

**DECISION OF THE THIRD-PARTY DECIDER**

**MHG IP Holding (Singapore) PTE LTD / Time2Change BVBA**

**Case no. 444127 / anantara.be**

**1. The Parties**

1.1. Complainant: MHG IP HOLDING (SINGAPORE) PTE. LTD.  
Alexandra Road 2, #05-04/05 Delta House  
159919 SINGAPORE  
SINGAPORE

*Represented by:*

TILLEKE & GIBBINS INTERNATIONAL LTD.  
Mrs. Michelle Ray-Jones  
Representative  
Supalai Grand Tower, 26<sup>th</sup> Floor  
1011 Rama 3 Road  
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10120 BANGKOK  
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1.2. Domain name holder: TIME2CHANGE BVBA  
Ronkenburgstraat 5  
9340 LEDE  
BELGIUM

**2. Domain name**

Domain name: anantara.be  
Registered on: November 21<sup>st</sup>, 2019  
*Hereafter referred to as "the domain name".*

### **3. Procedure**

On March 3<sup>rd</sup>, 2021, the Complainant filed a complaint with the Belgian Centre for Arbitration and Mediation (*hereafter referred to as "CEPANI"*) in order to obtain the transfer of the domain name.

On April 5<sup>th</sup>, 2021, CEPANI appointed the undersigned, Mr. Nicolas Berthold, as Third-Party Decider to settle the dispute.

The deliberations were closed on April 12<sup>th</sup>, 2021.

The Domain name holder did not file a response to the complaint.

In accordance with article 6.4 of the *CEPANI rules for domain name dispute resolution*, the decision is solely based on the complaint and the complaint's exhibits.

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

Having reviewed the complaint submitted by the Complainant, the Third-Party Decider finds that the following facts have been established.

The Complainant is a wholly-owned subsidiary of Minor International Public Company Limited, which is one of the largest hospitality, restaurant and lifestyle companies in the Asia – Pacific region.

It operates especially in hotels under the denomination "Anantara" all over the world since 2001 and in Europe (Portugal and Spain) since 2017.

The Complainant registered several trademarks including the denomination "Anantara" covering many territories, including European Union.

In particular, the Complainant registered the (word) European Union trademark "Anantara" on April 27<sup>th</sup>, 2017 (register number 016044158).

The Complainant is also the owner of the domain name "anantara.com".

The Domain name holder registered the domain name "anantara.be" on November 21<sup>st</sup>, 2019.

It appears that the website corresponding to the domain name automatically redirects the visitor to another website, which makes advertisement for a holiday accommodation located in Spain, a country in which the Complainant operates a hotel under the trademark "Anantara".

## **5. Position of the parties**

### **5.1. Position of the Complainant**

The Complainant requests the transfer of the domain name, stating that the conditions thereto are met.

Firstly, the Complainant indicates that the domain name is identical to its (word) European Union registered trademark "Anantara".

Secondly, the Complainant asserts that the Domain name holder does not have any right or legitimate interest in the domain name.

More specifically, the Complainant indicates that the Domain name holder is not commonly known under the domain name and that the Domain name holder is not affiliated or associated with the Complainant in any way.

The Complainant also affirms that it has never given authorization to the Domain name holder to use its "Anantara" trademarks.

Thirdly, the Complainant indicates that the domain name has been registered in bad faith and is being used in bad faith by the Domain name holder.

In this regard, the Complainant insists on the fact that the website associated with the domain name immediately redirects the visitor to another website, which makes advertisement for an accommodation activity directly competing with the activities of the Complainant.

### **5.2. Position of the Domain name holder**

The Domain name holder did not file a response to the complaint.

## **6. Discussion and findings**

Pursuant to Article 16.1 of the *CEPANI rules for domain name dispute resolution*, the Third-Party Decider shall rule on domain name disputes with due regard for the Policy and the CEPANI rules for domain name dispute resolution.

Pursuant to Article 10b (1) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE*, the Complainant must provide evidence of the following:

- "the Domain name holder is identical or confusingly similar to a trademark, a tradename, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and
- the Domain name holder has no rights or legitimate interests in the domain name; and
- the Domain name holder's domain name has been registered or is being used in bad faith."

#### 6.1. The Domain Name is identical to the Complainant trademark

The Complainant is the holder of several (figurative) European Union trademarks, containing the denomination "Anantara".

The Complainant is also the holder of a (word) European Union trademark "Anantara", registered on April 27<sup>th</sup>, 2017 (register number 016044158).

The Domain name holder registered the domain name "Anantara.be" on November 21<sup>st</sup>, 2019.

The existence of the extension ".be" must not be taken into consideration for the analysis of the identity or the similarity between the domain name and the Complainant's trademark (see e.g.: CEPANI 44082, CEPANI 444121).

It is thus established that the domain name is identical to the Complainant's registered trademark "Anantara".

The first condition of Article 10b (1) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE* is fulfilled.

#### 6.2. The Domain name holder has no right or legitimate interests in the Domain Name

The Complainant asserts that the Domain name holder is not commonly known under the domain name and that the Domain name holder is not affiliated or associated with the Complainant in any way.

The Complainant also affirms that it has never given authorization to the Domain name holder to use its "Anantara" trademarks.

The Domain name holder did not file a response to the complaint and therefore did not provide any evidence that it has a right or a legitimate interest in the Domain name.

The second condition of Article 10b (1) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE* is fulfilled.

6.3. The Domain name holder's Domain Name has been registered or is being used in bad faith

Article 10b (2) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE* sets out a (not exhaustive) number of circumstances which allow the bad faith of the Domaine name holder to be established in the context of the registration or the use of the domain name.

The fourth circumstance referred to in Article 10b (2) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE* consists in, for the Domain name holder, intentionally attempting to attract, for commercial gain, Internet users on a website belonging to him or on another on-line location, by creating a risk of confusion with the Complainant's trademark:

*"The evidence of such in bad faith registration or use of a domain name can inter alia be demonstrated by the following circumstances:*

*[...]*

- *the domain name was intentionally used to attract, for commercial gain, Internet users to the registrant's web site or other on-line location, by creating confusion with the complainant's trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of a geographical entity as to the source, sponsorship, affiliation, or endorsement of the registrant's web site or location or of a product or service on his web site or location.*

*[...]"*

In this regard, it should be noted that the domain name was registered barely a few months after the opening of the Complainant's first hotel in Spain.

The website corresponding to the domain name automatically redirects the Internet user to another website which makes advertisement for an accommodation activity directly competing with the activities of the Complainant.

More precisely, the other website to which the website corresponding to the domain name automatically redirects, promotes the "Hotel-Club La Santa", located in Spain, that offers holiday accommodations similar to those offered by the Complainant in its hotel, also located in Spain.

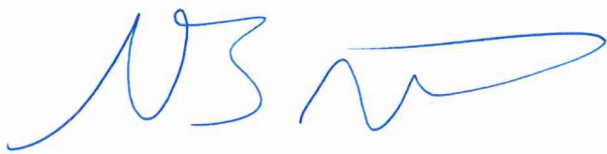
The domain name is therefore intentionally used by the Domain name holder to attract Internet users, for commercial gain, on an on-line location, by creating confusion with the Complainant's trademark.

The third condition of Article 10b (1) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE* is fulfilled.

## 7. Decision

Consequently, pursuant to Article 10(e) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE*, the Third-Party Decider hereby rules that the domain name registration for the "**anantara.be**" domain name is to be transferred to the Complainant.

Brussels, April 23<sup>rd</sup>, 2021.



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Nicolas BERTHOLD  
The Third-Party Decider