

## **ADMINISTRATIVE PANEL DECISION**

Starbucks Corporation v. Sumol Jha

Case No. D2022-2574

### **1. The Parties**

The Complainant is Starbucks Corporation, United States of America (“United States” or “U.S”), represented by Focal PLLC, United States.

The Respondent is Sumol Jha, India.

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

The disputed domain name <starbuckstoken.info> (the “Domain Name”) 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 July 14, 2022. On July 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 15, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 18, 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 amended Complaint on July 18, 2022.

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 July 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 19, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on August 25, 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 to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant opened its first store in 1971 and is today multinational chain of coffeehouses with thousands of stores worldwide. The Complainant has nearly 34,630 Starbucks stores in 85 markets around the world.

The Complainant owns numerous trademark and service mark registrations for the STARBUCKS mark in the United States and around the world, such as U.S. Reg. No. 1,372,630 registered November 26, 1985. In fact, it owns nearly 2,035 trademark applications and registrations in 186 countries.

The Domain Name was registered on February 1, 2022. The Domain Name has resolved to different webpages, such as a website reproducing a variation of the Complainant's logo as a coin with the message "The leading decentralized NFT marketplace". At the time of drafting the Decision, the Domain Name redirected to an error page.

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

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

The Complainant documents registered trademark rights and argues that the trademark has worldwide reputation. The Complainant argues that the Domain Name is confusingly similar to the Complainant's STARBUCKS mark. The addition of the term "token" does not sufficiently distinguish the Domain Name from the Complainant's mark.

The Complainant argues that there is no evidence to support that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights or legitimate interests in the Domain Name, as the Respondent has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The use of the Domain Name – to redirect to webpages completely unrelated to the Complainant's business – is not *bona fide*.

The Complainant submits that the Complainant is well known throughout the world, and the Respondent must have been aware of the Complainant's trademark when the Respondent registered the Domain Name. Furthermore, the Domain Name is obviously connected with a Complainant, and the use by the Respondent suggests "opportunistic bad faith". The Complainant argues that even if the Respondent derives "no immediate commercial benefit, he still takes unfair advantage of the reputation of the Complainant's mark to divert Internet users to his website through confusion".

##### **B. Respondent**

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

#### **6. Discussion and Findings**

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

The Complainant has established rights in its trademark STARBUCKS. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant's trademark with the word "token" added at the end. This does not prevent a finding of confusing similarity.

For the purposes of assessing confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain ("gTLD") as it is viewed as a standard registration requirement, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition

(“[WIPO Overview 3.0](#)”) section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

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

The Respondent is not affiliated with nor authorized by the Complainant. There is no evidence that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights in the Domain Name, as it has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. On the contrary, the use rather suggests bad faith.

The Panel finds that the Complainant has made out a *prima facie* case showing that the Respondent has no rights or legitimate interests in the Domain Name, which has been unrebutted by the Respondent.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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

The Complainant’s trademarks were registered long before the registration of the Domain Name, and the trademark STARBUCKS is well known. The fame of the trademark and the composition of the Domain Name suggests that the Respondent was aware of the Complainant’s trademark when the Respondent registered the Domain Name.

The Domain Name seems to be registered to attract Internet users by misleading them into believing that the website at the Domain Name is somehow connected to the Complainant. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, see [WIPO Overview 3.0](#), section 3.1.4. The Respondent has not replied to the Complainant’s cease and desist letter, nor to the Complaint, and not provided any evidence of good faith use. Based on the case file, the Panel concludes that the Respondent takes unfair advantage of the reputation of the Complainant’s mark to divert Internet users to his website through confusion.

The Panel finds that the Domain Name was registered and is being used in bad faith, within the meaning of the 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 Domain Name <starbuckstoken.info> be transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: September 1, 2022