

தமிழ்நாடு தமில்நாடு TAMILNADU

AT 531601

48316.
28 OCT 2014

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P.S. SHANMUGA SUNDARAM
STAMP VENDOR
L. No: 34 / 109 / 88
HIGH COURT CAMPUS,
CHENNAI-600104. (TAMILNADU)

BEFORE THE SOLE ARBITRATOR MR.D.SARAVANAN
.IN REGISTRY
NATIONAL INTERNET EXCHANGE OF INDIA

Disputed Domain Name: <www.aon.in>

1.AON PLC
8, Devonshire Square,
London EC2M 4PL
United Kingdom.

2.AON Holdings B.V.
Admiralteitskade 62
Rotterdam, 3063 ED
Netherlands.

And

3.AON Services (India) Pvt. Ltd.,
710 Ansal Chambers II,
6 Bhikaji Cama Place,
New Delhi - 110 066.

Versus

.. Complainants



भारतीय गैर न्यायिक

पचास
रुपये
रु.50



FIFTY
RUPEES
Rs.50

INDIA NON JUDICIAL



मिलनाडु TAMILNADU

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AG 762601

P.S. SHANMUGA SUNDARAM
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HIGH COURT CAMRUS,
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-2-

Gangadhar Mahesh
1039, Panchamantra Road,
Kuvempunagar,
Mysore, 570 023
Karnataka, India.

.. Respondent

1. The Parties:

The 1st Complainant is AON PLC, having its address at 8, Devonshire Square, London EC2M 4PL, United Kingdom. The 2nd Complainant is AON Holdings B.V. having its address at Admiraliteitskade 62, Rotterdam, 3063 ED, Netherlands. The 3rd Complainant is AON Services (India) Pvt. Ltd., having its address at 710 Ansal Chambers II, 6, Bhikaji Cama Place, New Delhi - 110 066.

The Respondent is Mr. Gangadhar Mahesh, having his address at 1039, Panchamantra Road, Kuvempunagar, Mysore 570 023, Karnataka, India.



2. The Domain Name and Registrar:

The disputed domain name : <www.aon.in>

The disputed domain name is registered with National Internet Exchange of India (NIXI) through its Registrar M/s. Business Solutions.

3. Procedural History:

October 01, 2014	The .IN REGISTRY appointed D.SARAVANAN as Sole Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of Procedure.
October 01, 2014	Consent of the Arbitrator was given to the .IN REGISTRY according to the INDRP Rules of Procedure.
October 08, 2014	Appointment of Arbitrator was informed to all the parties by .IN Registry.
October 10, 2014	Complaint along with Annexures were received from the .IN REGISTRY.
October 10, 2014	Notice was sent to the Respondent by the Arbitral Tribunal directing him to file his response within 10 days, marking a copy of the same to the Complainant's representative and .IN REGISTRY.
October 16, 2014	Respondent sent his response along with Annexures
October 16, 2014	Notice was sent to the Complainants directing them to file rejoinder, if any, marking a copy of the same to the Respondent and .IN REGISTRY.
October 22, 2014	Complainants sent their supplemental response (Rejoinder) to the respondent's response, marking a copy of the same to the Respondent and .IN REGISTRY.
October 24, 2014	Arbitral Tribunal reserved the matter for passing Award and sent an e-mail to that effect to all the parties concerned.



4. Factual Background :

4.1 The Complainants:

The 1st Complainant is AON PLC, a British Multinational Corporation; the 2nd Complainant, AON Holdings B.V. is the subsidiary of the 1st Complainant and the 3rd Complainant is a Company duly registered under the Indian Companies Act, 1956 and is an affiliate of 1st Complainant.

The authorized representative of all the three Complainants are Mr.Rodney D.Ryder and Mr.Ravi Goyal of Scriboard, Advocates & Legal Consultants, having their office at Level 2, Elegance Towers, Mathura Road, Jasola, New Delhi 110025, India.

4.2 Complainants' Activities:

The 1st Complainant provides risk, management, insurance, reinsurance brokerage, human resource solutions and outsourcing services. Complainant No.2 is the subsidiary of the 1st Complainant and a Corporation duly organized and existing under the Laws of the Kingdom of Netherlands, which provides advisory services in risk management, employee benefits and insurance. Complainant No.3 is a company duly registered under the Indian Companies Act, 1956, which is an affiliate of the 1st Complainant and provides human capital outsourcing and consulting services in India.

4.3 Complainant's Trading Name:

(i) AON, the Complainant is one of the leading global providers of risk management, insurance and reinsurance brokerage and human resources solutions. In 2011, the Complainant was ranked as the largest insurance broker in the world based on revenue by Business Insurance. It is listed at No.455 of the 2013 Forbes Global 2000 list of World's biggest public company. The Complainant has also maintained a perfect 100% score on the Human Rights Campaign's Corporate Equity Index for 7 consecutive years.



(ii) AON, the Complainant, was created in 1982 when the Ryan Insurance Group merged with the Combined Insurance Company of America. Subsequently, the company was renamed as AON in the year 1987. AON, the Complainant, has its headquarters at 8, Devonshire Square, London EC2M 4 PL. AON, the Complainant has 66,000 employees and 500 offices in 120 countries around the world. Further, the complainants' stock is listed on the New York Stock Exchange and the total revenue generated by the Complainant in the year 2013 was USD 11.8 Billion.

(iii) Further more, the Complainant has been the principal sponsor of Manchester United, a renowned professional football club, from 2010 till 2014 and the complainants have been repeatedly named as the world's best broker, best insurance intermediary, reinsurance intermediary, captive manager and best employee benefits consulting firm by multiple industry services.

(iv) The Complainants have presence in many countries not only in India where the 3rd Complainant is incorporated and registered as a private limited company carrying on business activities related to human resource consulting and outsourcing. The Complainants have also a joint venture in India with Global Insurance Services Pvt. Ltd. by the name AON Global Insurance Brokers Private Limited, which is engaged in the business of providing insurance broking services and is duly licensed as a Composite Broker by the Insurance Regulatory and Development Authority, India.

(v) The Complainants have spent a huge amount of money on the promotion and advertisement of their services and products under the trade/ service name/ mark "AON" since its adoption and use.

(vi) The Complainants consider their trade service name/mark as an important and extremely valuable asset and thus in order to protect the same the Complainants have secured trade mark registration for the mark "AON" globally including India. The copies of the said trade mark registrations obtained by the Complainant in India have been annexed as Annexure "C" to the Complaint. The Complainants state that



they are the exclusive owners and proprietors of the registration(s) and the same are duly valid and subsisting.

(vii) The official website "www.aon.com" is a comprehensive, unique and acclaimed introduction to AON. A print out of the Home Page of the 1st Complainant has been annexed as Annexure "D" to the Complaint. Google Search of the term "AON" throws up a huge number of results of which each and every one pertains to the Complainants only. A copy of search of Google has been enclosed as Annexure 'E' to the Complaint.

(viii) The profile and popularity of the Complainants under the trade/ service name/ mark "AON" have been continuously increasing since the date of adoption and use of the mark. At present the Complainants' trade name/ mark is identified by the purchasing public exclusively with the Complainants which has acquired an enormous goodwill not only in India but in several other countries across the globe.

(ix) As internet has become an essential medium to conduct business, the Complainants in order to expand their presence decided to obtain a domain name registration. The Complainant settled for www.aon.com (along with many other domain name registrations) as a natural extension of their corporate name for the registration of their domain name. The complainants then spent considerable amount of money and skill to develop a website on the obtained domain name www.aon.com.

5. The Respondent's Identity and Activities:

The Respondent is Gangadhar Mahesh having address at 1039, Panchamantra Road, Kuvempunagar, Mysore - 570 023, Karnataka, India.

6. DISPUTE:

The dispute arose when the Complainants came to know about registration of the domain name "www.aon.in." On WHO IS database search for the disputed domain name, the complainants found that the impugned domain name has been registered



in the name of Mr. Gangadhar Mahesh, the Respondent herein which is nothing but a duplication of the Complainants' trade mark/service mark and cannot have been obtained in good faith.

7. Parties contentions:

A. Complainants:

(1) The Domain Name is confusingly similar to the complainants :

(i) A mere glance at the disputed domain name gives rise to enormous confusion as to its origin as the domain name used by the respondent is identical to the corporate name of the complainants. The mala fide intention of the respondent is evident from the fact that not even a single letter differs between the disputed domain name and the corporate name of the complainants. The respondent has picked up the mark / name of the complainants verbatim without even changing a single letter. Thus, the use of the disputed domain name by the respondent is a *prima facie* case of cyber squatting and trade / service mark / infringement.

(ii) The disputed domain name contains the entirety of the complainants' trademark. It is well established that the specific top level domain, such as ".com", ".in", ".co.in", ".net" or ".travel" does not affect the domain name for the purpose of determining whether it is identical or confusingly the similar.

(iii) The term 'AON' has been used by the complainants continuously for a number of years, as it is associated exclusively with the complainants. The use by the any other concern of an identical / deceptively similar mark to that of the complainants' mark "AON" is bound to lead to confusion and deception and amongst to passing off, and any person or entity using the service mark in any manner is bound to lead customers and users to infer that its product or service has an association or nexus with the complainants.

(iv) The mark "AON" has been in extensive, continuous and uninterrupted use since the year 1987 in relation to the complainants' business. More specifically, the mark "AON" has been in use by the complainants in relation to all their



stationary articles including letter heads, visiting cards, order forms, bill books, envelopes, applications forms and in relation to sales promotional material, such as, brochures, catalogues, etc. The mark "AON" has also been used in relation to advertisement and related business / commercial information disseminated in several print media such as newspapers, magazines etc. both in India as well as abroad. In each of the instances of use, the mark "AON" is prominently displayed and has become the focus of the complainants' entire business.

(v) In the present case, it is very natural for an internet user, who wished to reach / visit the website of the complainants to type its corporate / commercial name followed by "<.in>". This will lead the internet user to believe that the complainant is associated with or owns the website bearing the domain name "www.aon.in."

(vi) The impugned domain name is identical to the trade mark "AON". The domain name wholly incorporating complainants' registered mark may be sufficient to establish identicalness or confusing similarity, despite the addition of other words to such mark. The complainants have shown that the disputed domain has become a distinctive identifier associated with the complainants or its goods or services.

(2) The respondent has no rights or legitimate interest in respect of domain name:

(i) The respondent has no proprietary or contractual rights in any registered or common law trade mark corresponding in whole or in part to the disputed domain name. Furthermore, the respondent whose name is Mr. Gangadhar Mahesh is not commonly known by the disputed domain name nor does the respondent actually engaged in any business or commerce under the name "AON". The respondent has no active business in the name of "AON". The respondent is not a licensee of the complainant/s, nor has the respondent ever been authorized by the complainant/s to use the complainants' trademarks or registered the disputed domain name. The complainant/s have no relationship with the respondent.

(ii) The illegality in the registration of the disputed domain name arising from the fact that domain names today are a part and parcel of corporate identity. A domain name acts as the address of the company on the internet and can be termed



as a web address or a web mark just like a trademark or service mark. It is also the internet address of the company.

(iii) The respondent cannot have any legitimate right in the disputed domain name because the disputed domain incorporates the "AON" mark in its entirety in which the complainants have the sole and exclusive right and that has become well-known owing to the complainants' efforts.

(3) The respondent registered domain name in bad faith:

(i) The disputed domain name being held by the respondent which is in bad faith and a clear attempt to take advantage of the complainants' goodwill and reputation. This is an attempt to misuse the domain name by the use of the simple domain name extension variant. The mark "AON" having been extensively used is understood and associated by consumers in India and throughout the world as the mark of the complainants denoting their services and business. On account of the high degree of inherent and acquired distinctiveness, which mark "AON" is possessed of, the use of this mark or any other phonetically, visually or deceptively similar mark, by any other person would result in immense confusion and deception in the trade, leading to passing off. The name / mark "AON" has acquired unique importance and is associated with the complainants. A mere mention of the said name / mark establishes an identity and connection with the complainants and none else.

(ii) It is inconceivable that the respondent could have registered the disputed domain name without being aware of the complainants' rights. In the light of the respondent's presumed knowledge of the complainants' rights, it is reasonable to infer that the respondent could not have registered the disputed domain name without the intention to target the rights in some manner. Furthermore, it would be extremely difficult, if not impossible, for the respondent to use the disputed domain name as the name of any business, product or service for which it would be commercially useful without violating complainants' rights. Thus, the disputed domain name was registered in bad faith.



B. Respondent:

(i) With regard to the 1st element that the domain name is identical or confusingly similar to a name, trade mark or service mark in which the complainants have rights, it was contended that the complainants are not the only party with rights to use the letters "AON". There are also domain names using AON as a three letter combination which have no relationship with the Complainants as evidenced in Exhibits 1, 2 and 3. For example aon.eu (Exhibit 4), aon.jp (Exhibit 5), aon.tv (Exhibit 6). The fact that aon.eu, where .eu is for European union, a website serving the geographical region where the complainant is based is controlled by a third party with phonetically similar name to AON reinforces the respondents view. The combination of three letters is also used as a popular acronym for organizations - for example, Academy of Networking (Moscow, Russia), Airline Operators Association of Nigeria - and fields - for example Activity on Node (networking), Application Oriented Networking, Average Octane Number (Exhibit 7). Considering the above, the complainants trademark does not provide exclusivity to the use of letters AON.

(ii) With regard to the second element that the Respondent has no rights or legitimate interest in respect of the domain name, it was contended that the Respondent is a qualified professional with a doctorate in construction project management who has previously developed domains into developed websites, for example icm.in was a developed website on infrastructure and construction management in India. As the site is discontinued, evidence for the site is in the form of google search for the same (Exhibit 8) which still archives it for the search term icm.in. AON standing for acronym - activity on node (Exhibit 7) - is a popular acronym in the field of construction project management and the domain was acquired in this context. This fact together with his previous development of icm.in and the fact that he is an expert in the said field (Exhibit 15) is sufficient to prove the legitimate interest of the registrant in the said domain name.

(iii) With respect to the third element that the Respondent's domain name has been registered or is being used in bad faith, it was pleaded that the said domain itself was not registered by the respondent but bought by him as a package of



domains at market cost (Exhibit 9) which shows that the concerned domain was not targeted for acquisition but was purchased as a business strategy to buy three letter domains as they are considered valuable. As a matter of fact, the respondent's entire domain portfolio consists predominantly of 3 letter domains, all .ins considering the fact that respondent is an Indian (Exhibit 10). These set of facts are similar to UWE GmbH .v. Telepathy, Inc. WIPO Case No.D2007-0261 (Exhibit 11) where the complaint was rejected for absence of bad faith registration. To the same effect was Banca Monte dei Paschi di Siena S.p.A v. Charles Kirkpatrick, WIPO Case No. D2008-0260 (Exhibit 12), where the panel highlighted the significance of short - letter expressions that have meanings other than those claimed by the Complainant.

(iv) Moreover, the domain was first registered in 2007 by the original registrant and resold to the respondent in 2010 as shown by earlier evidence (Exhibit 9). The complainant had sufficient time up to 2007 to protect his interest in the said domain but did not wish to do so. Also, the Respondent was, at the time of purchasing, of the view that no one company could claim exclusive rights in AON because it stood for so many things. This coupled with the delay between the original registration and filing of the complaint demonstrates that the Complainants do not believe that their claim as a sole rights holder over the term AON is truly warranted.

(v) Furthermore, lack of developing the domain cannot be held against the respondent as best laid plans sometimes go awry. Moreover, there is no legal requirement from the registry for the domain to be developed within a certain period of time. An analogy to real estate may be warranted in this case. It is a practice in Public Sector developed real estate plots to be developed by certain time period in India as per the purchase agreements, failing which the plot can be confiscated. However, there is no requirement as such by the registry here.

(vi) Listing on sedo for sale or parking again cannot be held against the respondent especially with respect to short three letter domains, a view which is endorsed by S.P.C.M. SA v. Whois Privacy Services Pty Ltd / Vertical Axis Inc., Domain Administrator Case No.D2014-0327 (Exhibit 13) and Koninklijke KPN N.V. V. Konstantinos Zournas Case No. D2008-0055 (Exhibit 14).



(vii) In summary, considering the domain is a short three letter domain with multiple acronyms and trademarks conferring on it non exclusivity, the respondents legitimate interest in it considering that it is an acronym in the field of construction management in which he is an expert and absence of bad faith in purchasing the same as a part of package of domains and his interest in three letter domains substantiated by evidence, the respondent requests the complaint be denied.

C. The supplemental response filed by the complainants is as follows:

(i) The Complainants have several trade mark registration for the mark 'AON' across the world including India as well as USA which grants the complainants exclusive rights to use the mark 'AON'. Further the mark "AON" has been registered as a trademark in India from the year 1999. Other than the complainant, no other party has trademark rights, a registered trademark or any other proprietary rights in the mark "AON" in India.

(ii) As regards the contention of the Respondent that other parties too appear to have rights in the mark "AON" by referring to two third party trade mark registrations of the mark "AON", the claimant contends that this plea of the respondent holds no relevance since as per paragraph 4(i) of the Policy, the Complainants are only to prove that the disputed domain name is identical or confusingly similar to the complainant's mark.

(iii) The complainant submitted that the use of the mark as an acronym by various organizations, as contended by the Respondent does not in itself extinguish or diminish the complainant's exclusive rights in the mark 'AON' of which they are the registered proprietors in several countries across the world including India. It is further submitted that it is well established that specific top level domain name extension such as ".in" ".co.in" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.

(iv) With regard to the rights or legitimate interests in respect of the domain "aon.in" the Complainants submitted that the respondent has no connection with complainants or any company licensed by the complainants, that the respondent is



not commonly known by the disputed domain name and that the respondent was not and is not authorized by the Complainants to register, hold or use the disputed domain name. Further it was submitted that the content of the Respondent's website did not reflect a bona fide offering of goods or a legitimate non-commercial or fair use of the disputed domain name. It was also submitted that the disputed domain name is being used for a Pay Per Click (PPC) parking page through which the respondent is generating revenue by displaying advertisements. It is the contention of the complainants that in addition to the PPC advertisements on the parking page, the disputed domain name is also being offered for sale by the Respondent. The complainants further contend that the parking page contains PPC advertisements through which the respondent is generating revenue by visitors who must inadvertently visit the Respondent's website while searching for the Complainant's website. Such an action of the Respondent seriously affects the Complainant's business and tarnishes their brand name and reputation.

(v) With regard to the Activity on Node it was contended by the complainants that the 'Activity on Node' is a project management term and is a technical format used for representing network diagram. It is the plea of the claimant that the respondent has not been able to prove any proprietary rights or any ownership rights to this phrase. The complainants further pointed out that the claim of the respondent that the disputed domain name was bought for legitimate purposes in relation to the term "Activity on Node" cannot be held valid since neither is the Respondent the founder or proponent nor a key person associated with the term "Activity on Node". It was contended that a detailed trademark search on the official data base maintained by the Indian Trademark Registry has revealed that there was not a single trade mark registration or even filing for the term "Activity on Node".

(vi) With regard to the purchase of domain the complainant submitted that the respondent has clearly failed to exercise any kind of reasonable or basic efforts to ensure that it was not encroaching on any third party rights before registering or buying the said domain names.



(vii) Further in respect of the bad faith, the claimants submit that the website has a notification announcing that the website may be for sale. This in itself constituted bad faith since the Respondent was certainly hoping to benefit by the goodwill of the Complainant's mark by selling the disputed domain name to some third party or a competitor of the complainants. The complainants asserted that it was inconceivable that the registration of the disputed domain name was made without full knowledge of the existence of the complainants and their trademarks. It is further submitted by the complainants that the trademark of 'AON' is well known in India as the same has continuously been used in commerce, years before the Respondent's registration of the disputed domain name.

(viii) It is submitted by the complainants that the mark 'AON' has received extensive unsolicited media attention, having been prominently featured in numerous publications with local, national and international audiences including for example The Economic Times, Business Today, Business World and Fortune.

(ix) With regard to laches it is submitted by the Complainants that mere passage of time does not give the Respondent rights or legitimate interests. Primarily it is the contention of the complainants that mere delay in filing of complaint before the Panel does not lead to a forfeiture of their rights that they would otherwise have which fact has been upheld by a catena of UDRP case laws. Further it is submitted by the complainant that when there is no finding that the complainants did delay unreasonably after first becoming aware of the respondent's registration of the disputed domain name and further if there is no evidence that the respondent has been prejudiced by the delay, the complainants are not barred from relief.

(x) The complainants further submit that the policy is part of the domain name registration agreement. An administrative proceeding is brought pursuant to that agreement and the issue for determination being whether the grounds set out in the policy for transfer or cancellation have been established. It is further pleaded that there is no limitation period mentioned in the policy. The remedy available in an Administrative Proceeding under the policy is not equitable and accordingly the



defence of laches has no application. If the requirement of a valid complaint under the policy is established, the policy does not provide for any defence of laches.

(xi) The Complainants thus concluded that the respondent's contention that the domain name is non-exclusive and therefore the Complainants do not have rights in the disputed domain name is unreasonable and unfounded.

8. Discussion and Findings:

Under paragraph 4 of the IN Domain Name Dispute Resolution Policy (INDRP), the Complainants must prove each of the following three elements of its case:

- (i) The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the Complainants has rights;
- (ii) The Respondent has no rights or legitimate interest in respect of the domain name; and
- (iii) The Respondent's domain name has been registered or is being used in bad faith.

(a) Identical or confusing similarity:

(i) The Arbitral Tribunal finds that the trade / service name / mark "AON" and the disputed domain name www.aon.in are confusingly similar and identical. The respondent has neither disputed the legal right of the complainants over the trade / service name / mark "AON" nor confusing similarity of the disputed domain name. The Complainants have established beyond doubt they are the lawful owner of the trade / service name / mark "AON". The Arbitral Tribunal in its various decisions categorically held that mere addition or substitution of descriptive suffix or prefix like '.com' or '.co' or '.in' does not make a trade mark distinctive.

(ii) The Arbitral Tribunal concludes that the Complainants have established paragraph 4(i) of the IN Domain Name Dispute Resolution Policy.



(b) Respondent's Right or Legitimate Interest:

(i) The Complainants contend that the Respondent had no legitimate interest in the disputed domain name. Paragraph 7 of the IN Dispute Resolution Policy sets out three elements, any of which shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(ii) of the Policy. As held by this Tribunal in preceding paragraph, the complainants have established that it is the lawful owner of the trade / service name / mark "AON".

(ii) The contention of the respondent is that the complainants are not the only party with rights to use the letters "AON" but there are also domains using "AON" which have no relationship with the complainants or have no legal relevance at all and will not confer any legitimate right or interest when the respondent does not have any trade mark or proprietary rights over the mark "AON". The contention of the complainants that the respondent has no connection with the complainants or any company licensed by the complainants; the respondent was not authorised by the complainants to register, hold or use the disputed domain name and that the respondent is not commonly known by the disputed domain name, are all not disputed by the respondent. The acronym of 'Activity on Node', i.e. 'AON' as contended by the respondent, is a technical format. The respondent has not proved any proprietary right or any ownership rights over the word "AON". Hence, this Tribunal comes to an irresistible conclusion that use of the mark as an acronym does not in itself extinguish the complainant's exclusive right in the registered mark "AON" in several countries across the world including India.

(iii) The Arbitral Tribunal is satisfied that the Respondent has no rights or legitimate interests in respect of the disputed domain name and, accordingly paragraph 4(ii) of the Policy is satisfied.

(c) Registration and Use in Bad faith:

(i) Paragraph 6 of the Policy provides the circumstances evidencing registration and use of a domain name in bad faith are that, by using the same, the Respondent has engaged in a pattern of such conduct and the Respondent has intentionally



attempted to attract, for commercial gain, internet users to the Respondent's web site or other online locations, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's web site or location. It is the specific case of the Complainant that the respondents' *modus operandi* is by creation of the website www.aon.in under the registered mark with generic/descriptive suffix, is seeking illegal commercial gain through its opportunistic bad faith registration of the disputed domain name.

(ii) The respondent has bought the domain name at cost in the year 2010 which was originally registered in the year 2007 by the original registrant. However, admittedly, the domain name is not put on any development and that the same is listed on sedo for sale. The complainants have categorically proved that the mark "AON" was registered by them much earlier in India i.e. 2003. It is the specific case of the complainants that the mark "AON" has received extensive unsolicited media attention, having been prominently featured in numerous publications with local, national and international audiences and has been in use by the complainants in promotional materials, advertisements, magazines etc., including The Economic Times, Business Today, Business World and Fortune which proves the fact that "AON" has been continuously used in commerce even prior to the registration of the disputed domain name. The specific statement of facts of the complainants that the respondent registered the disputed domain name being aware of the complainant's right in it has not been disputed by the respondent. Hence, it can be legally inferred that the respondent has bought the registration of the domain name with full knowledge of the existence of the complainants and their registered trade marks.

(iii) The final contention of the respondent is that the complaint suffers from laches. The complainants filed Annexure A being WHO IS look up report which is dated 29-09-2014 and the present complaint is also dated 29-09-2014. Mere passage of time between the date of registration by the respondent and the date of knowledge of registration of the complainants cannot lead to forfeiture of the legal rights of lawful owner over their registered trade mark. In any event, the policy under which



the present Administrative Proceedings contemplated has not prescribed any limitation. Therefore, the defence of laches has no role to play.

(iv) In the case on hand, the respondent is an Indian national. The complainants have established their presence in many parts of the world including India. The complainants have also established that they have received extensive unsolicited media attention having been prominently featured in numerous publications. However, the decision cited by the respondent in *UWE GmbH v. Telepathy, Inc.* (WIPO Case No. D2007-0261) is different from the factual aspects of the present case on hand. In the said case, the respondent is a resident of USA while the complainant is a German company. When the disputed domain was registered, the complainants did not have their mark registered in USA. That apart, the Panel has concluded that the complainants have not provided any evidence regarding business activities in USA or otherwise such that the respondent should have been aware of it. The other decision viz. *Banca Monte dei Paschi di Siena S.p.A. v. Charles Kirkpatrick*, (WIPO Case No. D2008-0260) is almost on similar lines. Therefore, the decisions cited supra are not applicable.

(v) The respondent has cited a decision in *S.P.C.M.SA v. Whois Privacy Ply Ltd./Vertical Axis Inc., Domain Administrator* (WIPO Case No. D2014 - 0327). In the said case, the disputed domain name was "www.snf.com." The complainant claimed that they had already registered a domain name "www.snf.fr." However, when the Panel has viewed the said website it resolved to a website www.snf-group.com. Further, the complainant, in that case has not explained as to why they adopted "snf" three letter combination. In those circumstances, the complaint was denied by the Panel. Hence, the said case is not applicable to the present case on hand. Further, the respondent has cited a decision *Koninklijke KPN N.V. v. Konstantinos Zournel* (WIPO Case No. D2008 - 0055). In that, it was the specific case of the respondent that prior to notice of the said dispute the respondent had made use of the domain name in issue in connection with a bona fide offering of services. The Panel has accepted that when the domain name in issue was resisted by the respondent he had no actual knowledge of the complainant or its KPN Trade Mark.



Further, the Panel has found that it does not appear to the Panel that the complainant's KPN Trade Mark was so well known that the respondent must have known of it. The Panel had also further found that the respondent apparently operates from Greece and it appears that within Europe the complainant has no activities or business in Greece. However, as held above, the facts are completely different from the case on hand. Hence, the decision cited by the respondent is of no use.

(vi) The Respondent had registered the domain name which appears to have been selected precisely for the reason that it is identical or confusingly similar to the registered trademarks and trade names of the Complainants. The Respondent has no affiliation with the Complainants. Registration of a domain name that is confusingly similar or identical to a famous trademark by any entity, which has no relationship to that mark, is itself sufficient evidence of bad faith registration and use.

(vii) In view of the submitted evidence and in the specific circumstances of this case, this Arbitral Tribunal draws the legal inference that the Respondent's purpose of registering the domain name was in bad faith within the meaning of the Policy. The Respondent has no legitimate right or interest in the disputed domain name and there was a mala fide intent for registering the disputed domain name other than for commercial gains, and that the intention of the Respondent was simply to generate revenue, either by using the domain name for his own commercial purpose or through the sale of the disputed domain name to a competitor or any other person that has the potential to cause damage to the ability of the Complainants to have peaceful usage of the Complainants' legitimate interest in using their own trade names.


(viii) In the light of the above, this Arbitral Tribunal finds that the Complainants have established that the disputed domain name was registered and is being used in bad faith.



9. **DECISION:**

For all the foregoing reasons, in accordance with paragraph 10 of the Policy, the Arbitral Tribunal finds that the trade mark "AON" constitutes a valuable intellectual property right owned by Complainants, which is entitled to protection in law against misuse, misappropriation as well as dilution and thus the Arbitral Tribunal orders that the disputed domain name <www.aon.in> be transferred to the Complainants.

Dated at Chennai (India) on this 31st day of October, 2014.


D.SARAVANAN
Sole Arbitrator