

తెలంగాణ తెలంగాణ TELANGANA

Sl.No: 7020; Date : 23-07-2022 Rs.100/-

Sold to: **Dr. VEDULA GOPINATH**

S/o Late V.K.CHENULU R/o HYD

For whom:SELF

 AU 367566

E.KOTI REDDY

LICENCED STAMP VENDOR

LIC No.15-11-031/2014,RL No.15-11-040/2020

H.NO. LIG-441, Road No-3, KPHB Colony

Kukatpally, Medchal-Malkajgiri Dist.

Cell: 9491628238

THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

Dr. Vedula Gopinath, Sole Arbitrator

Arbitration Award No. INDRP/1637, dated January 11, 2023

In the matter of Arbitration Between

Spectris plc 5th Floor Melbourne House,

44-46 Aldwych, London, WC2B 4LL UK Complainant

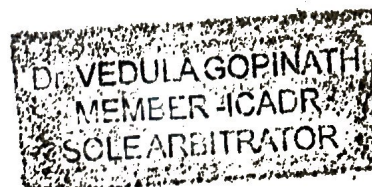
AND

Apex Consulting(Email:sunong@live.com) Respondent

No. 33, Tongji East Road, Chancheng District

FoShan City

Guangdong Province, China, Honkong



II. THE PARTIES : 1. Complainant's authorized representative in this administrative proceedings is Alejandro Fernandez, CSC Digital Brand Services Group AB b. Address: Drottninggatan 92-94, 111 36 Stockholm, Sweden

2. Respondent has not authorized any person for representation. Details of Respondent details in WHOISWHO are Apex Consulting (email) 33, Tongji East Road, Chancheng Dt. FoShan City Guangdong Province, China, Honkong

III. Disputed Domain Name and Registry.

a. The following is the name under dispute in these proceedings

spectris.co.in

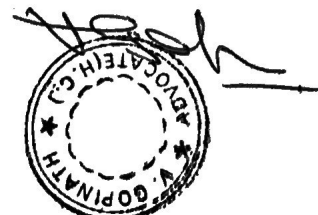
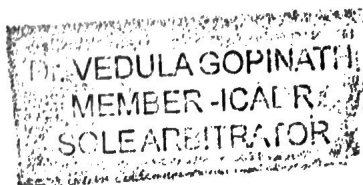
b. The Registry is National Internet Exchange of India (NIXI).

c. The name of the sponsoring Registrar is DYNADOT LLC.

IV. PROCEDURAL HISTORY / BACK GROUND :

1	21 ST Nov.2022	The .1N REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator from its panel as per paragraph 5 of INDRP Rules of Procedure.
2	Nov.21,2022	Consent of the Sole Arbitrator along with declaration was given to the .1N REGISTRY according to the INDRP Rules of Procedure.
3	Nov.21,2022	.1N REGISTRY sent an email to all the concerned intimating the appointment of arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexure was sent to Respondent.
4	November 23,2022	Notice of Arbitration was sent to all concern by the Sole .
4	November 24,2022	Notice was sent by Arbitrator to the Respondent by-mail directing him to file his response within 7 days, marking a copy of the same to the Complainant's representative and .1N Registry.

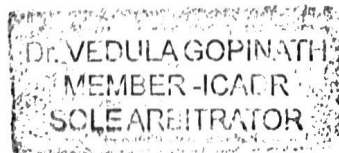
The pleadings are communicated through Electronic mail in English language.



V. COMPLAINANT'S DETAILS

1. The Complaint company Spectris was founded way back in 1915 and subsequently made sizeable developments. The company is manufacturer and supplier of quality instrumentation and industrial control products in Asia, Europe and North America. The complainant achieved a turnover of 1292 billions GBP in the year 2021 and maintain good progress of the turnover subsequently.
2. The Complainant has a number of Trademark and name registrations for SPECTRIS in various jurisdictions including UK, US, Australia, Benelux, Brazil, Canada, Chile, China, Germany, Hong Kong, India, Indonesia, Japan, South Korea, and Peru right from the year 1993... (more details are given in the Annexure E of the Complaint).
3. DOMAIN NAME REGISTRATIONS: DOMAIN NAME REGISTRATION DATE spectris.com 15.12.1998. The Complaint has domain names registered in various jurisdictions (details given as per Annexure I of Complaint)
4. Trademarks :

The Complainant has registered the Trade marks In India with the name SPECTRIS covering various goods under classification 9 and 42. The Complainant made similar registrations in various jurisdictions around the world. Thus name SPECTRIS has got good reputation and business goodwill in the market. All trade marks are currently valid.



Handwritten signature and initials.

11.

VI. COMPLAINANT'S CONTENTIONS

1. The Complainant states that in and around April 2022, the Complainant became aware of the Respondent's disputed domain name. On perusal of the disputed domain the Complainant noticed that the Respondent is using the disputed domain to redirect internet users to a website listing links to third-party websites (Pay-Per-Click). (details given as per Annexure F of complaint).

2. The Complainant submits that as of this date the Respondent continues to use the Disputed Domain Name containing the Complainant's registered trademark/trade name and the same content. the Complainant submits this Complaint which falls within the scope of the INDRP Policy.

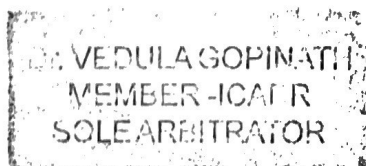
VII . GROUNDS OF APPEAL

A)

1. A. The Domain Name is identical and/or confusingly similar to the trade mark/service mark/trade name in which the Complainant has rights for the following reasons: [Para 3(b)(vi)(1) INDRP Rules of Procedure to be read with Para 3 of INDRP] . There is overwhelming evidence to prove that the Disputed Domain Name is identical to a trademark in which the Complainant has exclusive proprietary and common law rights.

2) Neither license nor authorization has been granted to the Respondent to make any use of the trademark, or apply for registration of the dispute

3) Further, the Complainant contends that the Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public and therefore is not making a legitimate, fair or bona fide use of the domain name. Further alleged that the Respondent registered the disputed name in bad faith.



A handwritten signature in black ink, appearing to be "V. Gopinath".

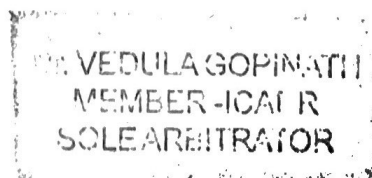
4, Respondent has no prior rights or legitimate interests in the disputed domain name. The registration of the SPEITRIS trademarks preceded the registration of the disputed domain for many years.

5. As per Paragraph 6 of INDRP Policy the Respondent committed the following default.

"by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location."

B. RESPONDENS CONTENTIONS.

The Respondent in-spite of Notices didn't submit any response. The Complainant has also served the complaint to the Respondent. The Respondent did not reply within a reasonable time. The Respondent appears to be preferring not replying to the notices and also do not have a valid counter argument.



VIII DISCUSSION AND FINDINGS / REASONING:

(I) .IN Domain Name Dispute Resolution Policy (INDRP).
The Arbitral Tribunal after examination of the matter in details arrived the following conclusion of Complainant's Compliance of INDRP Policy. In order to obtain the transfer of the Disputed Domain Name, Complainant should, accordingly, prove all the following three elements to paragraph 4 of the Policy.

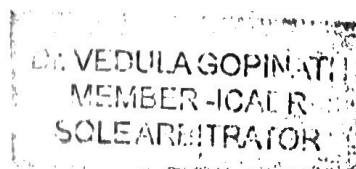
- (i)** The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii)** Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii)** The Disputed Domain Name has been registered and is being used in bad faith.

II. Further pursuant to paragraph 6 & 7 of INDRP Policy, the Respondent have no legitimate interest and the same have been used in bad faith.

The Complainant has proved the aforesaid aspects to the satisfaction of the Arbitral Tribunal.

III. The Complaint quoted few precedents to support their case and the Arbitral Tribunal is in agreement with the decisions of such cases.

iv. The Complainant had issued cease and desist notice to the Respondent, the response of which was not satisfactory and appears to be demanding higher amounts for transfer of the disputed name.



(V) In case of failure of default of Respondent in sending response or reply to the complaint, the Arbitrator is empowered to announce the judgment as he thinks proper and appropriate as per applicable laws.

(VI) The allegations levelled by Complainant against Respondent appears to have been proved basing on the evidential value of the documents submitted by complainant.

IX. In view of the foregoing discussion, the Arbitral Tribunal arrives at a Logical conclusion of accepting the prayer of the Complainant.

X. DECISION: For all the foregoing reasons, in accordance with paragraph 10 of the. INDRP, the Arbitral Tribunal orders that the Respondent shall cease to use the mark SPECTRIS and also the disputed Domain Name SPECTRIS.IN be transferred to the Complainant (SPECTRIS PLC). There is no order as to costs.

National Internet Exchange of India (NIXI) are advised to take ancillary and incidental action required for transfer of the disputed domain name in favour of the Complainant.

This is adjudicated.

Dated January 11, 2023


Dr. Vedula Gopinath

Sole Arbitrator

48-14-91 Vuda Marripalem Layout

Visakhapatnam 53009 AP India

