



मध्य प्रदेश MADHYA PRADESH

BS 709945

BEFORE THE ARBITRATOR RAJESH BISARIA

UNDER THE

.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

[NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)]

ARBITRAL AWARD

Date-10.03.2023

Disputed Domain Name: www.adm9.in

INDRP Case no -1655

THE PARTIES

(1)

The Complainant is Archer-Daniels-Midland Company, A Delaware Corporation
4666 Faries Parkway , Decatur, Illinois 62526, United States of America, Email:
Kimberly.finney@adm.com

The Respondent is Name: N.A. , Organization: N.A. , Address: Shenzhen,
State/Country: Guangdong, China - 518000, Phone: +86.17722606611, Email:
wandou2022@protonmail.com



THE DOMAIN NAME AND REGISTRAR

(2)

- (a) This dispute concerns the domain name bearing ID: D365EC4874BE94ED2839F2AA40E6F83DC-IN and is identified as **www.adm9.in**
- (b) The disputed domain name: **www.adm9.in** is registered with Registrar Dynadot LLC, 210 S Ellsworth Ave , #345 San Mateo, CA , 94401, USA on 01.11.2022 and expiry date 01.11.2023

PROCEDURAL HISTORY

(3)

The NIXI appointed RAJESH BISARIA as Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of procedure	19.01.2023
Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per paragraph 4(c) of INDRP Rules of Procedure, marking a copy of the same to Complainant's authorized representative and NIXI .	19.01.2023
Due date of submission of Statement of Claim by Complainant (instructed by mail dated 19.01.2023)	29.01.2023
Complainant's response by submitting their Statement of Claim. Soft copy	27.01.2023
Hard copy	30.01.2023
Due date of submission of Statement of Defense by Respondent (instructed by mail dated 19.01.2023)	14.02.2023
Respondent's response by submitting their Statement of Defense against the due date of submission as 14.02.2023	Not submitted



Complainant's response by submitting their Rejoinder. (Statement of Defense not submitted by Respondent)	Not required
Complainant's response by submitting proof of delivery of complaint along with all annexure to Respondent - Soft copies vide their mail dated 27.01.2023, delivered on 27.01.2023 and NIXI mail dated 19.01.2023 was delivered to Respondent on 19.01.2023. Regarding delivery of Hard copies to Respondent, Complainant communicated vide their mail dated 27.01.2023 that- <i>From a perusal of the said WHOIS extract, you would note that neither the name of the Respondent nor its Organization is mentioned. Even so, the address provided is incomplete. Thus, service of the Complaint and its Exhibits upon the Respondent by courier is not possible.</i>	27.01.2023 19.01.2023
Communicated by AT mail dated 04.03.2023 that the 'Respondent failed to submit the required documents within the time limit ie 14.02.2023 & even upto 04.03.2023 , therefore the Respondent lost their right to entertain it. The proceeding of this case was kept closed for award and the matter would be decided ex-parte on the basis of the material on record with this tribunal as per INDRP policy'.	04.03.2023
The language of the proceedings.	English

FACTUAL BACKGROUND

(4) The Complainant:

Contact Person: Kimberly Finney
Archer-Daniels-Midland Company



Address: 4666 Faries Parkway
Decatur, Illinois 62526
United States of America
Email: Kimberly.finney@adm.com
Telephone: +1 217 424-5200

Complainant's authorized representative in this administrative proceeding is:

Name: Ranjan Narula
Address: RNA, IP Attorneys
401-402, 4th Floor, Suncity Success Tower
Sector-65, Golf Course Extension Road
Gurgaon-122005
Haryana
Telephone: +91 124 4296999
Fax: +91 124 4296960
Email: rnarula@rnaip.com

Complainant's preferred method of communications in this administrative proceeding is:

Electronic-only material
Method: e-mail
Address: rnarula@rnaip.com
Contact: Ranjan Narula
Material including hardcopy
Method: Post/Courier
Address: RNA, IP Attorneys
401-402, 4th Floor, Suncity Success Tower,
Sector-65, Golf Course Extension Road
Gurgaon-122005 , Haryana
Telephone: +91 124 4296999



Fax: +91 124 4296960
Contact: Ranjan Narula

(5) The Respondent:

The Respondent is Name: N.A. , Organization: N.A. , Address: Shenzhen,
State/Country: Guangdong, China – 518000, Phone: +86.17722606611,
Email: wandou2022@protonmail.com

(6) Complainant's Activities:

- (a) The Complainant for over a century through its predecessors has been one of the largest agricultural processors in the world engaging in the business of manufacturing, transporting, storing, processing, marketing, and promoting a wide variety of agricultural, consumer, and industrial products and services. The Complainant uses the ADM mark in connection with a wide variety of agricultural, consumer, and industrial products and services, including but not limited to, barges, vans, trucks, and railway cars, and transportation services. The Complainant's agricultural services segment engages in buying, storing, cleaning, and transporting agricultural commodities, such as oilseeds, corn, wheat, milo, oats, rice, and barley; and reselling those commodities primarily as food and feed ingredients. This segment is also involved in the merchandising of agricultural commodities and processed products; origination and processing of wheat flour; and processing and distribution of formula feeds, animal health and nutrition products, and edible beans.
- b) The Complainant started its operations way back in the year 1902, when two entrepreneurs by the names of George A. Archer and John W. Daniels began a linseed crushing business. In 1923, Archer-Daniels Linseed Company acquired Midland Linseed Products Company, and the Archer-Daniels-



Midland Company was formed. The trade mark ADM was coined in the year 1923 as an abbreviation of Archer Daniels & Midland. The first 2 letters in the trademark are initial alphabets of the two founders. On the whole, the mark qualifies as being an invented acronym. Thus, it is entitled to the highest degree of protection keeping in view its originality in conception. Today, the Complainant is the global leader in human and animal nutrition and the world's premier agricultural origination and processing company. The details of the Complainant's extensive business activities can be viewed online at www.adm.com. Relevant extracts from the Complainant's website www.adm.com are annexed as Exhibit 2. The domain name www.adm.com was registered by the Complainant on October 12, 1994. Extract from the WHOIS search database indicating registration of the domain name www.adm.com is annexed as Exhibit 3.

- c) The Complainant is a Fortune 500 conglomerate headquartered in Decatur, Illinois and employs more than 38,000 people worldwide. The Complainant serves 200 countries with 50+ innovation centers, 345+ food and feed processing locations, 480+ crop procurement locations, etc., and connects crops to markets on six continents. The Complainant is listed in the New York Stock Exchange for official trading. The net revenue generated by the Complainant in the financial year 2020 was US\$ 64.35 billion. Relevant printout of Annual Report containing worldwide revenue figures for the year 2020 is annexed as Exhibit 4.

(7) Complainant's Trade Marks And Domain Names:

Worldwide Use & Registrations of ADM mark

- a) The Complainant has been continuously and extensively using the mark ADM in relation to its products since the year 1923. The Complainant was named the most admired company in the food production industry by Fortune



magazine for the 13th consecutive year. Extract of online articles evidencing the fame and reputation of the ADM mark is annexed as Exhibit 5. For more than a century, the Complainant has established a history of making quality products for its customers. Thus, the Complainant's business has become well reputed and recognized amongst trading community due to its superior quality products and services.

- b) The Complainant owns registrations for the mark ADM in a spectrum of classes of goods and services in several countries of the world including and not limited to Argentina, Australia, Canada, Chile, China, Czech Republic, Ecuador, Egypt, El Salvador, European Union, France, Honduras, Hong Kong, India, Israel, Japan, Jordan, Korea (Republic of) Malaysia, Mexico, Monaco, New Zealand, Norway, Paraguay, Philippines, Poland, Puerto Rico, Russian Federation, Singapore, Slovakia, South Africa, Switzerland, Taiwan, Turkey, USA, Uruguay, etc., to name a few. List of countries where the Complainant's ADM mark is registered is annexed as Exhibit 6. Copies of registration certificates for the mark ADM in various foreign jurisdictions are annexed as Exhibit 7.
- c) The Complainant's products bearing the mark ADM are available in several countries of the world. Due to its massive popularity since it came into existence in 1923 and its extensive and continuous use, the ADM mark has become the source identifier of its products/ services. Needless to say, the ADM mark is of great importance to the Complainant's business given its immeasurable reputation and goodwill amongst the purchasing public. Over the years, the ADM mark has gained tremendous reputation and goodwill amongst consumers.

Use & Registrations of ADM mark in India

- a) In India, the Complainant is operating under the trading names, ADM Agro Industries India Private Limited, ADM Agro Industries Kota & Akola Private Limited and ADM Agro Industries Latur & Vizag Private Limited with



headquarters in Gurgaon, additional offices in Mumbai, Pune and Bangalore; a cargo-handling facility and warehouse in Vishakhapatnam and oilseeds processing plants in Latur, Nagpur and Akola in Maharashtra, Kota in Rajasthan and in Dharwad, Karnataka. In India, Complainant's principal business is the processing of oilseeds into edible oils, animal feeds, and feed ingredients. The Complainant employs nearly 1200 people in India.

- b) The Complainant's ADM branded products are available in India since at least as early as 2009 and have been well-known to trade circles in India for a long time. The Complainant markets range of ADM food ingredients to leading food manufacturers, provide animal nutrition products to poultry and dairy farmers, originate and trade corn and wheat, offer cargo services and warehousing facilities for businesses; and operate a training and incentive program to assist Indian farmers to improve crop quality and increase yields. The Complainant, through the Krishi Vikas Kendras (KVK) network of more than 20 crop-development centers staffed by agronomists, offer training in best agricultural practices as well as procurement services to more than 75,000 farmers each year. Printouts from the Complainant's website evidencing various activities conducted by the Complainant in India are annexed as Exhibit 8.
- c) The Complainant is the registered proprietor of the mark ADM in respect of various goods and services in India, the details of which are as follows:

Trade Mark	Registration No.	Registration date	Class
ADM	2223777	21-Oct-2011	1
ADM	2223755	21-Oct-2011	4
ADM	2223779	21-Oct-2011	5
	2223754	21-Oct-2011	12
ADM	2223756	21-Oct-2011	16
ADM	2223758	21-Oct-2011	30
	2223775	21-Oct-2011	30
ADM	2223759	21-Oct-2011	31
	2223776	21-Oct-2011	35



ADM 2223760 21-Oct-2011 39
ADM 2223761 21-Oct-2011 42
ADM 2223762 21-Oct-2011 42

The aforesaid registrations are valid and subsisting and in full legal force conferring upon the Complainant exclusive right to their use and to restrain use of any identical or deceptively similar marks, domain name, trade name or in any other manner by any unauthorized persons. Copies of the registration certificates of the Complainant's marks in India are annexed as Exhibit 9.

- d) The Complainant's ADM branded products are freely available for purchase in India. Thus, the trade and public in India are well aware of the high quality of the Complainant's products bearing the ADM mark. Copies of a few invoices evidencing sale of ADM branded products in India are annexed as Exhibit 10.
- e) Due to global success of the Complainant's products, they are widely recognized all over the world. The Complainant's ADM mark/products are advertised internationally and in India through electronic as well as print media including newspapers, magazines, trade journals, leaflets and other promotional literature and the said materials are being extensively distributed for several years now. Copies of a few promotional materials, evidencing the promotional activities conducted by the Complainant in India are annexed as Exhibit 11.
- f) By virtue of longstanding and extensive use, widespread advertisement and promotional initiatives and numerous registrations the world over including India, the Complainant's ADM mark has earned substantial goodwill and reputation and members of the trade and public associate the said mark with the Complainant and no one else. The ADM mark is a valuable asset of the Complainant's business for the immeasurable reputation and goodwill it enjoys amongst the purchasing public and for the brand equity it has in the market. As a result, the Complainant's ADM



mark is famous and well-known amongst the consumers and members of the trade globally including India. In Archer-Daniels-Midland Company v. Soegiarto Adikoesoemo, WIPO Case No. D2016-1618, the Panel determined that Complainant's ADM mark is well-known; and in Archer-Daniels-Midland Company v. Warren Flaherty, Allwood Design and Manufacture Ltd / Identity Protect Limited, WIPO Case No. D2015-0539, the Panel determined that Complainant had demonstrated that it has trademark rights in the ADM mark and that its trademark is well-known. Copies of the said WIPO decisions are annexed as Exhibit 12.

Complainant's Enforcement Program

- a) The Complainant has consistently implemented an aggressive enforcement program globally to protect and enforce its trademark rights, especially regarding its key ADM mark. In China specifically, the Complainant has aggressively enforced its trademark rights by defending against non-use cancellation actions and similarly taking actions against third parties when necessary. The Complainant does not permit the unauthorized use of its trademarks and maintains watch services to alert it to potentially infringing trademark applications all over the world to ensure it is able to oppose any applications necessary to protect the ADM mark. Further, the Complainant instructs its attorneys globally to monitor any potential and known infringers and to send cease and desist letters when necessary. It has brought numerous cancellation and nullity actions against other registrations in China and worldwide.
- b) In addition to strictly enforcing its trademark rights in its ADM Mark, the Complainant also aggressively prosecutes attempts to use its intellectual property to commit cyber fraud, and closely monitors infringing domains. It has successfully brought multiple similar complaints under the Uniform Domain-Name Dispute-Resolution Policy ("UDRP") complaints in recent years, under which the factors required to bring a complaint are identical



to those under the .IN Domain-Name Dispute-Resolution Policy (“INDRP”). In the multitude of UDRP proceedings, the Panel has ruled in Complainant’s favor in similar scenarios ordering fraudulent registrants to transfer their domains to Complainant.

- c) Specifically, the Complainant has brought many successful UDRP proceedings against other fraudulent domains, which were determined to be identical or confusingly similar to the ADM mark. Please See: Archer-Daniels-Midland Company v. Wang De Bing, WIPO Case No. D2017-0363 (ADM.WEBSITE); Archer-Daniels-Midland Company v. Junchao Ma, WIPO Case No. D2017-0367 (ADM.WORLD); Archer-Daniels-Midland Company v. Sinsimula Barnabus, Archer-Daniels-Midland Company v. Milavsha Mullayarova, WIPO Case No. D2017-0766 (ADM.LIFE); Archer-Daniels-Midland Company v. Shawn Downey, WIPO Case No. D2015-0415 (ADM.INTERNATIONAL); Archer-Daniels-Midland Company v. Warren Flaherty, Allwood Design and Manufacture Ltd/Identity Protect Limited, WIPO Case D2015-0539 (ADM.SOLUTIONS); Archer-Daniels-Midland Company v. Chamiris Mantrana, WIPO Case No. D2013-0257 (AD-M.ORG); Archer-Daniels-Midland Company v. Jim Zhu, WIPO Case No. D2013-0258 (ADMAPGROUP.COM); Archer-Daniels-Midland Company v. Dasdasd Asdadasd, WIPO Case No. D2021-0762 (ADM-IT.ORG); Archer-Daniels-Midland Company v. Contact Privacy Inc. Customer 1248875609, Contact Privacy Inc. Customer 1248875609/Walt Dinkelacker, WIPO Case No. D2021-0296 (ADM.RUN); Archer-Daniels-Midland Company v. Flavio Travano, WIPO Case No. D2022-0690 (ADM-ONMICROSOFT.COM); Archer-Daniels-Midland Company v. Privacy Service Provided by Withheld for Privacy ehf/Endywork Mode, Apponline, WIPO Case No. DCO2021-0082 (ADM-USA.CO).



Registrant/Respondent, its activities and registration of the Domain Name

- a) The Complainant is bringing this complaint after receiving notice of that the fraudulent website www.adm9.in was being promoted in the majority of roughly 20 YouTube videos that were promoting a fraudulent investment mobile app using the ADM mark. Upon information and belief, the YouTube videos claimed that upon purchasing certain investment plans, the purchaser would be given a daily income in return. The YouTube videos demonstrated to viewers how to navigate the mobile app and the widely known and registered ADM marks were prominently displayed throughout the videos. Upon becoming aware of these fraudulent videos, Complainant filed the requisite Trademark and Counterfeit complaints on YouTube, and the videos have since been removed. A list of the videos is attached hereto as Exhibit 13.
- b) Within a majority of these videos, the ADM9.IN domain was being promoted and the videos included referral links in the descriptions of the videos for the same domain. This domain was advertised together with the fraudulent use of the ADM marks within the YouTube videos, indicating that the Complainant was affiliated with the domain, which it is not and never has been. Upon information and belief, a money transfer was made through the mobile app Telegram, an instant messaging application, due to the fraudulent promotion associated with this website. ADM registered its top-level domain ADM.COM in 1994, approximately 28 years before the fraudulent ADM9.IN domain was registered. Upon information and belief, the disputed domain is no longer available.
- c) According to the WHOIS search database, the Respondent is indicated to be located in China (Guangdong). However, the Respondent's name, organization name, complete address, email, contact number, etc. in this administrative proceeding have been masked for privacy. It is evident from Exhibit 1 that the domain name www.adm9.in was recently registered on



November 1, 2022, which is much later to the adoption and use of the mark ADM by the Complainant.

- d) The domain name www.adm9.in starts with and prominently incorporates the Complainant's famous mark ADM in its entirety and has been registered in bad faith. The mere addition of a random number '9' is inconsequential which does not help distinguish it from the Complainant's mark and the term ADM remains to be the essential and most recognizable part of the domain name. The use of mark ADM in the fraudulent domain name is clearly to take advantage of ADM brand reputation and to convey that the Respondent provides the products/ services that has authorisation of the Complainant. On accessing the domain name www.adm9.in, the same appears to be currently parked and not operational as a website. Thus, the domain name is not actively being used at present. In any case, the Respondent is misusing and misappropriating the Complainant's mark ADM as an essential part of their domain name www.adm9.in to misrepresent trade connection with the Complainant and lend legitimacy to their business operations. The screenshot of the Respondent's website www.adm9.in is annexed as Exhibit 14.
- e) The Complainant has not licensed or otherwise authorized or given consent to the Respondent to use/utilize or commercially exploit the Complainant's registered and well-known mark ADM in any manner whatsoever. The Respondent's purpose of registering the identical domain name is to ride upon the immense goodwill and reputation of the Complainant's mark ADM. Therefore, it is clear that the Respondent has acquired the alleged domain name for use in future to attract internet traffic by falsely claiming an association/connection with the Complainant and make illicit gains.
- f) The Complainant submits that it is a settled proposition of law that where there is copying, dishonesty ought to be presumed. In the present case, copying by the Respondent is evident from its adoption of an identical domain name. Given the extensive use, widespread promotion and



registrations of the mark ADM, the Respondent cannot have any plausible reason to deny its prior knowledge and awareness when they adopted the disputed domain name. In the circumstances, the present case is clearly that of cyber-squatting.

- g) The registration of disputed domain name www.adm9.in amounts to infringement and passing off of Complainant's intellectual property rights vested in the mark ADM. The Respondent's intention is clearly to ride on the Complainant's goodwill, divert the Complainant's business in an illegal manner and thus to make unjust monetary gains. Thus, the Respondent's activities are unlawful and likely to jeopardize the Complainant's reputation and goodwill under mark ADM.

(8) Respondent's Identity and activities :

Respondent failed to submit required documents, so his identity and activities are not clear.

SUBMISSIONS BY COMPLAINANT

(9)

Complainant submitted Domain name complaint with pages 1 to 13 and annexure from 1 to 15 . As per the INDRP Rules of Procedure, Clause 4(a) –

The (maximum) word limit shall be 5000 words for all pleadings individually (excluding annexure). Annexure shall not be more than 100 pages in total. Parties shall observe this rule strictly subject to Arbitrator's discretion.

The Complainant submitted pleadings of around 5000 words which is as per the above norms of the INDRP Rules of Procedure, but annexures are more than 100 pages, which is not as per the above norms of the INDRP Rules of Procedure. The documents are accepted with a warning to Complainant that they should strictly adhere to the Rules in future.



THE CONTENTIONS OF THE COMPLAINANT

(10) The domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights:

- (a) The Respondent completely incorporated the famous ADM mark into its fraudulent domain name for the sole purpose of deceiving website visitors into believing there is an association with Complainant. Although the disputed domain is currently inactive, it is clear from the manner in which the disputed domain was previously advertised in videos fraudulently displaying the ADM mark and logos that the Respondent was intentionally trying to pass off its domain as affiliated with Complainant, therefore attempting to create a likelihood of confusion as to the source of the domain. The ADM9.IN domain is visually confusingly similar to the ADM Mark because it wholly incorporates the trademark of the Complainant.
- (b) In the past, multiple INDRP complaint decisions have held that when a disputed domain name wholly incorporates a trademark of a complainant, then the mere addition of the .IN domain code does not distinguish the domain from the mark. Please see: Nike Inc. v. Nike Innovative CV Zhaxia (Case No. INDRP/804); Metropolitan Trading Company v. Chandan Chandan (Case No. INDRP/811); Lego Juris A/s v. Robert Martin (Case No. INDRP/125). Additionally, in Archer-Daniels-Midland Company v. Michael Gillespie, Case No. D2022-0631, the respondent registered the disputed domain, AD8M.COM. The Panel held that the respondent's inclusion of the number "8" in between the letters "d" and "m" in AD8M.COM did nothing to dispel the confusing similarity of the disputed domain name with the ADM mark, and further, that it was simply evocative of typo squatting.



- (c) The same determinations should be made in the present proceeding. The disputed domain prominently displays and wholly incorporates the ADM mark, and the addition of the random character “9” along with the common .IN domain code does nothing to distinguish the domain from Complainant’s ADM mark. Therefore, the ADM9.IN domain is confusingly similar to the ADM mark and this factor under the INDRP has been satisfied.

(11) The Respondent has no rights or legitimate interests in respect of the domain name:

- (a) The Respondent has no rights or legitimate interests in the ADM9.IN domain name. Upon information and belief, Respondent has not been commonly known by the names ADM or ADM9.IN at any time, and has never had any affiliation with ADM. Any possibly legitimate rights or interests in the domain name are negated by the manner in which this domain was advertised on YouTube videos that have since been removed from YouTube for their trademark infringement and counterfeiting goals. Respondent only registered the ADM9.IN domain to indicate that it is affiliated with ADM.
- (b) There is no demonstrable evidence at this time of the Respondent’s use of, or intent to use, the ADM9.IN domain in connection with a bona fide offering of goods and/or services. Furthermore, upon information and belief, Respondent is not making a legitimate noncommercial or fair use of the domain name. The Respondent is not, and has never been, authorized by ADM to use the ADM mark, yet the ADM9.IN domain indicates a legitimate association with ADM.
- (c) As of the filing date of this complaint, the website associated with the ADM9.IN domain remains inactive, indicating that the Respondent is not using its domain for a legitimate business interest. In past UDRP disputes regarding Complainant’s prior enforcement efforts, the Panel



has determined in Complainant's favor that such schemes were prima facie evidence of an absence of legitimate rights and interests regarding the disputed domain. (finding complainant's assertions were sufficient to constitute a prima facie showing of an absence of rights or legitimate interests in respect of the disputed domain name where respondent was using ADM-COM.XYZ in a fraudulent phishing scheme); Archer-Daniels-Midland Company v. Soegiarto Adikoesoemo, WIPO Case No. D2016-1618 (finding no legitimate rights or interests in the disputed domain name where respondent was using ADMVVORLD.COM in a fraudulent phishing scheme and complainant provided a prima facie showing that the Respondent did not hold rights or legitimate interests in the domain).

- (d) Because the Respondent has never demonstrated a legitimate interest with respect to the disputed domain name, this factor required by the INDRP has been satisfied.

(12) The domain name was registered and is being used in bad faith:

- (a) Upon information and belief, the Respondent was using the ADM mark, ADM name, and extensive robust global online presence of ADM in bad faith via the ADM9.IN domain and in association with the fraudulent YouTube videos that were prominently advertising the disputed domain.
- (b) The Respondent clearly attempted to deceive possible website visitors based on similarities between ADM.COM and the ADM9.IN domains. As previously stated, the ADM.COM domain has been registered since 1994, almost 28 years prior to ADM9.IN, and Complainant has owned many trademark registrations for the ADM mark globally for many years. Due to the fact that Complainant has such a large and active global presence, the Respondent cannot conceivably claim it was unaware of Complainant's fame, rights, goodwill and interests in its



ADM marks and domains. Per UDRP precedent, Respondent's mere registration of the ADM9.IN domain is alone sufficient to make a finding of bad faith due to the fame of the ADM mark. Please see: Osram Sylvania, Inc. v. Jason Blevins, WIPO Case No. D2009-0233.

- (c) If allowed to maintain this domain, the Respondent is likely to continue use of the disputed domain to continue fraudulent activities. Based on the preceding information, the bad faith factor required by the INDRP has been satisfied.

(13) Other Legal Proceedings:

The Complainant is unaware of any other legal proceedings that have been commenced or terminated in connection with or relating to the Domain Name.

(14) Remedy Sought:

In accordance to the reasons described above, the Complainant requests the Administrative Panel appointed in this administrative proceeding to issue a decision that the disputed Domain Name www.adm9.in be transferred to the Complainant.

RESPONSE BY THE RESPONDENT

- (15) Respondent failed to submit the required documents (Statement of Defense) within the time limit mentioned in mail dated 19.01.2023 i.e. 14.02.2023 & even up to 04.03.2023, therefore the Respondent lost their right to entertain it and it was also informed to all concerning vide AT mail dated 04.03.2023 that the proceeding of this case is kept closed for award and the matter would be decided ex-parte on the basis of the material on record with this tribunal as per INDRP policy.



REJOINDER BY THE COMPLAINANT

- (16) Since Respondent failed to file the Statement of Defense, so there is no question of submitting the Rejoinder by the Complainant.

DISCUSSION AND FINDINGS

- (17) After going through the correspondence, this AT comes to the conclusion that the Arbitral Tribunal was properly constituted and appointed as per Clause 5 of the INDRP Rules of Procedure and Respondent has been notified of the complaint of the Complainant.
- (18) Respondent was given enough opportunity to submit Reply of Complaint (Statement of Defense) by 14.02.2023 & even up to 04.03.2023. But Respondent failed to submit the same within said time limit; therefore the Respondent had lost their right to entertain it. The proceeding of this case was kept closed for award on 04.03.2023 and the matter is to be decided ex-parte on the basis of the material on record with this tribunal as per INDRP policy.
- (19) Under Clause 4, of the .IN Domain Name Dispute Resolutions policy (INDRP), the Complainant has filed a complaint to .IN Registry on the following premises:
- (a) the Registrant's domain name is identical or confusingly similar to a Name, Trademark or Service Mark in which the Complainant has rights; and
 - (b) the Registrant's has no rights or legitimate interest in respect of the domain name; and
 - (c) The Registrant's domain name has been registered or is being used either in bad faith or for illegal/unlawful purpose



- (20) The Registrant's domain name is identical or confusingly similar to a Name, Trademark or Service Mark in which the Complainant has rights:**

Facts & Findings

On the basis of the referred Awards of INDRP cases, above mentioned facts by Complainant and due to non submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established 4(a) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

- (21) The Registrant's has no rights or legitimate interest in respect of the domain name:**

Facts & Findings

On the basis of the referred Awards of WIPO cases, above mentioned facts by Complainant and due to non submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(b) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

- (22) The Registrant's domain name has been registered or is being used either in bad faith or for illegal/unlawful purpose:**

Facts & Findings

On the basis of the referred Awards of WIPO cases, above mentioned facts by Complainant and due to non submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(c) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.



(23) ARBITRAL AWARD

I, **Rajesh Bisaria** , Arbitrator, after examining and considering the pleadings and documentary evidence produced before and having applied mind and considering the facts, documents and other evidence with care, do hereby publish award in accordance with Clause 5,17 and 18 of the INDRP Rules of Procedure and Clause 11 of .IN Domain Name Dispute Resolution Policy (INDRP), as follows:

***Arbitral Tribunal orders that the disputed domain name
www.adm9.in***

be forthwith TRANSFERRED from Respondent to Complainant.

Further AT takes an adverse view on the bad faith registration of impugned domain by the Respondent and to restrict the act for future misuse, fine of Rs 10000/- (Rs Ten thousand only) is being imposed on the Respondent, as per the provision in clause 11 of .IN Domain Name Dispute Resolution Policy (INDRP) to be paid to .IN Registry for putting the administration unnecessary work.

AT has made and signed this Award at Bhopal (India) on 10.03.2023 (Tenth Day of March, Two Thousand Twenty Three).

Place: Bhopal (India)

Date: 10.03.2023



(RAJESH BISARIA)

Arbitrator



(RAJESH BISARIA)