

Domain Name Dispute Resolution Center (DNDRC)

Arbitration and Mediation Center

COMPLAINT PANEL DECISION

Case No. C2024-0005

Also in PDF C2024-0005

1. The Parties

The Complainant is The Nature's Bounty Co, having its office at 60 Orville Drive, Bohemia, NY 11716. The Complainant has initiated the Complaint vide their authorized representative, Muhammad Bashir Abbasi, Advocate of Abu Ghazaleh Intellectual Property Services, at Suite No. 604, 6th Floor, Anum Empire, Shahrah e Faisal, Karachi.

The Respondent is Irfan Shaukat, residing at MB45, Zainab Tower, Model Town, Link Road, Lahore, and Telephone No: +92 334 4416933.

2. The Domain Names and Registrar

The domain name in dispute is <naturebounty.pk>, hereinafter referred to as the Disputed Domain Name [“the DDN”]. Vide email dated Monday 13 November 2023, PKNIC has informed DNDRC that the Agent Organization through which the registration was applied is techlogichost, 149 West Wood Colony; Thokar Niaz Baig, Lahore, Pakistan, and its Create Date was 2020-06-17, with an Expire Date of 2024-06-17.

3. Procedural History

DNDRC was informed of the Complaint against the Respondent as per PKNIC - Internet Domain Registration Policy, by notification from the Complainant on 2023-10-17.

The Respondent was issued a notification of the dispute along with a copy of the Complaint and a Response Form on 2023-11-14 informing the Respondent that if a Response were not received 10 days from the notification, the dispute would be proceeded ex-parte. DNDRC awaited the submission by the Complainant of the Complaint as per the prescribed forms also available at www.dndrc.com/downloads. The Respondent was also issued reminder notifications on 2023-11-

17. The Respondent provided a response dated 2023-11-17, within the stipulated period of ten days.

Applying Paragraph 4(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the *Rules*), DNDRC appointed Mr. Qazi Ghaziuddin Ahmed as the sole Arbitrator who has verified that the Complaint satisfies the formal requirements of the Policy and the Rules.

Factual Background

The domain name upon which the Complaint is based is <naturebounty.pk>.

PKNIC has confirmed via their email dated 2023-11-13 that the DDN has been registered by the Respondent and that their email address is irfanmit2@gmail.com.

4. Parties Contentions

A. Complainant

The Complainant's brief contentions are produced below:

Complainant is the registered owner of the trade mark ("Nature's Bounty Mark"). A list of the countries where the Naturebounty Mark is registered is attached hereto as Exhibit 4. Complainant is the registered owner of nearly 268 registrations for the Nature's Bounty Mark in over 78 countries around the world, including Pakistan. Attached hereto as Exhibit 5 are photocopies of certificates of a random selection of Complainant's registrations for the Nature's Bounty Mark Mark. It will be relevant to state here that Société Des Produits Nestlé S.A is the subsequent owner of the mark and that the assignment of the mark is under preparation and shall be recorded in the Register of Trade Marks as soon as all formalities are fulfilled

Attached hereto as Exhibit 6 are the copies of the certificates of registration of the Nature's Bounty Mark in Pakistan.

Complainant is the proprietor in Pakistan and elsewhere of the Nature's Bounty Mark in connection with a variety of goods and Services, including those falling in classes 1, 5, 29, 30, 32, 35, 36, 43 and of the International Classification of Goods and Services. They are offered for sale worldwide by the Complainant's official websites at

<naturesbounty.com/> and through the sale of the Complainant's goods through its affiliates, licensees, distributors etc.

The complainant has also been selling its Nature's Bounty products through third parties websites such as Amazon.

The Complainant is also the registered owner of the domain name < naturesbounty.com >. A print-out of the domain name records for this domain name is attached hereto as Exhibit 7.

This Complaint is based on the following grounds:

FACTUAL GROUNDS:

(a) As a manufacturer, marketer and seller of vitamins, minerals, herbal and other specialty supplements, and active nutrition products, the Complainant is focused on enhancing the health and wellness of people's lives.

(b) Nature's Bounty is the one of the most important brands of the Complainant. Information regarding Nature's Bounty may be viewed at <https://www.naturesbountv.com/about-us/> A print out of few pages of the website are attached and marked as Exhibit 8

(c) The Nature's Bounty Mark is exclusively associated with Complainant, and Complainant has acquired common law and statutory rights in the Nature's Bounty Mark. Apart from the common law rights enjoyed by Complainant in the Nature's Bounty Mark based on its use of Nature's Bounty Mark for the past 50 years, Complainant owns registrations for the Nature's Bounty Markin numerous countries around the world {see Exhibits 4 and 5}. In Pakistan, the earliest registration for the Nature's Bounty Mark dates back to 1995. Complainant therefore has prima facie exclusive prior rights to use the Nature's Bounty Mark throughout the world and in Pakistan in connection with Complainant's products.

(d) Owing to Complainant's continuous and pervasive use of the Nature's Bounty Mark in commerce for almost 50 years, as well as the considerable time, effort, and money spent extensively promoting its products under the Nature's Bounty Mark, it has immense goodwill and a valuable reputation around the world, including in Pakistan. Indeed, the Nature's Bounty Mark is a famous and well-known trademark in Pakistan and worldwide. In similar cases the Panels have consistently remarked upon the fame and distinctiveness of the marks See, e.g., Educational Testing Service v. S B, WIPO Case No. D2009-0600 (Jan. 07, 2009) (Panel found that Respondent could not have used the domain names in connection with a bona fide offering "[i]n light of Complainant's rights in its TOFEL and

GRE marks) (attached as Exhibit 9); Educational Testing Service v. Domains by Proxy, Inc., Zhao Zhihui, Chen Keqing, WIPO Case No. D2008- 0993 (Oct. 3, 2008) (“The TOEFL Marks and GRE Marks are well-known worldwide and in China.”) (attached as Exhibit 10). The trademark Nature’s Bounty of the complainant is well known in Pakistan and other parts of the world due to extensive use thereof. Therefore, precedents of earlier similar decisions would be relevant in the present case.

(e) In light of the exclusive association between the Nature’s Bounty Mark and Complainant’s products worldwide and in Pakistan, any unauthorized use of the Nature’s Bounty Mark in connection with similar goods infringes the Nature’s Bounty Mark and is highly likely to deceive or confuse consumers that Complainant has sponsored or approved of those goods. The Nature’s Bounty Mark is so well known to consumer and pharmaceutical industry in Pakistan and throughout the world that when consumers see domain names incorporating the Nature’s Bounty Mark and which point to an active website, it is likely they will believe the associated website will direct them to an authorized Nature’s Bounty and/or Complainant’s website with goods that complainant has approved.

(f) Respondent, without permission or authorisation from Complainant, has secured a domain name registration for the Disputed Domain Name (see Exhibit 1), which consists solely of Complainant’s Nature’s Bounty Mark in its entirety. Respondent’s use of the Nature’s Bounty Mark in the Disputed Domain Name is, in itself, likely to cause confusion as to the source or sponsorship of Respondent’s website because Complainant owns numerous other Nature’s Bounty formative domain names.

(g) Respondent is engaged in the business of offering goods that are related to those covered by Complainant’s Nature’s Bounty Mark. Further, Respondent is using Complainant’s Nature’s Bounty Mark on the website at the Disputed Domain Name to advertise Nature’s Bounty products to which the Respondent is not authorized to use the trade mark. In an effort to stop Respondent’s illegal activities, Complainant sent a cease and desist letter to Respondent on February 9, 2022, requesting, inter alia, that Respondent voluntarily transfer the Disputed Domain Name to Complainant, remove the Nature’s Bounty Mark and any other infringing material from the website at the Disputed Domain, and immediately cease and permanently refrain from all infringing activities. A copy of the C&D letter is attached hereto as Exhibit 11. Respondent has not officially responded to Complainant’s correspondence.

(h) Thus, Respondent continues to maintain the domain name registration for the Disputed Domain Name (see Exhibit 1) and continues to offer its goods under the Nature’s Bounty Mark on the website at the Disputed Domain Name. Furthermore the Respondent has copied the complainant’s copyrighted material of its website. These activities infringe Complainant’s exclusive rights in the Nature’s Bounty Mark and are likely to mislead the general public that Respondent’s use of the Disputed Domain Name, as well as the offering of goods on the corresponding website, is authorised or controlled by Complainant or persons having a business connection with Complainant, which is not the case.

The Complainant seeks the following remedies:

- To transfer the Domain Name's registration from the said owner to Complainant.

After submission of the Complaint, the Complainant confirmed that the Trade Marks Registry had issued certificates of registration for the trademark "Nature's Bounty" to the Complainant and provided copies of the same.

B. Respondent

We are local resellers of the Nature's Bounty Products (Clearly mentioned on About Us Page). We have removed the Trademark Logo from <https://naturebounty.pk/> We buy products from the official distributors of Nature's Bounty Pakistan, named as Pharmanet (SigmaPharma), Corresponded with Mr. Haseeb. We have not misused the official Nature's Bounty Name! If you find any prohibited information on our website, you can share your queries. We'll try our best to follow the guidelines

5. Jurisdiction

The Panel's jurisdiction over this dispute between the Complainant and the Respondent is established by virtue of the Internet Domain Registration Policy version 4.4 (2019-08-19) and the Rules.

The Respondent applied for and was granted registration of the DDN on the basis of these regulations, and has submitted to, the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) and the Rules and correspondingly to the arbitral jurisdiction of the DNDRC and its arbitration decisions.

6. Discussion and Findings

In the landmark case of *Standard Chartered PLC v. Hosting Campus Domain* (case no. C2007-0001) available on the DNDRC website (http://www.dndrc.com/cases_resolved/pdf/c2007-0001.pdf), the Panel laid down the following four heads under which to analyze cases, under the Internet Domain Registration Policy version 4.4 (2019-08-19) and the UDRP:

1. *Illegality, unlawfulness or otherwise invalidity of the Application & Registration (a criteria in terms of the PKNIC - Internet Domain Registration Policy June 20, 2006, version 4.1 in addition to the criteria of the UDRP)*
2. *Identical or confusing similarity to a trademark or service mark in which the Complainant has rights (a UDRP criteria)*
3. *Legitimate interest in Domain Name (a UDRP criteria)*
4. *Registration and use in bad faith (a UDRP criteria)*

The decision of the dispute shall be addressed with respect to the following aspects:

- i. *Illegality, unlawfulness or otherwise invalidity with respect to the Application & Registration (a PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) criteria).*
- ii. *Identical or confusing similarity with a trademark or service in which the Complainant has rights (a UDRP criteria).*
- iii. *Legitimate interest in the domain name (a UDRP criteria).*
- iv. *Registration and use of the domain name in bad faith (a UDRP criteria).*

I. Illegality, unlawfulness or otherwise invalidity of the Application & Registration

The PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19) states that it creates an exception for, and thus excludes the registration of a domain name that:

- a. *infringes upon a registered tradename,*
- b. *is not bona fide as recognized by international best practice,*
- c. *in the opinion of PKNIC, a contravention of the latest version of the Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/ Anti-Terrorism Act, 1997/any applicable criminal law,*
- d. *has been declared by a Criminal Court of appropriate jurisdiction to have contravened the latest version of Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/Anti-Terrorism Act, 1997/any applicable criminal law), or*
- e. *in the opinion of PKNIC is not appropriate for registration.*

As per the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19),

If a party claims that a domain name already registered with PKNIC violates their registered tradename, an obvious derivation of their registered company name is not bona fide as recognized by international best practice, and is a contravention in the opinion of

PKNIC to be a contravention of the latest version of the Pakistan Penal Code Act, 1860 (including offences of defamation & blasphemy)/ Anti-Terrorism Act, 1997/any applicable criminal law, PKNIC reserves the right to cancel, or transfer the domain to the claiming party as per the ICANN's Uniform Domain Name Dispute Resolution Policy [UDRP] (with PKNIC amendments) or as per the orders of a court judgment in Pakistan.

Therefore, for the purpose of assessing illegality, unlawfulness or otherwise invalidity of the Application & Registration of the Disputed Domain Name, the application and registration of the DDN shall be assessed in consideration of the following criteria:

- i. Whether the DDN infringes upon a registered trade name / trade mark?
- ii. Whether the application and/or registration of the DDN is bona fide?
- iii. Whether the application and/or registration of the DDN contravenes the Pakistan Penal Code, 1860 (the "Penal Code") or any applicable criminal law?

The Complainant has stated:

- (1) *Complainant is the registered owner of the trade mark "Nature's Bounty Mark"). A list of the countries where the Naturebounty Mark is registered is attached hereto as **Exhibit 4**. Complainant is the registered owner of nearly 268 registrations for the Nature's Bounty Mark in over 78 countries around the world, including Pakistan. Attached hereto as **Exhibit 5** are photocopies of certificates of a random selection of Complainant's registrations for the Nature's Bounty Mark Mark. It will be relevant to state here that Société Des Produits Nestlé S.A is the subsequent owner of the mark and that the assignment of the mark is under preparation and shall be recorded in the Register of Trade Marks as soon as all formalities are fulfilled*

*Attached hereto as **Exhibit 6** are the copies of the certificates of registration of the Nature's Bounty Mark in Pakistan.*

Complainant is the proprietor in Pakistan and elsewhere of the Nature's Bounty Mark in connection with a variety of goods and Services, including those fading in classes 1, 5, 29, 30, 32,35,36, 43 and of the International Classification of Goods and Services. They are offered for sale worldwide by the Complainant's official websites at <naturesbounty.com/> and through the sale of the Complainant's goods through its affiliates, licensees, distributors etc.

The complainant has also been selling its Nature's Bounty products through third parties websites such as Amazon.

The Complainant is also the registered owner of the domain name < naturesbounty.com>. A print-out of the domain name records for this domain name is attached hereto as Exhibit 7.

The Respondent has not provided a substantive response to the Complainant's contention and has stated:

We are local resellers of the Nature's Bounty Products (Clearly mentioned on About Us Page). We have removed the Trademark Logo from <https://naturebounty.pk/> We buy products from the official distributors of Nature's Bounty Pakistan, named as Pharmanet (SigmaPharma), Corresponded with Mr. Haseeb. We have not misused the official Nature's Bounty Name!

The Complainant has provided a copy of certificate of registration issued by the Government of Pakistan indicating that it has registered the word mark "Nature's Bounty" in Pakistan. The Panel finds that the Complainant has submitted sufficient evidence that it has trademark rights in the word "Nature's Bounty". The DDN does prima facie incorporate the registered trademark of the Complainant. In the view of the Panel, the DDN therefore infringes upon the trademark of the Complainant. The Respondent's contention that it, being a local reseller which buys products of the Complainant through its official distributors in Pakistan, does not provide the Respondent with the right to incorporate the registered trademark of the Complainant in Pakistan.

In the presence of the information provided by the Respondent, the Panel can infer that the Respondent has no rights to the term "NATURE'S BOUNTY" indicating that the registration of the DDN by the Respondent was not bona fide.

In view of the findings of the Panel that the DDN, which incorporates a registered trademark of the Complainant, constitutes an infringement of the trademark of the Complainant, the Panel, relying on the findings in *Standard Chartered PLC v. Hosting Campus Domain* (case no. C2007-0001), also finds that the registration will contravene relevant provisions of the Pakistan Penal Code.

II. Identical or confusing similarity to a trademark or service mark in which the Complainant has rights

The Complainant has contended the following:

- 1) *The facts and evidence provided in paragraphs 7 and 8(a) to (g) above clearly demonstrate that the Nature's Bounty Mark is the exclusive property of Complainant, which has the prima facie prior registered right to use the Nature's Bounty Mark in relation to its goods throughout the world, including in Pakistan.*
- 2) *The Disputed Domain Name, exclusive of the extension, consists solely of the Nature's Bounty Mark, which is the registered trade mark of Complainant throughout the world and in Pakistan. As stated by the WIPO Panel in Dr. Ing. H.c.F. Porsche AG v. Vasiliy Terkin, WIPO Case No. D2003-0888 (Jan. 6, 2004) (attached as Exhibit 12), a domain name that wholly incorporates a complainant's registered trade mark is sufficient to establish confusingly similarity. See also Educational Testing Service v. Educational Training Services, Sonny Pitchumani, Rondai Nelson and MEI Consulting, Inc., WIPO Case No. D2004-0324 (June 18, 2004) ("Previous panels have held that if a domain name incorporates a complainant's mark in its entirety, it is confusingly similar to that mark despite the addition of other words.") (attached as Exhibit 13).*
- 3) *Complainant shall furnish decisions rendered by the WIPO Panel in support of its case during the course of hearing (if appointed) to substantiate its claim.*
- 4) *Based on the above, there can be no doubt that the Disputed Domain Name is identical and/or confusingly similar to the Nature's Bounty Mark in which Complainant has prior exclusive rights.*

It is an established principle that the incorporation of a Complainant's trademark in full within a disputed domain name may be sufficient to establish confusing similarity between the mark and the disputed domain name. However, given that the DDN does not incorporate the trademark in full as the letter "s" has been omitted, the question arises as to whether such would result in confusing similarity with the Complainant's trademark.

The Panel finds that the Domain Name <naturebounty.pk> is confusingly similar to the Mark (NATURE'S BOUNTY). The Domain Name incorporates the entirety of the Mark, with only two minor distinctions, the omission of an "s" in the "Nature's" portion of the Domain Name and the addition of the ccTLD ".pk". When a domain name wholly incorporates a complainant's registered mark that is sufficient to establish confusing similarity for purposes of the Policy. *Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, [WIPO Case No. D2000-1525](#) (January 29, 2001).

The Respondent has not submitted a response specifically addressing this point. In the absence of any valid explanation of how the DDN is not confusingly similar to the trademark of the

Complainant, the Panel finds confusing similarity between the DDN and the Complainant's trademark under paragraph 4(a)(i) of the Policy.

III. Legitimate interests in a domain name

As per paragraph 4(c), the UDRP requires the Respondent's claim to be of legitimate interest and shall be:

"Proved based on all evidence presented" that "shall demonstrate" the Respondent's "rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii)."

Paragraph 4(a)(ii) states that:

"(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The Complainant has contended the following:

- (1) *Pursuant to ICANN Policy, sub-paragraph 4(c), Respondent may only show rights in the Disputed Domain Name by its (1) use or preparations to use the domain name in connection with a bona fide offering of goods prior to notice of the dispute; (2) being commonly known by the domain name; or (3) use of the Disputed Domain Name for legitimate purposes that are non-commercial or which qualify as fair use. Respondent fails on all counts as discussed below:*
- (2) *Complainant has never authorized, licensed, or consented to Respondent's registration or use of the Disputed Domain Name. Respondent also has no affiliation with Complainant.*
- (3) *Complainant further believes that Respondent has never been known by the Disputed Domain Name nor has it ever been known by the Nature's Bounty Mark or any other name*

containing the word “Nature’s Bounty y.” Indeed. Respondent’s website of disputed domain name confuses the public that it is the authorized website of the Complainant, the registered owner of Nature’s Bounty Mark.

- (4) *Respondent furthermore has misappropriated the Nature’s Bounty Mark and copyrighted materials owned by Complainant. Thus, Respondent has not used the Disputed Domain Name to make a bona fide offering of any goods or Services other than to take undue advantage of the goodwill and reputation of Complainant.*
- (5) *Respondent is clearly not making any non-commercial or fair use of the Disputed Domain Name. Respondent is using the Disputed Domain Name (which consists of Complainant’s famous Nature’s Bounty Mark in its entirety) to intentionally attempt to attract the general public, including Complainant’s customers, to Respondent’s website by creating a likelihood of confusion with the Nature’s Bounty Mark as to the source, sponsorship, affiliation, or endorsement of the Disputed Domain Name by Complaint. As a result, Respondent’s use cannot constitute a fair or non-commercial use.*

As has been previously adopted by the discussions and findings in WIPO Authorities, it is for the Respondent to rebut the allegations put forth by the Complainant. Also, with respect to proving rights or legitimate interests in the disputed domain name(s), it is for the Respondent to submit evidence pertaining to the same as it would be extremely difficult, if not impossible, for the Complainant to prove a negative assertion. As such, in order to satisfy the Panel that it has rights or legitimate interests to the Disputed Domain Name, the Respondent was obliged to respond and submit evidence with respect to the same.

The Respondent has failed to provide a satisfactory response or provided any evidence to the Panel showing they are commonly known by the name of “naturebounty.pk”, or have any legitimate interest in the DDN. Rather, the Respondent has merely claimed to be a reseller who purchases products of the Complainant through a distributor. As per WIPO Case No. D2006-0052 where the question arose as to whether a reseller can ever obtain rights or legitimate interests in another’s trademark without the consent of the trademark owner, the Panel in that case decided the Respondent held no rights or legitimate interest in the DDN regardless of them being a reseller as they had no prior authorization of the trademark use.

The Respondent does not have any endorsement or permission from the Complainant or any other entity with respect to the use of the DDN. Moreover, the Respondent has not provided evidence to rebut the Complainant’s prima facie case that they lack rights or legitimate interests in the domain name. The burden of production shifts to the Respondent, who has failed to meet this burden.

The Panel finds that the Respondent does not have rights to or a legitimate interest in the DDN pursuant to paragraph 4(a)(ii) of the Policy.

IV. Registration and use in bad faith

The Complainant has made the following submission:

- (1) *ICANN Policy, sub-paragraph 4(b)(iii), allows a finding of bad faith if the registration is primarily for the purpose of disrupting the business of a competitor. Respondent's action in registering the Disputed Domain Name is likely to deprive Complainant of "the chance to be contacted by prospective customers," which suggests bad faith. See SGS Société Générale de Surveillance S.A. v. Inspectorate, WIPO Case No. D2000-0025 (Mar. 17, 2000) (attached as Exhibit 14). Respondent is using the Disputed Domain Name to operate a website where Respondent uses the Nature's Bounty Mark without authorization in connection with Respondent's goods, constituting unlawful "passing off" in Pakistan. As noted, Respondent is not an authorized licensee of Complainant. Accordingly, a customer who views the website, sees the description of Nature's Bounty featured on the website or the link to Nature's Bounty's website, believes that Respondent has an association with Complainant or its affiliates based on its registration and use of a domain name that prominently and repeatedly uses the Nature's Bounty Mark and distributes Nature's Bounty products. The offering of the products under the disputed domain name in competition with Complainant and the distribution of infringed goods disrupts Complainant's business.*
- (2) *ICANN Policy, sub-paragraph 4(b)(iv), also allows a finding of bad faith where the respondent intentionally attempts to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or products or Services on the website. Respondent's registration of the Disputed Domain Name infringed Complainant's rights in the Nature's Bounty Mark, as the Disputed Domain Name contains the Nature's Bounty Mark in its entirety and is used for commercial gain in offering goods that are related to those offered by Complainant. When Respondent acquired the Disputed Domain Name, it had constructive knowledge of the Nature's Bounty Mark via Complainant's trade mark registrations in Pakistan (as well as in numerous other countries around the world) and due to the worldwide fame of the Nature's Bounty Mark. Respondent's knowledge of Complainant's rights in the Nature's Bounty Mark is also demonstrated by its admission on the website at the Disputed Domain*

Name that “Naturebounty” is conducted and administered by complainant. The use of which further create a likelihood of confusion that Complainant is the source of or endorses Respondent’s website or the goods offered on the website. Notwithstanding this knowledge and complete lack of authorization, Respondent intentionally registered the Disputed Domain Name containing the famous Nature’s Bounty Mark, without authorization, for infringing purposes and to attempt to attract users to its website for commercial gain. As stated by the WIPO Panel in Kraft Foods (Norway) v. Fredrik Wide and Japp Fredrik Wide, WIPO Case No. D2000-0911 (Sep. 23, 2000) (attached as Exhibit 15), the fact “that the Respondent chose to register a well-known mark to which he has no connections or rights indicates that he was in bad faith when registering the domain name at issue.” See also Red Bull GmbH v. Harold Gutch, WIPO

On the other hand, the Respondent has submitted:

We are local resellers of the Nature’s Bounty Products (Clearly mentioned on About Us Page). We have removed the Trademark Logo from <https://naturebounty.pk/> We buy products from the official distributors of Nature’s Bounty Pakistan, named as Pharmanet (SigmaPharma), Corresponded with Mr. Haseeb. We have not misused the official Nature’s Bounty Name! If you find any prohibited information on our website, you can share your queries. We’ll try our best to follow the guidelines

The Complainant asserts that the Respondent registered the DDN in bad faith, providing information to support that the registration of the DDN was primarily aimed at disrupting the Complainant’s business by diverting potential customers. The Panel finds that the Respondent’s registration of the DDN, which incorporates the “Nature’s Bounty” trademark, was likely to mislead customers into believing there is an association between the Respondent’s website and the Complainant.

The Panel notes that the Respondent likely had constructive knowledge of the Complainant’s trademark rights, given the trademark’s registration in Pakistan and its worldwide recognition. This knowledge is further evidenced by statements on the Respondent’s website, which, as admitted by the Respondent, show that the Complainant’s trademark was incorporated on the website. Despite this knowledge, the Respondent proceeded to register the Disputed Domain Name without authorization, clearly aiming to benefit commercially from the confusion created by the similarity between the domain name and the Complainant’s trademark.

The Panel therefore finds that the DDN was registered and is being used in bad faith.

7. Decision

Taking the precedents and discussion above into consideration, the Panel concludes and decides that:

1. The Respondent's registration of the DDN is contrary to the PKNIC - Internet Domain Registration Policy version 4.4 (2019-08-19)
2. The Respondent has no legitimate interest in the DDN.
3. The DDN is identical to the Complainant's trademark/names and registered domain names.
4. The DDN was registered and being used in bad faith.

Pursuant to Section 4 of the Policy, the Panel, therefore, recommends that PKNIC transfer the registration of the domain name in dispute <naturebounty.pk> to the Complainant, as prayed, within 48 hours of receipt of this decision either by email or through the website where it will be uploaded, www.dndrc.com/cases_resolved/, whichever is earlier. The Complainant shall also be at liberty to contact PKNIC for implementation of this decision.

Arbitrator: Mr. Qazi Ghaziuddin Ahmed

Sole Panelist

Date: 23 August 2024