



सत्यमेव जयते

INDIA NON JUDICIAL

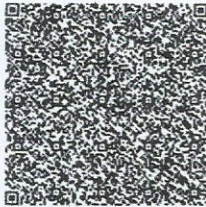
Government of National Capital Territory of Delhi

₹100

e-Stamp

Certificate No. : IN-DL75925871789454V
Certificate Issued Date : 15-Mar-2023 02:21 PM
Account Reference : SELFPRINT (PU)/ dl-self/ NEHRU/ DL-DLH
Unique Doc. Reference : SUBIN-DL DL-SELF23798135984223V
Purchased by : PRABODHA AGRAWAL
Description of Document : Article 12 Award
Property Description : INDRP CASE NO. 1664 - ARBITRATION AWARD
Consideration Price (Rs.) : 0
 (Zero)
First Party : PRABODHA KUMAR AGRAWAL
Second Party : NOT APPLICABLE
Stamp Duty Paid By : PRABODHA KUMAR AGRAWAL
Stamp Duty Amount(Rs.) : 100
 (One Hundred only)

₹100 ₹100 ₹100 ₹100



₹100

SELF PRINTED CERTIFICATE TO BE
 VERIFIED BY THE RECIPIENT AT
WWW.SHCIESTAMP.COM

IN-DL75925871789454V

Please write or type below this line

NATIONAL INTERNET EXCHANGE OF INDIA
 9th Floor, B-Wing, Statesman House
 148, Barakhamba Road,
 New Delhi – 110 001 India

Arris Enterprises LLC vs. Privacy, Shelton Street, London.
INDRP Case no. 1664
Arbitrator: Mr. P.K.Agrawal

24

1 | Page

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The name of the holder of the certificate is on the reverse of the certificate.

AWARD

1. The Parties

The Complainant is M/s Arris Enterprises LLC, 1100 CommScope Place, S.E. Hickory, North Carolina 28602.

The Respondent is Privacy, Shelton Street, London, WC2H9JQ, GB.

2. The Domain Name and Registrar

The disputed domain name is <**RUCKUSWIRELESS.IN**>. The said domain name is registered with the Registrar – Dynadot LLC (IANA ID: 472). The details of registration of the disputed domain name (as per WHOIS details relevant to the Complaint) are as follows:

- a. Domain ROID: D20159E6E69AD43DE9EA0335D0E6453BB-IN
- b. Date of creation: August 05, 2022.
- c. Expiry date: August 05, 2023.

3. Procedural History

- (a) A Complaint dated 30.11.2022 by the Complainant has been filed with the National Internet Exchange of India (NIXI). The Complainant has made the registrar verification in connection with the domain name at issue. The print outs confirmed that the Respondent is listed as the registrant and provided the contact details for the administrative, billing, and technical contact. The Exchange verified that the Complaint satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the “Policy”) and the Rules framed thereunder.
- (b) The Exchange appointed the undersigned Mr. P.K.Agrawal, Former Addl. Director General in the Government of India, as the sole Arbitrator in this matter. The Arbitrator finds that he has been properly appointed. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Exchange.
- (c) In accordance with the Policy and the Rules, the copies of complaint with annexures were sent by the National Internet Exchange of India on 01.03.2023 by email. The Arbitrator served the Notice under Rule 5(C) of INDRP Rules of procedure along-with copies of complaint and annexures

to the parties through email on 01.03.2023. The Complainant was advised to amend the complaint as per WHOIS details and send copy of the amended complaint (physical delivery) to the Respondent's address as reflected in WHOIS details. The Respondent was given 14 days' time by the Arbitrator through Notice dated 01.03.2023 for reply. The Notice email was served upon the Respondent email id given in WHOIS details, which was delivered. The Complainant submitted & served the amended complaint through email, and through "UPS" courier on 08.03.2023. The Complainant, through his email dated 08.03.2023 has submitted the proof of dispatch of the Complaint and annexures to the Respondent through UPS courier and Email. In view of this, the Complaint and its annexures may be regarded to have been served to the Respondents as per Arbitration and Conciliation Act, 1996 and INDRP rules. The Respondent has not responded to the Complaint nor submitted detailed reply or defence. Hence, these proceedings have to be conducted *ex parte*.

4. Factual Background

The Complainant in this arbitration proceedings is M/s Arris Enterprises LLC, 1100 CommScope Place, S.E. Hickory, North Carolina 28602.

As per complaint, Ruckus Networks (formerly known as Ruckus Wireless) started in 2002 with a focus on in-home IPTV content distribution over wireless networks. Ruckus designed an adaptive directional antenna technology, which was sold to other manufacturers to include in their products. Ruckus offers WiFi products such as indoor and outdoor access points, which have directional antenna technology and adjust to changes in radio frequency.

Arris International acquired Ruckus in 2017. CommScope acquired the Arris group in 2019. Arris has extensively used and made known its use of the RUCKUS Marks in association with a wide range of products and services at least as early as 2005.

Arris has invested substantial time, money, resources, and effort in creating, marketing, and maintaining its website located at commscope.com/ruckus. Arris also operates a page on Twitter ([<twitter.com/ruckusnetworks>](https://twitter.com/ruckusnetworks)) and Facebook ([<www.facebook.com/ruckusnetworks/>](https://www.facebook.com/ruckusnetworks/)). As a result of the extensive promotion and use of the RUCKUS Marks in connection with products and services, Arris has developed substantial goodwill and customer loyalty

under this trademark. The RUCKUS Marks are distinctive, widely recognized trademarks and all the RUCKUS Marks were registered and in continuous use prior to the Respondent's registration of the Domain Name.

The Complainant claims that Arris Enterprises LLC is the owner of the RUCKUS trademarks used in connection with wireless access and computer products. Arris has used the RUCKUS mark in commerce continuously since at least as early as 2005. Additionally, Arris is the owner of numerous registrations for the trademark RUCKUS in the United States and India. In particular, Arris is the owner of the following marks :

Mark	Country	Regn No.	Date
RUCKUS	USA	4408483	24.09.2013
RUCKUS	USA	4408484	24.09.2013
RUCKUS	USA	4408482	24.09.2013
RUCKUS ONE	USA	97/576539	2.09.2022 Appl
RUCKUS	INDIA	2510227	09.04.2013

According to the Complainant, in addition to the foregoing registrations, Arris owns the common law mark RUCKUS as used in connection with a wide range of other goods and services as displayed on the website www.commscope.com/ruckus. The foregoing RUCKUS trademarks are hereinafter jointly referred to as the "RUCKUS Marks."

Respondent's Identity and Activities

The Respondent's activities are not known as per WHOIS details. The Respondent has not responded to the Notice sent to him through email or courier. The Respondent has, therefore, not presented any substantive reply or evidence to defend himself.

5. Parties Contentions

A. Complainant

The Complainant contends that each of the elements specified in the Policy are applicable to this dispute.

In relation to **element (i)**, the Complainant submits that the disputed domain name <RUCKUSWIRELESS.IN> is confusingly similar to the ARRIS'S RUCKUS Marks.

The domain name RUCKUSWIRELESS.IN is confusingly similar to Arris's RUCKUS Marks pursuant to Policy 4(a). "If a well-known trademark was incorporated in its entirety, it is sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered mark." *HSBC Holdings PLC v. Hooman Esmail Zadeh, M-Commerce Ag*, Case No. L-2/5/R2 – HSBC.IN (INDRP, March 24, 2007) (holding *hsbc.in* to be confusingly similar to HSBC trademark); *Riot Games Inc. v. Thomas Lee*, Case No. 504 (INDRP, July 8, 2013) (holding respondent's unwarranted registration of the domain name identical to Complainant's trademark "is clearly an offence under laws of India"); *Google, Inc. v. Trillion Pay Ltd.*, Case No. 142 (INDRP, July 12, 2010) (holding domain name *doubleclick.in* that contains DOUBLECLICK mark in its entirety was confusingly similar to mark); *Bloomberg Finance L.P. v. Kanhan Vijay V*, Case No. 110 (INDRP, Sept. 8, 2009) (finding the domain name *Bloomberg.net.in* confusingly similar to the trademark BLOOMBERG).

The Domain Name contains Arris's entire RUCKUS mark and is identical or confusingly similar to the RUCKUS mark pursuant to Policy 4(a). Further, the use of the term "wireless" adds to the confusion because Arris sells wireless products under its RUCKUS Marks. Because the Domain Name is composed of the RUCKUS trademark in its entirety, the requirement of confusing similarity is met.

Accordingly, the Complainant contends that the first condition that Respondent's domain name is identical or confusingly similar to a name, trademark, or service mark in which the Complainant has rights, as per Paragraph 4 (a) of the Policy has been satisfied.

In relation to **element (ii)**, the Complainant contends that **the Respondent Does Not Have Any Right or Legitimate Interest in RUCKUSWIRELESS.IN.**

Respondent does not have any right or legitimate interest in RUCKUSWIRELESS.IN pursuant to Policy 4(b). The registration of a domain for the purpose of redirecting Internet users interested in another's products is not a *bona fide* offering of goods pursuant to the .IN Domain Name Dispute Resolution Policy 6(a). *Lorillard Licensing Co, LLC. V. Kevin Korho*, Case No. 518 (INDRP, Aug. 23, 2013) (outlining the rights and legitimate interest factors). Respondent has no legitimate right to the name pursuant to Policy 6(b) in that it has not received permission to use the mark and is offering the domain name for sale. Moreover, Respondent is not using the mark for legitimate non-commercial or fair use pursuant to Policy 6(c) because Respondent uses the site for commercial purposes.

4

(a) Respondent has not used the Domain Name in Connection with a Bona fide Offering of Goods or Services.

A respondent's use of a domain name to trick consumers into visiting its website instead of the trademark owner's site is not a *bona fide* offering of goods or services pursuant to Policy 6(a). See *McAfee, Inc. v. Shenglu*, Case No. L-2/2/R2 – mcafee.co.in (INDRP, Jan. 12, 2007) (holding no entity other than the trademark holder has any right or justification to use the trademark or any deceptively similar mark in respect of its domain name); see also *Emirates v. Inshallah Ltd*, Case No. 485 (INDRP, Aug. 1, 2013) (holding the use of another's trademark in a domain name "suggests that it is associated with a website affiliated with, or otherwise connected to Complainant" and that "Such a registration cannot be considered bona fide in nature or otherwise performed in good faith"). Indeed, the use of a domain name to forward Internet users to a third-party product page does not constitute a *bona fide* use of a domain name. *Seiko Epson Corporation and Epson America, Inc. v. H.M., LLC*, FA1008001341798 (Nat. Arb. Forum, Oct. 5, 2010) (holding use of amazon.com links to third parties who sold complainant's goods was not a *bona fide* offering of goods or services under Policy 7(i)).

Respondent does not have a *bona fide* interest in the domain name pursuant to Policy 6(a) in that its intent in registering the domain name was to divert traffic away from Arris and to commercially benefit through the sale of the Domain Name. The evidence shows that Respondent registered a domain name that has the commercial impression of the RUCKUS Marks. Consumers seeing that Domain Name in search results are likely to believe that the Domain Name and website are affiliated with Arris and its RUCKUS Marks (there is no connection to Respondent). Unsuspecting consumers attempting to visit Arris's Ruckus website are likely to visit Respondent's website because of the confusing name. When they arrive at Respondent's website, they are confronted with a website that offers to sell the Domain Name. That will confuse consumers who may mistakenly think Arris's Ruckus wireless business has gone out of business. Respondent, in turn, profits off the confusion through the proposed sale of the Domain Name. Profiting off of Arris's RUCKUS Marks is not a *bona fide* use – it constitutes trademark infringement and violates the .IN Domain Name Dispute Resolution Policy.

(b) Respondent has no Legitimate Right in the Domain Name because Arris has not granted Respondent Permission to use the Name.

Respondent has no legitimate rights pursuant to Policy 6(b) in that it is not commonly known by the mark and has not received Arris's

permission to use the mark, but is instead offering the name for sale. *BioNTech SE v. Xu Xiantao*, INDRP Case No. 1598 (INDRP, Nov. 3, 2022) (holding no legitimate rights where respondent did not use the domain name other than to list the name for sale); *Riot Games Inc. v. Thomas Lee*, Case No. 504 (INDRP, July 8, 2013) (holding respondent had no right or legitimate interest in the domain name riotgames.in where the trademark was not licensed or otherwise authorized by the trademark holder); *see also Lorillard Licensing Co, LLC. V. Kevin Korho*, Case No. 518 (INDRP, Aug. 23, 2013) (holding no legitimate right where registrant is not known by or licensed to use mark). A domain name registrant is presumed not to have a legitimate interest in a domain name where (1) Respondent is not a licensee of Complainant; (2) Complainant's prior rights in the domain name precede Respondent's registration; and (3) Respondent is not commonly known by the domain name. Policy 7(ii); *Emirates v. Inshallah Ltd*, Case No. 485 (INDRP, Aug. 1, 2013) (outlining circumstances to show lack of legitimate rights).

Respondent does not have a legitimate interest in the Domain Name. Arris has not licensed its RUCKUS Marks to Respondent. Arris's prior rights to the RUCKUS Marks precede Respondent's domain name registration. Additionally, there is no evidence Respondent is commonly known by the name RUCKUSWIRELESS. Indeed, the WHOIS information is listed as private and there is no information on the website other than the offer to sell. The domain name RUCKUSWIRELESS.IN clearly does not refer to Respondent.

(c) Respondent's Diversion of Traffic to a Commercial Website is not a Legitimate Use.

Respondent is also not using the domain name for a legitimate non-commercial or fair use pursuant to Policy 6(c) because the name is used commercially to compete against Arris and its sale of RUCKUS branded products. *McAfee, Inc. v. Shenglu*, Case No. L-2/2/R2 – mcafee.co.in (INDRP, Jan. 12, 2007) (holding use of domain name to commercially promote its business of general commerce was not a legitimate non-commercial or fair use).

As shown above, Respondent directs the domain name to a commercial website that offers to sell the Domain Name. Respondent is competing against Arris for traffic trying to legitimately reach Arris and its RUCKUS branded products. Respondent competes for that traffic by listing the Domain Name for sale and driving traffic to that site. That commercial use is not legitimate and there is no evidence the use is fair use. Indeed, the use of a brand to draw consumers to showcase a domain name for sale constitutes trademark infringement.

Based on the above-mentioned arguments, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, as per Paragraph 4 (b) of the Policy.

Regarding the **element (iii)**, the Complainant contends that the **Domain Name Has Been Registered and Used in Bad Faith**:

Respondent's registration of a domain name in association with Arris's RUCKUS Marks shows the registration was in bad faith. Further, Respondent's registration of a domain name with the actual knowledge of Arris's trademark rights in that name shows bad faith pursuant to Policy 7. *McAfee, Inc. v. Shenglu*, Case No. L-2/2/R2 – mcafee.co.in (INDRP, Jan. 12, 2007) (outlining bad faith factors). Respondent is offering to sell the Domain Name, which establishes bad faith pursuant to Policy 7(a). Because Respondent's registration of the Domain Name prevents Arris, the owner of the RUCKUS trademark, from reflecting its trademark in the corresponding domain name, Respondent has also acted in bad faith pursuant to Policy 7(b). Respondent's intentional attempt to attract Internet users to its website by using a name that is confusingly similar to RUCKUS is also in violation of Policy 7(c).

a) Respondent Registered the Domain Name in Bad Faith to Sell the Domain Name.

Respondent's registration of the Domain Name was in bad faith pursuant to Policy 7(a) because Respondent registered the Domain Name to sell the Domain Name for valuable consideration in excess of the Registrant's out-of-pocket costs directly related to the Domain Name. In this case, Respondent has offered to sell the Domain Name for 2900 GBP, well above the price to register the Domain Name. Indeed, by comparison, a .in domain name at Dynadot (the registrar at issue here) can be purchased for GBP 6.85 using the substitute domain name "infringingdomainname.in". This shows that the sale price of 2900 GBP is in excess of the out-of-pocket expenses and establishes bad faith.

b) Respondent Registered the Domain Name in Bad Faith Knowing of Arris's Trademark Rights in the RUCKUS Marks.

Respondent's registration of the Domain Name was in bad faith pursuant to Policy 7 because at the time the name was registered, Respondent was on notice of Arris's rights. "Registration of a domain name that is identical to a famous trademark by any entity, which has no relationship to that mark, is itself sufficient evidence of bad faith registration and use." *Riot Games Inc. v. Thomas Lee*, Case No. 504

(INDRP, July 8, 2013) (holding registration of riotgames.in was in bad faith because the domain name appeared to have been selected “precisely for the reason that it is identical to registered trademark of the Complainant”). “There is a legal presumption of bad faith when [a] Respondent reasonably should have been aware of Complainant’s trademarks, actually or constructively.” *Digi Int’l v. DDI Sys.*, FA124506 (Nat. Arb. Forum Oct 24, 2002). Regardless of actual knowledge, a respondent should have conducted a trademark search prior to the registration of the domain name. See *Edmunds.com, Inc. v. Ult. Search Inc.*, WIPO Case D2001-1319 (Feb 1, 2002) (holding the failure to conduct a trademark search considered an element of bad faith).

The evidence here shows Respondent had actual knowledge of Arris’s trademark rights in its RUCKUS Marks. There would be no reason to register a domain name with the trademark RUCKUS and combine that with the term “wireless” other than to trade on Arris’s trademark rights. *Lorillard Licensing Co, LLC. V. Kevin Korho*, Case No. 518 (INDRP, Aug. 23, 2013) (“Registration of a domain name that is confusingly similar or identical to a famous trademark by any entity, which has no relationship to that mark, is itself sufficient evidence of bad faith registration and use.”); *Immigration Equality v. Brent*, FA 1103571 (Nat. Arb. Forum Jan. 11, 2008) (“That Respondent proceeded to register a domain name identical to, and with prior knowledge of Complainant’s mark is sufficient to prove bad faith registration and use under Policy 6(ii).”).

Further, Respondent had constructive knowledge of Arris’s trademark rights in its RUCKUS Marks prior to the registration of the Domain Name. Arris’s RUCKUS Marks were registered in India, the United States of America, and other countries throughout the world at the time the domain name was registered. Respondent was thus on constructive notice of Arris’s trademark rights in and to the RUCKUS Marks at the time the name was registered. *Bloomberg Finance L.P. v. Kanhan Vijay V*, Case No. 110 (INDRP, Sept. 8, 2009) (holding the Respondent “should have done due diligence before registering the domain name incorporating the mark ‘Bloomberg’ of the Complainant”). Respondent’s registration of the Domain Name was years after Arris began using its RUCKUS mark. Arris’s worldwide publicity of that mark along with its registrations in India and around the world show that Respondent’s sole basis for registration was to trade on the goodwill of that mark. On that basis alone, Respondent’s registration of a confusingly similar domain name shows bad faith.

c) Respondent Acted in Bad Faith when It Prevented Arris from Reflecting its Mark in the Corresponding Domain Name.

Respondent acted in bad faith pursuant to Policy 7(b) by preventing Arris from reflecting its RUCKUS trademark in the corresponding ruckuswireless.in domain name. The use of a domain name to direct users to a website prevents the trademark holder from capturing that traffic. *Bacarrat SA v. Doreen Jungnickel/Darious Herman Domcreate*, Case No. 018 (INDRP, Oct. 6, 2006 (holding use of domain name in connection with SEDO parking page “prevented the owner of the trademark from using the mark in a corresponding domain name.”

Respondent’s use of the Domain Name is to divert traffic away from Arris’s own website to Respondent’s website. Respondent and Arris compete for the same consumers who are searching for products / services under the RUCKUS Marks. By registering a domain name that contains those marks, Respondent directly competes against Arris for that traffic. Respondent’s registration and use of the domain name prevents Arris from using its own mark in connection with the corresponding ruckuswireless.in domain name. Further, Respondent has engaged in a pattern of bad faith conduct. First, Respondent registered the name, then Respondent offered to sell the name. That pattern of conduct shows Respondent’s bad faith.

In view of the aforesaid, the Complainant submits that the disputed domain name has been registered and is being used in bad faith, and that paragraph 4(c) of the INDRP is satisfied.

B. Respondent

The Respondent has not responded to the complaint. He has not submitted any evidence or argument indicating his relation with the disputed domain name < **RUCKUSWIRELESS.IN** > or any trademark right, domain name right or contractual right.

6. Discussion and Findings

The Rules instruct this arbitrator as to the principles to be used in rendering its decision. It says that, “a panel shall decide a complaint on the basis of the statements and documents submitted by the parties in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any rules and principles of law that it deems applicable”.

According to the Policy, the Complainant must prove that:

- (i) The Registrant’s domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;



- (ii) The Registrant's has no rights or legitimate interests in respect of the domain name that is the subject of Complaint; and
- (iii) The Registrant's domain name has been registered or is being used in bad faith.

Although Respondent has not offered any arguments to defend himself on this complaint, the default does not automatically result in a decision in favour of the Complainant. The burden remains with Complainant to establish the three elements of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

The disputed domain name <RUCKUSWIRELESS.IN> was registered by the Respondent on August 05, 2022.

The Complainant is an owner of the registered trademark "RUCKUS" for the last many years. The Complainant is also the owner of the similar domains as referred to in the Complaint. These domain names and the trademarks have been created by the Complainant much before the date of creation of the disputed domain name by the Respondent. In the present case the disputed domain name is <RUCKUSWIRELESS.IN>. Thus, the disputed domain name is very much similar to the name, activities and the trademark of the Complainant.

The Hon'ble Supreme Court of India has held that the domain name has become a business identifier. A domain name helps identify the subject of trade or service that an entity seeks to provide to its potential customers. Further that, there is a strong likelihood that a web browser looking for "RUCKUS" products would mistake the disputed domain name as of the Complainant.

In the case of *Wal Mart Stores, Inc. v. Richard MacLeod*, (WIPO Case No. D2000-0662) it has been held that "When the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name" it is identical or confusingly similar for purposes of the Policy.

Therefore, I hold that the domain name <RUCKUSWIRELESS.IN> is phonetically, visually and conceptually identical or confusingly similar to the trademark of the Complainant.

B. Rights or Legitimate Interests

The Respondent may demonstrate its rights to or legitimate interest in

the domain name by proving any of the following circumstances:

- (i) 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; or
- (ii) 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
- (iii) The Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In Case No. INDRP/776, *Amundi v. GaoGou*, the arbitration panel found that the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4 (II) of the INDRP Policy.

The Respondent has not responded with a detailed reply in this case despite sufficient notice. There is no evidence to suggest that the Respondent has been known by the disputed domain name anywhere in the world. The name of the Registrant / Respondent is not RUCKUS or RUCKUSWIRELESS as per WHOIS details. Based on the evidence adduced by the Complainant, it is concluded that the above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

Further, the Complainant has not consented, licensed, or otherwise permitted the Respondent to use its name or trademark "RUCKUS" or to apply for or use the domain name incorporating said trademark. The domain name bears no relationship with the Registrant. Further that, the Registrant has nothing to do remotely with the business of the Complainant.

As has been contended by the Complainant, the Respondent is not making a legitimate, fair or *bona fide* use of the said domain name for offering goods and services. The Respondent registered the domain name for the sole purpose of creating confusion and misleading the general

public.

I, therefore, find that the Respondent has no rights or legitimate interests in the domain name < RUCKUSWIRELESS.IN> under INDRP Policy, Para-4(ii).

C. Registered and Used in Bad Faith

Any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of 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 in excess of the Registrant's documented out of pocket costs directly related to the domain name; or
- (ii) the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or
- (iv) by using the domain name, the Registrant has intentionally attempted to attract the 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.

The contention of the Complainant is that the present case is covered by the circumstances mentioned herein above. There are circumstances indicating that the Respondent has intentionally attempted to attract, for commercial gain, internet users to its web site, by creating a likelihood of confusion with the Complainant's mark. It may also lead to deceiving and confusing the trade and the public.

In WIPO Case No. D2007-1695, Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe - "Respondent's use of a domain name confusingly similar to Complainant's trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use."

The circumstances as evident from the foregoing paragraphs lead to the conclusion that the domain name in dispute was registered and used by the Respondent in bad faith.

7. Decision

In light of the foregoing findings, namely, that the domain name is confusingly similar to the trademark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the domain name was registered in bad faith and is being used in bad faith, it is clear beyond doubt that the Respondent has violated the provisions of Rule-3 of the Policy. Therefore, in accordance with the Policy and the Rules, the Arbitrator orders that the domain name <RUCKUSWIRELESS.IN> be transferred to the Complainant.

No order to the costs.



Prabodha K. Agrawal
Sole Arbitrator

Dated: 16th March, 2023