



सत्यमेव जयते

INDIA NON JUDICIAL

Government of Karnataka



e-Stamp

Certificate No.

Certificate Issued Date

Account Reference

Unique Doc. Reference

Purchased by

Description of Document

Description

Consideration Price (Rs.)

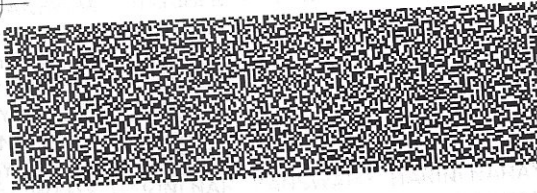
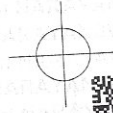
First Party

Second Party

Stamp Duty Paid By

Stamp Duty Amount(Rs.)

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: 22-May-2020 03:05 PM  
: NONACC (FI)/ kacrsf108/ INDIRA NAGAR1/ KA-BA  
: SUBIN-KAKACRSFL0898599826961838S  
: HARINI NARAYANSWAMY  
: Article 12 Bond  
: ARBITRATION JUDGEMENT  
: 0  
: (Zero)  
: HARINI NARAYANSWAMY  
: NA  
: HARINI NARAYANSWAMY  
: 100  
: (One Hundred only)



BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA

ARBITRATION AWARD

INDRP CASE NO. 1215

CAROUSELL PTE Ltd.

Vs.

ALEX WANG

Complainant

Respondent

**Statutory Alert:**

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.



**BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA**

**ARBITRATION AWARD**

**INDRP CASE NO. 1215**

**Complainant**

**CAROUSELL PTE Ltd.  
240 Tanjong Pagar Road  
# 12-00 Keepel Towers 2  
Singapore 088540  
Singapore**

**Versus.**

**Respondent**

**ALEX WANG  
995, Shangchuan Road  
Pudong  
Shanghai  
China 210016**

**1. The Parties**

The Complainant is Carousell PTE Ltd. of Singapore and is represented in these proceedings by Khurana & Khurana, Advocates and IP Attorneys, Greater Noida NCR, India. The Respondent is Alex Wang of Shanghai, China.

**2. The Domain name, Registrar and Policy**

The present arbitration proceeding pertains to a dispute regarding the domain name <carousell.in> (hereinafter referred to as disputed domain name). The registrar for the disputed domain name is Endurance Domains Technology LLP OF Mumbai India. The disputed domain name was registered on November 27, 2014. The Arbitration proceedings are conducted in accordance with the Arbitration and Conciliation Act of 1996 (India), the .IN Domain Name Dispute Resolution Policy (the "INDRP Policy" or "Policy"), and the INDRP Rules of Procedure (the "Rules").

*Harini Narayana*



### 3. Procedural History

The sole arbitrator appointed in the case is Mrs. Harini Narayanswamy. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, in compliance with the Rules. The Arbitrator received the Complaint and the electronic copy of the case documents from the IN registry on March 5, 2020 and subsequently the printed copy of the documents by courier. On March 9, 2020 the Arbitrator transmitted by email a notification of commencement of the arbitration proceedings to the Respondent under the INDRP Rules informing the Respondent to send the reply with supporting documents within twenty-one days of the notification. Copies of the said notification were sent to other interested parties to the dispute. No reply was received from Respondent. The Arbitrator requested the Complainant to submit further evidence by April 23, 2020 and the Respondent was given an opportunity to respond to the additional submissions made by the Complainant before April 28, 2020. No response was submitted by the Respondent.

### 3. Factual Background

The Complainant's business is an online classified market place. The Complainant offers its services under the CAROUSELL trademark and has trademark registrations for the mark and its variants under classes 35 and 42 in several jurisdictions including India. Given here is a list of the Complainant's CAROUSELL trademark registrations:

Registration Number	Application/Registration Date	Class	Country
4116422	13 March 2019	35	India
4116423	13 March 2019	42	India
2018011785	19 September 2018	35	Malaysia
2018011786	19 September 2018	42	Malaysia
3234200	7 July 2015	35	India
40201507054V	29 April 2015	35, 42	Singapore

*Harini Narayanswamy*



2015056896	29 April 2015	35	Malaysia
2015056902	29 April 2015	42	Malaysia
12707	7 July 2015	35, 42	Philippines
237722	29 July 2015	35	United Arab Emirates
237723	29 July 2015	42	United Arab Emirates
IR No. 1270769	7 July 2015	35, 42	Israel
1731089	7 July 2015	35, 42	Australia
WO0000001270769	7 July 2015	35, 42	United Kingdom
5033758	7 July 2015	35, 42	United States
304782196	24 December 2018	35, 42	Hong Kong
40201721486W	1 November 2017	35, 42	Singapore

The Respondent, registered the disputed domain name <carousell.in> on November 27, 2014. The Respondent has not used the disputed domain name except to post sponsored links. On the top of the webpage to which the disputed domain name resolves, there is a message that states: "This domain carousell.in may be for sale. Click here to inquire about this domain".

## The Parties Contentions

### The Complainant

The Complainant states it was founded in August 2012 by three university friends Siu Rui, Marcus and Lucas. Its website provides a platform for people to buy and sell a vast variety of products, including but not limited to cars, gadgets and fashion accessories. The Complainant claims that it is one of the largest and fastest growing market places in South East Asia and has a presence in seven markets across Asia. The Complainant contends that its credibility is established from the fact that it is backed by investors like Tenelor, Rakuten Venture, Sequoia India, 500 Startups, Golden Gate Ventures, DBS, EDBI and Naspers.

*Harini Narayanan*



The Complainant has filed evidence of its adoption of the CAROUSELL mark from 2012 and its continuous since then. The Complainant has also provided evidence of its trademark registrations for the mark in India, Malaysia, Singapore, Taiwan, Hong Kong, Philippines, USA United Arab Emirates, Israel, Australia and the United Kingdom in respect of products and services under classes 35 and 42. The Complainant states that it owns the website "www.carousell.com" which is accessible from all over the world including India.

The Complainant states it came to know of the dispute domain name around October 2019. Based on its submissions, the Complainant requests for the remedy of transfer of the disputed domain name on the grounds that: (i) the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name and (iii) The disputed domain name has been registered or is being used in bad faith by the Respondent.

### **Respondent**

The Respondent was sent notifications but did not respond or take part in these proceedings.

## **4. Discussion and Findings**

Under the INDRP Policy, the Complainant has to establish the following three elements to obtain the remedy of transfer of the disputed domain name:

- (i) The disputed domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights, and
- (ii) The Respondent lacks rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered or is being used in bad faith.

### **Identical or Confusingly Similar**

The first element requires the Complainant to prove that the disputed domain name is identical or confusingly similar to a mark in which the Complainant has rights.

*Harini Narayanan*



The Complainant has submitted evidence of its trademark registration in India and in other jurisdictions for its CAROUSELL mark and has accordingly established its rights in the mark. The Complainant has argued that the disputed domain name incorporates its entire mark and is visually and phonetically identical to its mark, which is sufficient to prove confusing similarity between the disputed domain name and the mark.

It is well established that a domain name that incorporates a trademark in its entirety is held to be identical or confusing similar to the mark. See *Siemens AG v. Gunsung Kim*, INDRP Case No. 16, pertaining to the domain name <siemens.in> where the domain name was found confusingly similar to the SIEMENS mark and in *LF LLC v. Lira, Doublefist Limited*, INDRP Case No. 1128 pertaining to the LOWE'S trademark, where the domain name <lowes.in> was found confusingly similar to the said trademark.

The disputed domain name in the present case contains the CAROUSELL mark in its entirety and the Complainant has provided evidence of its rights in the mark. The disputed domain name is accordingly found to be identical or confusingly similar to a mark in which the Complainant has proven rights, fulfilling the first element under paragraph 4 of the Policy.

### **Rights and Legitimate Interests**

The second element requires the Complainant to put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The onus of proving rights or legitimate interest in the disputed domain name lies on the Respondent, however the Complainant has to present a *prima facie* case to succeed.

Under the Policy, a respondent can demonstrate legitimate interests in the disputed domain name if there are circumstances that show (i) that before notice of the dispute, the respondent had used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services or (ii) the respondent (as an individual, business organization) has been commonly known by the domain name, or (iii) The respondent is making legitimate, non-commercial or fair use of the domain name without intent for commercial gain.

*Harini Narayanan*



The Respondent has not responded or provided any evidence that shows the Respondent is engaged in any commercial business or in any non-commercial activity under a name related to the disputed domain name. The registration record of the disputed domain name shows the Respondent's name is Alex Wang. The disputed domain name is not being put to any use by the Respondent and the webpage indicates the Respondent has an intention to sell the disputed domain name. These circumstances discussed, do not support a finding of the Respondent's rights or legitimate interests in the disputed domain name.

The Complainant has asserted that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant has provided evidence of its CAROUSELL mark being used in commerce from 2012 which establishes its prior adoption and use of the mark which shows the mark is distinctive of the Complainant's business. The Respondent has not been given any authorization to use the Complainant's CAROUSELL mark, therefore use of the mark by the Respondent in the disputed domain name is without any legitimate rights.

In the light of the circumstances described here and the evidence on record, it is found that the Respondent lacks rights and legitimate interests in the disputed domain name. The Complainant has made a *prima facie* case as required under the second element.

### **Bad Faith**

The third element of Policy requires the Complainant to establish the disputed domain name was registered in bad faith or is being used in bad faith.

The word "carousel" is a common dictionary word meaning a merry-go-round or a circular revolving conveyor. The Complainant has asserted that "Carousell" is an invented word which was coined by merging the words "carousel" with "sell". The Complainant has further explained that it has chosen the word "carousel" which is derived from the carousel slide projector and combined it with the word "sell" which is indicative of its main activity of facilitating selling through its digital platform. The Complainant has claimed that its mark is highly distinctive because "Carousell" is a coined and invented word.

*Hanin Narayana*



The evidence on record establishes the Complainant's prior adoption and continuous use of the CAROUSELL mark since 2012. The disputed domain name, was registered in 2014 and the Complainant has provided evidence of use of the mark in commerce from 2012 to 2014 in order to establish that its rights in the mark existed prior to registration of the disputed domain name. The evidence filed by the Complainant include among others: Internet traffic to the Complainant's CAROUSELL platform, downloads of the CAROUSELL application for the years 2012, 2013 and 2014, media articles about its launch in 2012, its social media posts in particular on "Instagram" and "You Tube" under its CAROUSELL mark during the years 2012, 2013 and 2014, third party write-ups and videos about the Complainant. Based on the all the evidence filed by the Complainant, it is found that the Complainant has adopted and used of the CAROUSELL mark prior to registration of the disputed domain name.

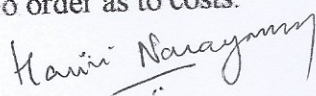
As the CAROUSELL mark adopted by the Complainant is not a generic dictionary word but is a coined word, it leaves no room for any doubt that the Respondent has targeted the Complainant's mark. There appears to be no specific use of the disputed domain name, which is being passively held by the Respondent. Further, the Complainant has filed Annexure H as evidence, which indicates the Respondent's intention to sell the disputed domain name.

Cybersquatting is a term that is used to describe deliberate, bad faith registration of a domain name in violation of rights in a third party's trademark with an intention to derive unfair mileage from the trademark. The Respondent's registration and use of the disputed domain name as discussed, indicates targeting of the CAROUSELL mark, holding it passively with an intention to sell it, all these circumstances discussed falls squarely under bad faith registration and use as envisaged under the Policy. Accordingly, it is found that the Complainant has established the third element under paragraph 4 of the Policy.

## Decision

It is ordered that the disputed domain name <carousell.in> be transferred to the Complainant.

No order as to costs.

  
**Harini Narayanswamy**

**Arbitrator**

**Date: May 4, 2020**