALI.

WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7 provides the view of UDRP panelists: “While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant trademark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark for purposes of UDRP standing.” Mere addition of prefix “ayur” does not make the Trademark PATANJALI unrecognizable in the disputed domain name. The Panel finds it useful to refer to [WIPO Overview 3.0](#), section 1.8: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements.” The Panel finds that the Trademark PATANJALI of the Complainant is recognizable in the disputed domain name.

A generic Top-Level Domain (“gTLD”) is a category of Top-Level Domain (“TLD”), which is the last level of a domain name in the Domain Name System. The gTLD is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1 states that the applicable gTLD in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such may be disregarded under the first element confusing similarity test.

Therefore, the Panel finds that the Complainant has successfully established the first element of paragraph 4(a) of the Policy.

#### **B. Rights or Legitimate Interests**

The Complaint is based on the Trademark PATANJALI registered in favor of the Complainant and, used in connection with goods sold and services offered by the Complainant.

The Respondent is in no way either related to or an agent of the Complainant. The Trademark PATANJALI, in the above-mentioned background, indisputably vests in the Complainant as evidenced by statutory registration not only in India but in other jurisdictions as well, secured by the Complainant.

The Respondent has registered the disputed domain name incorporating the Trademark PATANJALI of the Complainant. The Complainant had been using the Trademark for a long time since 2006. The Complainant has not authorized or permitted the Respondent to use the Trademark PATANJALI.

Paragraph 4(c) of the Policy lists circumstances, but without limitation, which, if found by the Panel to be proved, may demonstrate the Respondent's rights or legitimate interests in a disputed domain name for the purposes of paragraph 4(a)(ii) of the Policy. [WIPO Overview 3.0](#), section 2.1 states that: "While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Respondent has failed to file a response to rebut the Complainant's *prima facie* case or to explain his rights or legitimate interests. The Respondent has thus failed to demonstrate any rights or legitimate interests in the disputed domain name as per paragraph 4(c) of the Policy or otherwise.

The Panel notes the Respondent has registered the disputed domain name using registration details of "ayur patanjali, WTIS", which includes the term "patanjali". However, there is no evidence before the Panel to suggest that the Respondent has any rights in the Trademark PATANJALI or that it is actually commonly known as "ayur patanjali" or any variation of "patanjali". Rather, in the context of this case and as discussed further below, it appears the Respondent's intent has been to falsely suggest an affiliation or association with the Complainant for commercial gain. Accordingly, noting the above and absent any explanation or evidence from the Respondent, the Panel finds that paragraph 4(c)(ii) does not apply. Further, in these circumstances, the Panel finds that any potential claims of fair use as a reseller would also not apply in this case. See [WIPO Overview 3.0](#), section 2.8.

Moreover, the Panel finds that the disputed domain name, incorporating the entirety of the Trademark PATANJALI and an apparent abbreviation related to the Complainant's area of activity and corporate name, carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

In the absence of the Respondent's response, and considering the evidence submitted by the Complainant, the Panel finds that the Complainant has satisfied its burden to make out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel is satisfied that the second element of the Policy has been met.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy identifies, but without limitation, four circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith. Each of the four circumstances in paragraph 4(b) of the Policy, if found, is evidence of "registration and use of a domain name in bad faith". The Complainant is required to prove both that the disputed domain name was registered in bad faith and that it is being used in bad faith. Hence, circumstances at the time of registration and thereafter must be considered by the Panel.

There is virtually no possibility, noting *inter alia* the well-known nature of the Complainant's Trademark PATANJALI and the well-established reputation and goodwill associated with it (particularly in India where the Respondent appears to reside), that the Respondent was unaware of the Complainant's existence or presence in the market. The Complainant's Trademark PATANJALI has been found to be a well-known trademark.

The Respondent is using the disputed domain name by creating an active website to advertise ayurvedic products, including products of the Complainant. WIPO Overview, section 3.1.4 states that:

“Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Panels have moreover found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent’s commercial benefit, even if unsuccessful, (iii) the lack of a respondent’s own rights to or legitimate interests in a domain name, (iv) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer, (v) redirecting the domain name to the complainant’s (or a competitor’s) website, and (vi) absence of any conceivable good faith use.”

The Complainant has produced evidence of registration of the Trademark PATANJALI in its favor given, *inter alia*, by the Indian Trademarks Registry. The Respondent registered the disputed domain name on January 8, 2022, incorporating in it the Trademark PATANJALI of the Complainant. The Complainant has not granted the Respondent permission or a license of any kind to use its Trademark PATANJALI and register the disputed domain name. Such unauthorized registration by the Respondent suggests opportunistic bad faith. In view of these facts, and as discussed in section B above, use of the Trademark PATANJALI in the disputed domain name and the website associated with the disputed domain name is likely to cause confusion as to source, sponsorship, or affiliation, which constitutes bad faith registration and use under paragraph 4(b)(iv) of the Policy. The Respondent’s true purpose in registering and using the disputed domain name that incorporates the entire Trademark PATANJALI of the Complainant is, in the Panel’s view, to illegitimately capitalize on the reputation of the Trademark PATANJALI.

In view of the above, the Panel concludes that the third and last condition provided for by paragraph 4(a)(iii) of the Policy is met. The Panel therefore, finds that the disputed domain name has been registered and is being used by the Respondent in bad faith.

## 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 <ayurpatanjali.com> be transferred to the Complainant.

*/Ashwinie Kumar Bansal/*

**Ashwinie Kumar Bansal**

Sole Panelist

Date: August 22, 2022