

INDRP ARBITRATION CASE NO.1640
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA

VFS GLOBAL SERVICES PLC

Vs.

BRITISH HIGH COMMISSION.NA

DISPUTED DOMAIN NAME: "VFSGLOBALNEWDELHI.IN"

Ajay

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THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA

VFS GLOBAL SERVICES PLC
21, Dorset Square, London, NW1 6QE, United Kingdom.

...Complainant

VERSUS

BRITISH HIGH COMMISSION NA
British High Commission New Delhi
International Postal Street Line 1
2 Prem Vihar Karawal Nagar
New Delhi 110094 – INDIA.

... Respondent

Disputed Domain Name: "VFSGLOBALNEWDELHI.IN"



1. The Parties

1.1 The **Complainant VFS GLOBAL SERVICES PLC** in this arbitration proceedings is in the business of providing services relating to global business process- outsourcing and technology services specialist for and in business of providing technological and logistics support services to various Foreign Embassies and Diplomatic Missions in India as well as other parts of the world and its contact address is 21, Dorset Square, London, NW1 6QE, United Kingdom.

1.2 The Complainant's authorized representative in this administrative proceeding is/are Aditya & Associates 121, Hubtown Solaris N S Phadke Marg, Andheri (E), Mumbai (Bombay) 400 069, Maharashtra, INDIA Telephone : +91 99677 62162/+91 98200 97183 Email address : tm@adityaandassociates.com OR vipulb@adityaandassociates.com

In this arbitration proceeding, the Respondent is : British High Commission NA British High Commission New Delhi 2 Prem Vihar Karawal Nagar New Delhi 110094 - INDIA as per the details given by the WHOIS database maintained by the National Internet Exchange of India (NIXI).

2. The Domain Name and Registrar

2.1 The disputed domain name is "VFSGLOBALNEWDELHI.IN" and the Registrar with which the disputed domain name is registered is Tucows Inc. as per the details given by the WHOIS database maintained by the National Internet Exchange of India (NIXI).

3. Procedural History [Arbitration Proceedings]

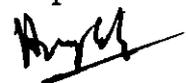
3.1 This arbitration proceeding is in accordance with the IN Domain Name Dispute Resolution Policy [INDRP], adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure [the Rules] were approved by NIXI on 28th June 2005 in accordance with the Indian



Arbitration and Conciliation Act,1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes under the .IN Dispute Resolution Policy and Rules framed thereunder.

The history of this proceeding is as follows:

- 3.2 In accordance with Rules 2(a) and 4(a), NIXI on 21.11.2022 formally notified the Respondent of the complaint along with a copy of the complaint & annexures, and appointed Ajay Gupta as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, IN Domain Resolution Policy and the Rules framed thereunder. That the Arbitrator submitted the Statement of Acceptance and Declaration of Impartiality and Independence Dated 22.11.2022 to NIXI.
- 3.3 That commencing the arbitration proceedings an Arbitration Notice Dated 22.11.2022 was emailed to the Respondent on 22.11.2022 by this panel under Rule 5(c) of INDRP Rules of Procedure with direction to file a reply of the complaint, if any, within 10 days. However, the mail sent to the respondent on mail boscoallen@yahoo.com as provided in WHOIS details could not be delivered and bounced back with remarks "the address couldn't be found or unable to receive mail and also mailbox is disabled"
- 3.4 This panel vides its mail dated 22.11.2022 directed the Complainant to update the domain complaint with the registrant's missing details and send the same to all including the respondent. That since the email attachment from NIXI and the Arbitration Notice sent to the Respondent on mail (boscoallen@yahoo.com) bounced back this panel directed the Complainant to send hard copies of



the Arbitration Notice and amended complaint to Respondent on the address as provided in WHOIS details through courier or post. The Complainant was further directed to furnish proof of service and delivery of the said courier or post.

3.5 The Complainant complying with the directions of this panel sent the amended complaint and arbitration Notice to the respondent through post on his postal address as provided in WHOIS details and emailed the proof of same to this panel through mail dated 23rd November, 2022. The Complainant vide its mail dated 05th December, 2022 further informed this panel that the envelope containing copy of the Complaint along-with annexures sent to the Respondent through post has been bounced back with the reason stating "wrong address". The Complainant in this regard also attached with his mail the scanned copy of the envelope so received back.

3.6 That all the communication as mentioned above was sent to the respondent on his last known place of business and mailing address as provided by him while applying for the disputed domain name and as available in WHOIS details, hence all the communication is deemed to have been received by respondent.

3.7 That in view of the above mentioned facts this panel proceeded ex parte against the respondent on 07 Dec.2022 and reserved the matter for passing of award. Information in this regard was sent to all the parties vide mail dated 07 Dec. 2022 of this panel.

4. The Respondent's Default

4.1 The Respondent failed to reply to the notice regarding the complaint. It is a well-established principle that once a Complainant makes a prima facie case showing that a



Respondent lacks rights to the domain name at issue; the Respondent must come forward with proof that it has some legitimate interest in the domain name to rebut this presumption. The disputed domain name in question is "vfsglobalnewdelhi.in".

- 4.2 The INDRP Rules of Procedure require under Rule 8(b) that the arbitrator must ensure that each party is given a fair opportunity to present its case. Rule 8(b) reads as follows :

"In all cases, the Arbitrator shall ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case."

- 4.3 The Respondent was notified of this administrative proceeding per the Rules. The .IN discharged its responsibility under Rules paragraph 2(a) to employ reasonably available means calculated to achieve actual notice to the Respondent of the complaint. All the communication is deemed to have been received by respondent as mentioned in Section 3 of the Arbitration and Conciliation Act, 1996.

- 4.4 The panel finds that the Respondent has been given a fair opportunity to present his case. In the circumstances, the panel's decision is based upon the Complainant's assertions, evidence, inferences, and merits only.

5. Background of the Complainant

- 5.1 The Complainant, in the present arbitration proceedings to support their case, has relied and placed on records documents as Annexures and made the following submissions :

The Complainant submits that the VFS Global Services PLC, the Complainant, is a part of VFS Group of Companies, {(Originally incorporated as Fastrac Visa Facilitation



Services Pvt. Ltd. on 10 July 2001. On 7 November 2003, the Fastrac Visa Facilitation Services Pvt. Ltd. changed its name to VFS (India) Pvt. Ltd., which name was again changed to VFS Global - 4 - Services Pvt. Ltd. on 12 January 2007. However, VFS Global Services Private Limited was incorporated on 10 January 2006 as CIBT India Pvt. Ltd. On 19 July 2007, the name of the Company was changed from CIBT India Pvt. Ltd. to Kuoni Visa Services Pvt. Ltd. Thereafter, the Board of Directors of Kuoni Visa Services Private Limited at their meeting held on 1 October 2007 approved the scheme of amalgamation ('the Scheme') of VFS with itself. The amalgamation is effective from 1 April 2007)), Effective 16 January 2009, the name of Kuoni Visa Services Private Limited was changed to VFS Global Services Private Limited, having office at 9th Floor, Tower A, Urmi Estate, 95, Ganpatrao Kadam Marg, Lower Parel (W), Mumbai - 400013, Maharashtra, India. Since its incorporation in the year 2001, the VFS Group of Companies experienced rapid growth in India and at present have presence in many countries across the globe. The Complainant submits that all the group companies are collectively referred to as "VFS GLOBAL" including VF Worldwide Holdings Ltd., and VFS Global Services PLC., having office at 21, Dorset Square, London, NW1 6QE, United Kingdom and many others (hereinafter the term Complainant means and includes VFS Global Services PLC and also its other Group Companies). The Complainant submits that, thus, the VFS GLOBAL Group of Companies are in the business of providing services relating "global business process-outsourcing and technology services specialist for and in business of providing technological and logistics support services to various Foreign Embassies and Diplomatic Missions in India as well as other parts of the world.



- 5.2 The Complainant submits that it is involved in providing administrative and non-judgmental tasks related to visa application for its client Embassies and Foreign Missions from the distribution of visa application forms, accepting Visa Application at its Visa Applications Centers, forwarding the Visa Applications to the concerned Embassy or Diplomatic Mission to return processed applications, and performs other related services" (*hereinafter referred to as the said Services*) and enjoys high goodwill and reputation for the services provided. The Complainant further submits that, since the incorporation of a group company of VFS Group in the year 2001, the Complainant has experienced rapid growth in India and at present have presence in many countries across the globe. All the group companies are collectively referred to as "**VFS GLOBAL**" including **VF Worldwide Holdings Ltd.**, having office at Unit 3101-A, JBC1, Plot No: JLT-PH1-G2A, Jumeirah Lakes Towers, Dubai, UAE and **VFS Global Services PLC.**, having office at 21, Dorset Square, London, NW1 6QE, United Kingdom and many others.
- 5.3 The Complainant submits that today the Complainant serves the interests of the diplomatic missions of 65 sovereign governments in 143 countries across 5 continents worldwide. The Complainant has successfully processed over **243 million applications** since its inception in 2001, and over **109.99 million biometric enrolments since 2007** and operate out of 3539 Visa Application Centres located in Asia, Africa, Middle East and Europe of which major operations are based in India. To meet customers' expectations, the Complainant has hugely invested in state-of-the-art customized proprietary software, regular upgrading of systems and procedures and a huge investment in trained dedicated human resources. The Complainant further submits that it is committed in order to ensure that all

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transactions performed are secure, safe and confidential. For this purpose, the Complainant has put in place privacy protection control systems designed to ensure the highest security standards and confidentiality. The whole system is now online and linked through the Complainant's website **www.vfsglobal.com**. This website **www.vfsglobal.com** provides all country specific visa information, visa requirements, application procedure, fee structure, scheduling of interviews etc. The website is being accessed by millions every day who seek visa (of various categories and purpose) for US, UK, Canada and other countries as the Complainant is exclusively authorized by the Government of these countries through their embassies. The Complainant submits that it is pertinent to note that VFS Global, which is headquartered in Zurich, Switzerland, and Dubai, UAE, is majority owned by the global investment organization EQT. The Swiss-based Kuoni and Hugentobler Foundation hold a minority stake in VFS Global. EQT is a global investment organization with offices in Europe, North America and Asia-Pacific and with a 27 years track-record of consistent investment performance across multiple geographies, sectors, and strategies. EQT AB Group is listed on the Nasdaq Stockholm stock exchange. EQT manages and advises a range of specialized investment funds and other investment vehicles that invest across the world with the mission to generate attractive returns and future-proof companies.

- 5.4 The Complainant submits that since 2001, Complainant conceived and adopted a distinctive trademark "VFS" (*hereinafter also referred to as the **said Trademark***). The said Trademark is also being used, with or without the word "GLOBAL", as an essential part of Complainant's corporate name/trading name in respect of the said Services as described herein above. To secure statutory protection of

By 

the said Trademark/ Trade name **VFS/ VFS GLOBAL**, the Complainant and its group companies have applied/ obtained registration of the marks **VFS/VFS GLOBAL**, as word per se as well as in a distinctive form/manner in several countries of the world including India. The Complainant and its group companies are using the marks **VFS / VFS GLOBAL** continuously, extensively, openly and exclusively since 2003 in relation to their business and upon or in relation to the Services rendered by them. The Complainant submits that thus, the Complainant and its group companies are the true owners and the registered proprietors of the marks **VFS/ VFS GLOBAL**.

6. Submissions of Complainant about the trademark “ VFS/VFSGLOBAL ”, its statutory and common law rights Adoption.

6.1 The Complainant relies on the following Indian trademark registration nos.:

1555893 in class 09 – “VFS GLOBAL”,

1126304 in class 16 - “VFS”,

1555892 in class 35 – “VFS GLOBAL”,

1726901 in class 16- “VFS GLOBAL”,

1455675 in class 09 - “VFS”,

1255698 in class 35 – “VFS”,

2117932 in class 9 - VFS GLOBAL CONNECT,

2117933 in class 16 - VFS GLOBAL CONNECT,

2117934 in class 41 - VFS GLOBAL CONNECT,- 7 -

2581207 in class 16 - VFS.GLOBAL,

2678935 in class 16 - dvpc. VFS GLOBAL,

2678936 in class 35 – dvpc. VFS GLOBAL,

2678939 in class 41 - dvpc. VFS GLOBAL,

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2678940 in class 42 - dvpc. VFS GLOBAL,

2815372 in class 9 - VFS Global iConnect -
ideate.innovate.interact,

2815373 in class 16 - VFS Global iConnect -
ideate.innovate.interact,

2815377 in class 41 - VFS Global iConnect -
ideate.innovate.interact,

3596695 in class 16 - VFS-VFS GLOBAL COMPASS VISA
APPLICATION CENTRE

MAGAZINE,

2678934 in class 9 - dvpc. VFS GLOBAL,

2678937 in class 38 - dvpc. VFS GLOBAL,

2678938 in class 39 - dvpc. VFS GLOBAL,

2815375 in class 38 - VFS Global iConnect -
ideate.innovate.interact,

2815376 in class 39 - VFS Global iConnect -
ideate.innovate.interact and

2815378 in class 42 - VFS Global iConnect -
ideate.innovate.interact while making this Complaint.

6.2 The Complainant submits that it also has pending trademark applications in India (no: 2815374 for the trademark VFS Global iConnect -ideate.innovate.interact-composite label & 3596696 for the trademark VFS-VFS GLOBAL COMPASS VISA APPLICATION CENTRE MAGAZINE).

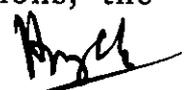
6.3 The Complainant submits that the Complainant and its group companies' said Trademark/ Trade name is registered in many countries like Palestine, UAE, USA, UK, Myanmar, Nepal, Mexico, Kenya, Japan, Iran, Egypt, China, Australia, Singapore, Bangladesh, Taiwan, Afghanistan, Hong Kong, Kurdistan, Jamaica, Dominican Republic, Chile, Brazil, Peru, Myanmar, Tajikistan, Algeria, China, Laos, Turkmenistan, Uzbekistan, Canada, Kosovo, Nepal, Maldives, Fiji, Libya,

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Argentina, Ecuador, Venezuela, Bolivia, Haiti, New Zealand and Israel Registration is under process.

6.4 The Complainant submits that due to the continuous, extensive, uninterrupted, and exclusive global use of the trademark **VFS/VFS GLOBAL**, it has become absolutely distinctive and indicates to the trade and the public about unique services rendered by the Complainant and its group companies. The said Trademark "**VFS**" and/or Trade name "**VFS GLOBAL**" has become synonymous with quality services of visa administration and management by the Complainant and its group companies and none else. Trademark **VFS/VFS GLOBAL** has acquired enormous reputation and goodwill in respect of the unique services provided by the Complainant, and it will not be an exaggeration to state that the public at large associates the term, "**VFS**" exclusively with the visa processing services provided by the Complainant, not only in India but in several countries across the globe. It is a unique achievement to be appointed and authorized by several diplomatic missions of highly developed nations such as USA, Canada, UK, Australia etc. to process and administer their visa processing not only for India but for several countries across the globe as visa processing and issuance involves highly secured and confidential technology processes, coordination, organizational structure. The Complainant takes pride in developing such a secured and state of the art technology and processes and serving diplomatic missions around the world most satisfactorily since its inception about 20 years ago. Thus, VFS Group of Companies have witnessed continuous growth and expanded its activities in 143 countries across 5 continents.

6.5 The Complainant submits that the Complainant is the registered owner and proprietor of the trademark **VFS** and **VFS GLOBAL**. Apart from Trademark registrations, the



Complainant is also a registrant of domain name **www.vfsglobal.com**. The domain name **www.vfsglobal.com** was registered on February 23, 2005, by one of the group companies of the Complainant VF Worldwide Holdings Limited having office at Unit 3101-A, JBC1, Plot No: JLT-PH1-G2A, Jumeirah Lakes Towers, Dubai, UAE.

- 6.6 The Complainant submits that the highly differentiated solutions portfolio of the Complainant includes dedicated visa and passport application centers, information services (call centers), web-based modules (for appointment scheduling and online payment collection), biometric (data capture and transfer), certification/legalization/attestation, translation, overseas citizenship, logistics solutions, programme and project management, database management, security solutions, financial solutions, etc. This broad scope enables missions to focus entirely on the primary task of assessment and interviews.
- 6.7 The Complainant submits that to meet the demands of the clients, the Complainant has embedded best practices in its operations across all its dedicated visa application centers globally. From the distribution of visa application forms to returning processed applications, and related services, the Complainant follows a series of highly advanced, precise and streamlined processes to ensure its clients' and applicants' absolute security and confidentiality. The Complainant's offices and operations across the world are certified with ISO 9001:2015 for Quality Management System and ISO 27001:2013 for Information Security Management System by TUV SUD, one of the world's leading external and independent certification bodies.
7. **Submissions of Complainant about the Respondent and its use of the domain name**



7.1 The Complainant submits that the disputed domain www.vfsglobalnewdelhi.in registered by the respondent is identical and/or confusingly similar to its registered trademark in which the Complainant has rights or interests. The Complainant further submits that that the Respondent has no right or legitimate interest in respect of the Disputed Domain Name and the Respondent has registered and used the Disputed Domain Name in bad faith to gain profit.

8. The issues involved in the dispute

8.1 The Complainant in its complaint has invoked paragraph 4 of the INDRP, which reads :

“Types of Disputes

Any person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the.IN Registry on the following premises:-

8.2 The disputed domain name is identical or confusing similar to a trademark in which the Complainant has statutory/ common law rights.

8.3 The Respondent has no rights or legitimate interests in respect of the disputed domain name.

8.4 The disputed domain name has been registered or is/is being used in bad faith.

8.6 The above-mentioned 3 essential elements of a domain name dispute are being discussed hereunder in light of the facts and circumstances of this complaint.

9. Parties Contentions

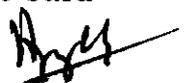
9.1 The Registrant's domain name is identical and/or confusingly similar to a Name, Trademark or Service Mark etc. in which the Complainant has rights:



9.1.1 Complainant

The Complainant submits that the essential and significant part of the Disputed Domain Name **vfsglobalnewdelhi.in** is “**VFSGLOBAL**” which is identical to the Complainant’s Domain name **www.vfsglobal.com** and/or Trade name “**VFS GLOBAL**” and/or trademarks in which the Complainant has rights on the basis of prior adoption, continuous and extensive use and registrations. It is further submitted by the Complainant that the Disputed Domain Name **vfsglobalnewdelhi.in** can be easily associated with the Complainant as an extension of its registered domain **vfsglobal.com**. By adopting the Disputed Domain Name **vfsglobalnewdelhi.in**, Respondent has tried to deviate, misrepresent, and create an impression to the general gullible public to have associated with VFS Global and its visa services which is not the fact. The Disputed Domain Name **vfsglobalnewdelhi.in** and the Complainant’s domain name **www.vfsglobal.com** are almost identical, or at least considered as an associated with VFS GLOBAL group and even the most attentive or cautious user can get confused due to the presence of the term “VFS” in the disputed Domain Name. The Complainant has referred to the INDRP decision of “*Dell Inc. vs. Mr. Deepak Rana Case No. INDRP/1203*”, wherein the disputed domain name **delllaptopservicecenterdelhi.in** was transferred to the Complainant.

The Complainant submits that the disputed domain “**vfsglobalnewdelhi.in**” and “**www.vfsglobal.com**” are in fact identical and virtually same and thus, the Complainant has accordingly established that the Disputed Domain Name **vfsglobalnewdelhi.in** is identical and/or confusingly similar to the Complainant’s Domain name and registered trademarks **VFS/VFS GLOBAL** in which the Complainant has exclusive rights or interests and no one can use the said



Trademarks/Trade name without taking any permission and/or authorization from VFS GLOBAL Group Companies. The Complainant submits that the Complainant, being very vigilant and active about their rights on their Trademarks **VFS/VFSGLOBAL** and the confidential and crucial services as provided by them under the said marks, keeps continuous watch on fraudulent activities and take immediate action against such fraudulent activities and has successfully acquired decisions in its favour. The Complainant has also submitted the following list of Domain Names – www.vfscanada.in (IN-DL64969910943216L)

- www.vfsglobalcanada.net WIPO Case No. D2014-1324
- www.vfs-globalhelpline.org WIPO Case No. D2020-2116
- <https://vfspriority.pw/nigerian-visa/> WIPO Case No. DPW2021-0001
- nz-vfsglobal.com WIPO Case No. D2022-0329
- www.vfsglobal.com.pk DNDRC Case No. 2021-0004
- vfsglobal-thaifasttrack.com WIPO Case No. D2022-0522
- immgt-ttnzvs-nzgovt.com WIPO Case No. D2022-2323
- nz-vfs-global.com WIPO Case No. D2022-2315- 11 –
- vfshelpline.co.in INDRP Case No. 1580, against whom the action has been taken by Complainant and successfully got these Domain names transferred to them.

The Complainant accordingly submits that it has proved that the Disputed Domain Name is identical and/or confusingly similar to its registered trademark in which the Complainant has rights or interests for the purposes of Article 4(i) of the INDRP.

9.2 Respondent

The Respondent has not replied to Complainant's contentions.



10. Panel Observations

- 10.1 This Panel on pursuing the pleadings, documents and records submitted by Complainant observes that Complainant due to the continuous, extensive, uninterrupted, and exclusive global use of the trademark **VFS/VFS GLOBAL** has become absolutely distinctive and indicates to the trade and the public about unique services rendered by the Complainant and its group companies. The said Trademark "**VFS**" and/or Trade name "**VFS GLOBAL**" has become synonymous with quality services of visa administration and management by the Complainant and its group companies.
- 10.2 This panel observes that the Complainant has common law as well as statutory rights in its trade/service mark "**VFS/VFS GLOBAL**". It is also observed by this panel that the Complainant has successfully secured registration for the **VFS/ VFS GLOBAL** marks not only in India but in many other countries of the world . The Complainant has proved that it has trademark rights and other rights in the mark "**VFS/VFS GLOBAL** by submitting substantial information and documents in support of it.
- 10.3 It is further observed by this panel that the trademark that the Disputed domain "**vfsglobalnewdelhi.in**" comprises the Complainant's trademarks "**VFSGLOBAL**" in their entirety has the potential to cause consumer confusion and will cause the user to mistakenly believe that it originates from, is associated with or is sponsored by the Complainant and further suffix "**in**" is not sufficient to escape the finding that the domain is confusingly similar to Complainant's trademark.
- 10.4 This panel, therefore, is of opinion that the disputed domain name "**vfsglobalnewdelhi.in**" being identical/



confusingly similar to the trademark of Complainant will mislead the public and will cause an unfair advantage to Respondent. The Panel is of the view that there is a likelihood of confusion between the disputed domain name and the Complainant, its trademark, and the domain names associated. The disputed domain name registered by the Respondent is confusingly similar to the trademark "VFS GLOBAL" of the Complainant.

10.5 It is the responsibility of the Respondent to find out before registration that the domain name he is going to register does not violate the rights of any proprietor/brand owner and the respondent has miserably failed in following this condition.

10.6 This Panel, therefore, in light of the contentions raised by the Complainant concludes that the disputed domain name is confusingly similar to the Complainant marks. Accordingly, the Panel concludes that the Complainant has satisfied the first element required by Paragraph 4(a) of the INDR Policy.

10.7 The Respondent has no rights or legitimate interests in respect of the domain name:

10.7.1 Complainant

The Complainant submits that the Complainant's use and registration of the trademarks "VFS/ VFS GLOBAL" and registration of Domain name www.vfsglobal.com predates the Respondent's registration of the Disputed Domain Name **by more than 20 years**. The Complainant has referred to the WIPO Arbitration and Mediation Centre's decision of "*Societe Air France v. DNS Admin - Dom Fly, involving the disputed domain name www.airfrance.in (INDRP/075)*", wherein the disputed domain name was transferred to the Complainant.



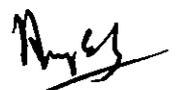
The Complainant submits that in the absence of any evidence, the Respondent's burden of proof in this respect will not be satisfied and that the Respondent does not have any legitimate right or interest in the Disputed Domain Name.

The Complainant submits that the Respondent has no right or legitimate interest in respect of the Disputed Domain Name on the following grounds:

- ❖ **VFS**", being the predominant and essential and most relevant component of the Disputed Domain Name, does not in any way reflect the Respondent's name.
- ❖ The Respondent does, to the best of the Complainant's knowledge, not own any trademark registrations reflecting "**VFS/VFSGLOBAL**" (being the predominant component of the Disputed Domain Name) in any country; and
- ❖ The Respondent has not acquired any reputation and/or goodwill in "**VFS/VFSGLOBAL**" (being the predominant component of the Disputed Domain Name) in any country.

The Complainant submits that it confirms that it has not, nor has it ever, granted the Respondent any right, license, authorization or consent to use its "**VFS/ VFSGLOBAL**" trademark, in India or elsewhere.

The Complainant submits that the use of the domain name vfglobalnewdelhi.in in respect of visa services or any other services cause absolute confusion as to the source of the services rendered. By adopting the Disputed Domain Name vfglobalnewdelhi.in, Respondent has tried to deviate, misrepresent, and create an impression to the general gullible public to have associated with VFS Global and its visa services which is not the fact. The Complainant submits



that the Complainant is specifically and exclusively authorized and appointed by the Government of various Countries to carry out their Visa administration and management work in many countries (and centers) on behalf of the Government of respective countries. Further, the visa applications and issuance comprise highly confidential data and information. The Complainant's web site is a secured site having adopted best of the world security standards and approved by the Government of many countries including of Canada, USA, UK, and other developed countries of the world. The Complainant submits that the Respondent has no justification in adopting **VFS/VFSGLOBAL** as primary name which itself is confusing. Hence this clearly portrays the Respondent's dishonest and *mala-fide* intention in adopting the Complainant's registered trademark **VFS/VFSGLOBAL** without authorization and/or permission. As the Complainant is exclusively authorized to administer the visa related services by most of the countries of the world and further, due to the globalization, travelling from one country to another has increased enormously in last over a decade and therefore, more and more people are accessing the Complainant's web site. For a layman or those who do not remember the Complainant's actual website address, they usually type "vfs" or "vfs global" or "vfs delhi" or "vfsvisa" etc. or put these words as search strings in search engines like Google / Yahoo etc. which may cause confusion to the general public.

The Complainant further submits that complainant is the proprietor of the trademark "**VFS/VFSGLOBAL**" and that any unauthorized and deceptive use of such unique and distinctive trademark on any goods or services; more particularly visa related services will be tantamount to an infringement of their trademark. The registration and use of domain name **vfsglobalnewdelhi.in** is unjustified,



unlawful, unauthorized, and dishonest. The Complainant further reiterates that such unauthorized and fraudulent use also amounts to trading upon the reputation and goodwill of the Complainant's distinctive trademark and their services which is mainly provided through their web site www.vfsglobal.com.

The Complainant accordingly submits that it has proved that the Respondent has no right or legitimate interest in respect of the Disputed Domain Name for the purposes of Article 4(ii) of the INDRP.

10.7.2 Respondent

The Respondent has not replied to Complainant's contentions.

11. Panel Observations

11.1 This Panel holds that the second element that the Complainant needs to prove and as is required by paragraph 4(b) of the INDRP is that the Respondent has no legitimate right or interests in the disputed domain name.

11.2 This panel observes that the Complainant by placing documents/ records and evidence in the form of annexures along with the complaint has been able to prove that the Complainant is well known name worldwide in the field of services of visa administration and management under the mark 'VFS/VFS GLOBAL'. The Complainant by virtue of its priority in adoption, goodwill, and long, continuous and extensive use of the mark, the Complainant has acquired the exclusive right to the use of the 'VFS GLOBAL' mark in respect of its services.

11.3 This panel observe that the respondent has failed to rebut the following grounds raised by the complainant :

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- ❖ **VFS**", being the predominant and essential and most relevant component of the Disputed Domain Name, does not in any way reflect the Respondent's name.
- ❖ The Respondent does, to the best of the Complainant's knowledge, not own any trademark registrations reflecting "**VFS/ VFSGlobal**"

(being the predominant component of the Disputed Domain Name) in any country; and

- ❖ The Respondent has not acquired any reputation and/or goodwill in "**VFS/VFSGlobal**" (being the predominant component of the Disputed Domain Name) in any country.

11.4 This panel observes that the Respondent has also failed to rebut the allegations of the Complainant that that it has not, nor has it ever, granted the Respondent any right, license, authorization or consent to use its "**VFS/ VFSGlobal**" trademark, in India or elsewhere.

11.5 It is observed by this panel that the Respondent has failed to rebut the allegations of the complainant that they adopting the Disputed Domain Name `vfsglobalnewdelhi.in`, Respondent has tried to deviate, misrepresent, and create an impression to the general gullible public to have associated with VFS Global and its visa services which is not the fact. The Respondent has no justification in adopting **VFS/VFSGlobal** as primary name which itself is confusing. Hence this clearly portrays the Respondent's dishonest and *mala fide* intention in adopting the Complainant's registered trademark **VFS/VFS GLOBAL** without authorization and/or permission. For a layman or those who do not remember the Complainant's actual website address, they usually type "vfs" or "vfs global" or "vfs delhi" or "vfsvisa" etc. or put these words as search

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strings in search engines like Google/Yahoo etc. which may cause confusion to the general public.

- 11.6 It is observed by this panel that given the fact that the Domain name and the corporate name of its company VFS GLOBAL predates the Respondent's registration of the impugned domain name and the burden is on Respondent to establish its rights or legitimate interests in the infringing domain name. However, the respondent has failed to establish it.

Once the Complainant makes a prima facie case showing that the Respondent does not have any rights or legitimate interest in the domain name, the burden to give evidence shifts to the Respondent to rebut the contention by providing evidence of its rights or interests in the domain name. The Respondent has failed to place any evidence to rebut the allegations of the Complainant.

- 11.7 It is further observed by this panel that para 6 of the IN Domain Name Dispute Resolution Policy (INDRP) states :
- Any of the following circumstances, in particular but without limitation, if found by the Arbitrator to be proved based on its evaluation of all evidence presented, shall demonstrate the Registrant's rights to or legitimate interests in the domain name for Clause 4 (b) :
- (a) before any notice to the Registrant of the dispute, the Registrant's 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;
- (b) the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or (c) the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert

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consumers or to tarnish the trademark or service mark at issue.

- 11.8 This panel observe that the respondent also failed to full fill any of the requirements as mentioned in para 6 of INDRP Policy which demonstrates the Registrant's rights to or legitimate interests in the domain name for Clause 4 (b) :

For these reasons, the Panel holds that the Complainant has proved that the Respondent does not have any rights or legitimate interests in the disputed domain name "VFSGLOBALNEWDELHI.IN".

- 12. The domain name was registered and is being used in bad faith.**

12.1 Complainant

- 12.1.1 The Complainant submits that the Disputed Domain Name has been registered by the Respondent in bad faith on the following grounds:

- (a) The Respondent does not have any legitimate rights or interests in the Disputed Domain Name;
- (b) The Respondent must have been aware of the Complainant's prior rights and interest in the Disputed Domain Name by virtue of the Complainant's reputation in "VFSGLOBAL"; and
- (c) The Respondent's knowledge of the Complainant's reputation and goodwill in "VFSGLOBAL" gives rise to a presumption that the Respondent registered the Disputed Domain Name for the purpose of trading the Disputed Domain Name for financial gain and/or otherwise for the purpose of taking a free ride on, and leveraging off, the Complainant's reputation in India.

- 12.1.2 The Complainant has also submitted the details of an incident according to which on September 7, 2022, the



Complainant received a query from one Mr. Amandeep Singh who came across the Disputed Domain Name. The querist received an email from the email address *aloksinghal@vfsglobalnewdelhi.in* wherein the querist was offered an Offer Letter from Safeway Canada from the email ID mentioned. The copy of the Query received by the Complainant is annexed with the present Complaint. The Complainant submits that in addition to the Complainant's domain name, the Respondent(s) was/were communicating with the Applicants by using the name of a member of VFS GLOBAL TEAM named Mr. Alok Singhal. It is submitted by the Complainant that Mr. Alok Singhal is one of the Senior Management Officer of the VFS Global Team and by using the name of Mr. Alok Singhal (Senior Management Officer of the VFS Global Team) the Respondent is spoofing with an intention of gaining illegitimate advantage. Hence the intention of the Respondent is to confuse the Applicants by sending emails from the email address *aloksinghal@vfsglobalnewdelhi.in* which will very easily be confused to have received from an employee of VFS Global Team from the Complainant's office based in New Delhi. On receipt of said E-mail of the querist, the VFS Group Team confirmed that such email or forms or instructions have not been sent by any of the member of the VFS Group and someone is trying to mislead or defraud him. Hence, the Complainant states that by adopting a deceptively similar email address by the Respondent, people in general are getting confused and believing that the Disputed Domain Name owned by the Respondent is associated or connected with the Complainant and are sharing their valuable personal information.

- 12.1.3 The Complainant submits that thus, in view of the above, it is absolutely clear that the Disputed Domain Name is registered and is being used by the Respondent in bad faith

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whereby various applicants are deceived and cheated by causing loss to their hard-earned money.

12.1.4 The Complainant submits that the fact that the Respondent has registered the Disputed Domain Name without having any legitimate right or interest in it constitutes clear evidence of bad faith on the part of the Respondent in registering the Disputed Domain Name. This is particularly the case when the domain name reflects a famous trademark owned by a third party with whom the registrant has no relationship. The Complainant refer to and rely upon the judgments of (1) OSRAM GmbH v. Osram India LED Smart Light Case No. INDRP/1206; 2) Pathway IP S.A.R.L. v. Regus India Case No. INDRP/1168; 3) Google LLC v. Google India Case No. INDRP/1131.

12.1.4 The Complainant also submits that, in light of its extensive worldwide reputation and business under the trademark "VFSGLOBAL" (including in India, where the Respondent seems to be located), the Respondent must have known about the Complainant's rights in "VFS/VFSGLOBAL" at the time of registering the Disputed Domain Name. The Respondent's registration of the Disputed Domain Name cannot be *bona fide* in circumstances where the registration was made in the full knowledge of the Complainant's prior rights in "VFSGLOBAL", and in circumstances where the Respondent did not seek permission from the Complainant to such registration.

12.1.5 The Complainant also refers the panel to the case of *Bennette Coleman v. Mr. Chintan Mandir* (Case No. INDRP/1127). In that case, in deciding that the registrant had registered the domain name in bad faith, the panel took into account the fact that the respondent registered the domain name with knowledge of the complainant's longstanding prior rights.



12.1.6 The Complainant further relied on the WIPO decision of *Telstra Corporation Limited v Nuclear Marshmallows* (Case No. D2000-0003), which makes it clear that the concept of "use in bad faith" in the corresponding paragraph 4(a)(iii) of the UDRP is not limited to positive action, and that inaction is within the concept, i.e. inactivity by the Respondent may therefore amount to 'the use of the domain name in bad faith'. It is therefore submitted by the Complainant that the non-use or passive holding of the Disputed Domain Name by the Respondent, also amounts to the use of the Disputed Domain Name in bad faith.

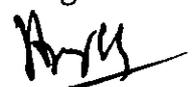
12.1.7 The Complainant accordingly submits that it has proved that the Respondent has registered and used the Disputed Domain Name in bad faith for the purposes of Article 4(iii) of the INDRP.

12.2 Respondent

The Respondent has not replied to Complainant's contentions.

13. Panel Observation

13.1 This panel while going through the complaint and documents which are placed in the form of annexures has observed that the Respondent registered the disputed domain name in May 2021, by which time the Complainant has been using the mark VFS GLOBAL mark for 20 years. It is observed by this panel that the Complainant has statutory and common law rights in the mark VFS GLOBAL and the same is registered not only in India but also in other countries. It is observed by this panel that in view of the above-mentioned facts and circumstances, it is impossible to conceive that the Respondent could have registered the disputed domain name in good faith or without knowledge



of the Complainant's rights in the mark. This panel observe that the Respondent had constructive notice of the Complainant's trademark VFS GLOBAL its services, and its wide use on the Internet or otherwise. The Respondent's knowledge in this regard is an indicator of bad faith on its part in having registered the disputed domain name VFSGLOBALNEWDELH.IN.

- 13.2 This panel observe that the Respondent has failed to rebut the contentions of the Complainant that the Respondent's bad faith is established by the fact that the Respondent has used the Complainant's trademark for profit without being authorized/licensed to do so by the Complainant.
- 13.3 The submission of the Complainant about the incident in which the Complainant received an query and using the name of a member of VFS GLOBAL TEAM named Mr. Alok Singhal also cast serious doubt on the intentions of the respondent.
- 13.4 This panel accept the submission of the Complainant that the respondent registered the disputed Domain Name for the purpose of trading the Disputed Domain Name for financial gain and/or otherwise for the purpose of taking a free ride on, and leveraging off, the Complainant's reputation in India;
- 13.5 According to Paragraph 7 of the INDRP the following circumstances are deemed to be evidence that Respondent has registered and used a domain name in bad faith :
- (a) Circumstances indicating that the Respondent has registered or has acquired the domain name primarily for selling, renting, or otherwise transferring the domain name registration to the Complainant who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration



- over the Registrar's documented out of pocket costs directly related to the domain name; or
- (b) the Respondent has registered the domain name to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
 - (c) by using the domain name, the Respondent has intentionally attempted to attract internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its Website or location or a product or services on its website or location."

13.6 The complainant has rightly established that the respondent has registered the disputed domain name in bad faith, and there is evidence that points to the existence of circumstances as mentioned in clause 7 of the INDRP Policy. The Respondent's domain name registration meets the bad faith elements outlined in para 4 (c) of the INDRP Policy. Therefore the Panel concludes that the registration by Respondent is in bad faith. Consequently, it is established that the disputed domain name was registered in bad faith or used in bad faith and the Respondent has wrongfully acquired/registered the domain name www.vfsglobalnewdelhi.in in its favor in bad faith.

14. Remedies Requested

The Complainant has prayed to this Administrative Panel to transfer the disputed domain name 'www.vfsglobalnewdelhi.in' to the Complainant.

15. Decision

15.1 The following circumstances are material to the issue in the present case :



- ❖ Through its contentions based on documents/ records and evidence, the Complainant has been able to establish that the mark "VFS GLOBAL" is a well-established name in India and other countries. The complainant has established that the VFS/VFS GLOBAL is popularly known exclusively concerning the Complainant. The Complainant has also established that the trademark VFSGLOBAL is inherently distinctive of the services and business of the Complainant and has secured trademark protection for VFS GLOBAL by registering trademarks.
- ❖ The Respondent, however, has failed to provide any evidence that it has any rights or legitimate interests in respect of the domain name, and the Respondent is related in any way to the Complainant. The Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the Disputed Domain Name.
- ❖ The Complainant has rather has been able to establish by its contentions and records in the form of annexures, that the Respondent has attempted to attract Internet users for profit which is evidence of bad faith. It is therefore established by the complainant that the domain name by itself is being used for attracting internet users rather than any bona fide offering of goods/services thereunder. This panel while considering the complaint and records in the form of Annexures submitted by the complainant, has concluded that there exist circumstances as stated in para 7(C) of INDRP Policy.
- ❖ Taking into account the nature of the disputed domain name and in particular, the ".in" extension alongside the Complainant's mark which is confusingly similar, which would inevitably associate the disputed domain

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name closely with the Complainant's group of domains in the minds of consumers, all plausible actual or contemplated active use of disputed Domain Name by the Respondent is and would be illegitimate.

- ❖ The Respondent also failed to comply with Para 3 of the INDRP, which requires that it is the responsibility of the Respondent to ensure before the registration of the impugned domain name by him that the domain name registration does not infringe or violate someone else's rights. The Respondent should have exercised reasonable efforts to ensure there was no encroachment on any third-party rights.

15.2 This panel is of the view that it is for the Complainant to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name but the Respondent has miserably failed to do that. The Respondent's registration and use of the domain name [www.vfsglobalnewdelhi.in] are in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name and also the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

RELIEF

Following INDRP Policy and Rules, this Panel directs that the disputed domain name [vfsglobalnewdelhi.in] be transferred from the Respondent to the Complainant; with a request to NIXI to monitor the transfer.

New Delhi, India
Dated : December 21, 2022


AJAY GUPTA
Sole Arbitrator