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Ch. Aruna Kumari
DA 347395

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L.No.03/11/005/20011RL.No.03/11//2020.
Prasanthinagar, Visakhapatnam
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BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)
.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

Dr. Vedula Gopinath, Sole Arbitrator

Arbitration Award No. INDRP/1652, Dated 23rd February, 2023

In the matter of Arbitration Between:

Morgan Stanley,
1585 Broadway,
New York, New York – 10036 USA

Complainant

...AND

Garima Pandey,
107, Heritage Tower,
Sector – 62, Gurugram,
Haryana 122002 India

Respondent



ARBTRAL TRIBUNAL
Dr. VEDULA GOPINATH
SOLE ARIBITRATOR

I. THE PARTIES:

a. Complainant:

M/s. Morgan Stanley, Authorised representative in the administrative proceedings is: Sujata Chaudhri IP Attorneys, 2106 Express Trade Towers 2, 1st Floor, B-36, Sector 132, Expressway. NOIDA, Uttar Pradesh. 201301.India

b. Respondent: Respondent has not authorised any legal representative.

II. DISPUTED DOMAIN NAME & REGISTRY

a) The following Domain name is the subject of this Complainant is MORGANSTANLEYINDIA.CO.IN.

b) The Registry is the National Internet Exchange of India (henceforth referred to as NIXI).

c) The sponsoring Registrar is Key-System GmbH

III. PROCEDURAL HISTORY / BACKGROUND:

January 19 th , 2023	The .IN REGISTRY appointed Dr Vedula Gopinath as Sole Arbitrator from its panel as per paragraph 5 of INDRP Rules of Procedure.
January 20 th , 2023	Consent of the Sole Arbitrator along with declaration was given to the .IN REGISTRY according to the INDRP Rules of Procedure.
January 19 th , 2023	.IN 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.
January 21 st , 2023	Notice of Arbitration was sent to all concerned by the Sole.
January 23 rd , 2023	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 .IN REGISTRY.

All proceedings are communicated through Electronic mail.



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IV. COMPLAINANT'S DETAILS:

- a) The Complainant in this administrative proceeding is Morgan Stanley., established in the year 1935. which is company incorporated and in New York, USA. The Complainant's contact details are as follows:
- b) The Complainant is claimed to leading provider of financial services globally. Morgan Stanley operates out of its headquarters in New York City, the United States of America, as well as regional offices and branches in financial hubs like Mumbai, India, Bengaluru, India, London, the United Kingdom, Tokyo, Japan, and Hong Kong Special Administrative Region. The Complainant employed more than 60,000 people globally and has offices in more than thirty countries, including India, as of November 2022.
- c) In its three business sectors, institutional securities, wealth management, and investment management, the company offers a comprehensive range of financial, investment, and wealth management services to a variety of clients, since its establishment in 1935. The complainant company has been listed with New York stock exchange and rated as Fortune 500 company.
- d) The Complainant has been using the mark 'MORGAN STANLEY' for several decades from 1935 and is registered of the said trademark in various countries, including India. The details of some of the registrations for 'MORGAN STANLEY' and STANLEY formative marks in India, are as follows:

TRADEMARK	REGISTRATION	REGISTRATION	CLASSES	STATUS
K	N	DATE	S	
MORGAN STANLEY	594285	April 18, 1993	16	Registered



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MORGAN STANLEY	1242410	October 10, 2003	36	Registered
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Copies of the Certificates / Status are given as per **Annexure 13** of the Complainant.

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The Complainant's first use of the mark 'MORGAN STANLEY' can be traced back to 1935. Since then the Complainant has expanded its business into various countries and has extensive use of the mark 'MORGAN STANLEY' around the globe.

- e) The services of the Complainant are widely available in India since 1993. The said services are marketed in India by the Indian subsidiaries of the Complainant. By virtue of this use, the relevant section of the public associates the trademark 'MORGAN STANLEY' with the Complainant alone.
- f) The Complainant, its subsidiaries and licensee in India alone have limited rights to use the trademark and trade name/corporate name 'MORGAN STANLEY' in India. No one other than those permitted by the Complainant can use 'MORGAN STANLEY' as a trademark or part of corporate name or in any manner whatsoever. The Complainant has not authorised any agency or individual to use its mark and brand.
- g) The Complainant has a very strong internet presence with the website www.morganstanley.com. The website can be accessed from anywhere in the world including India and provides extensive information on the activities of the Complainant throughout the world,.. Additionally, the Complainant also has country specific domain names such as morganstanleyindia.co.in for India. Upon clicking on morganstanleyindia.com.in the user gets re-directed to




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morganstanley.com. and t, these websites also provide details of services and authorised centres.

- h) It is evident that the Complainant has been using the trademark 'MORGANSTANLEY' since more than 85 years and has built an enviable reputation in respect of the said mark. By virtue of such mark 'MORGANSTANLEY' is well recognised amongst the public and can be termed as a well-known trademark. List of cases, wherein awards have been passed in favour of Complainant.


V. **RESPONDENT'S DETAILS:** The details of registration of disputed name have been given as per Annexure 18 of the Complaint

VI. **PARTIES CONTENTIONS:**

A. **COMPLAINANT:**

- (a) (i) The Complainant has alleged that domain name of the Respondents are identical and confusingly similar to their trademark 'MORGAN STANLEY' in which it has rights.
- (ii) The Complainant has alleged that respondents does not have rights or legitimate interest in respect of domain name and also the respondents have no registered trade mark rights of the said domain name. The complainant has alleged that respondents clearly intend to mislead potential customers of the complainant to its website.
- (iii) The Complainant has further alleged that the domain name is registered by the respondents and is used by them in bad faith.




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(iv) The Complainant has submitted that its trademarks are well known in India. The complainant has further alleged that the respondent's intentions is not to act in good faith but has got registered the disputed Domain name is bad faith.

(b) The Complainant (MORGAN STANLEY) doesn't have any business relationship with Respondent.

B. RESPONDENT:

The Respondent in spite of Notices didn't submit any response. As it appears the Respondent did not opt to reply at all.

VII. DISCUSSION FINDINGS AND REASONING:

(I) .IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)


In order to obtain the transfer of the Disputed Domain Name, Complainant should, according prove all the following three elements to paragraph of the Policy.

The Dispute Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;

- (i) Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (ii) The Disputed Domain Name has been registered and is being used in bad faithful.
- (iii) 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 satisfied with all the aforesaid elements.





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- (II) It has been contended that Respondent is only using the Disputed Domain Name in a way of create a likelihood of confusion in the minds of the public as to the source of the products and services offered on its website, and thus to misleadingly attract users to its website at complainant's detriment and to benefit from the MORGAN STANLEY trademark's goodwill.
- (III) The Complainant made a valid service of complaint to the Respondent. In case of failure of default of Respondent in sending response or reply to the complaint, the Arbitrator is empowered to announce the judgement as thinks proper and appropriate as per applicable laws.
- (IV) Without valid authorization or valid license the Respondent resorted to assertions of dealings in servicing of MORGAN STANLEY products and services and using MORGAN STANLEY mark which amounts to clear deceit and infringement of the mark.
- (V) The Complainant submitted list of decisions rendered in favour of the Complainant and the Arbitral Tribunal is in agreement with such decisions.

The Arbitral Tribunal noted that domains in which Registrar is Net4India Ltd. Is associated and , any direction for transfer of the domain in the INDRP Award shall be executed only upon its confirmation from National Company Law Tribunal (NCLT) as there is already a matter subjudice in NCLT against the Registrar Net4India Ltd




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VIII. In view of the forgoing discussion the Arbitral Tribunal arrives at a Logical conclusion of accepting the prayer of the Complainant.

IX. **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 "MORGAN STNALEY" and also the disputed Domain Name i.e., morganstanelyindia.co.in be transferred to the Complainant MORGAN STANLEY

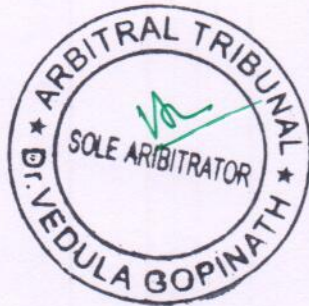
National Internet Exchange of India (NIXI) are advised to take incidental or ancillary action involved in the transfer of the Domain Name as directed.

This is adjudicated.

Visakhapatnam AP India

Dated 23rd February 2023

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Dr. Vedula Gopinath

Sole Arbitrator

Dr. VEDULA GOPINATH
B.L, F.C.S, F.I.C.A, Ph. D
Advocate High Court (H.C) & Arbitrator
Sai Krupa, HIG-15, D.No. 58-14-91,
VUDA Marripalem Layout, NAD Post,
Visakhapatnam - 530 009. (A.P.)