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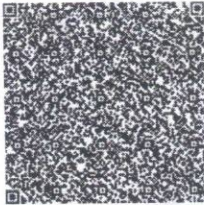
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Certificate Issued Date : 09-Jan-2023 03:11 PM
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Property Description : ARBITRAL AWARD UNDER INDRP RULES
Consideration Price (Rs.) : 0
(Zero)
First Party : SRIDHARAN RAJAN RAMKUMAR
Second Party : SRIDHARAN RAJAN RAMKUMAR
Stamp Duty Paid By : SRIDHARAN RAJAN RAMKUMAR
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BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME

DISPUTE RESOLUTION POLICY

INDRP ARBITRATION

THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]

INDRP CASE NO: 1635

ARBITRAL TRIBUNAL CONSISTING OF SOLE ARBITRATOR

SRIDHARAN RAJAN RAMKUMAR, ADVOCATE, DELHI HIGH COURT

**COMPLAINT UNDER .IN DOMAIN NAME DISPUTE RESOLUTION
POLICY (INDRP)**

IN THE MATTER OF:

Farfetch UK Limited

...Complainant

The Bower, 211 Old Street

London, England

EC1V9NR

Email: louisa.farrer-Fisher@farfetch.com

Versus

Endurance Digital Domain Technology LLP

...Respondent

2321 George Street Ocala, 24471, US

ARBITRATION AWARD

I. THE PARTIES

1. COMPLAINANT

The Complainant in this administrative proceeding is **Farfetch UK Limited** (hereinafter referred to as "*The Complainant*"), a corporation incorporated



under the laws of England and Wales under company no 06400760 whose registered office is at The Bower, 211 Old Street, London, England, EC1V 9NR which has filed the present complaint under rules framed under the INDRP.

2. RESPONDENT

The Respondent in this administrative proceeding is Endurance Digital Domain Technology LLP of the address 2321 George Street Ocala, 24471, US. A copy of the DNS UK domains.google.com search result in respect of the Domain Name, conducted on 14 June 2022 was annexed with the amended Complaint and marked as **Annex 5**.

The Respondent's contact details are:

Name: Endurance Digital Domain Technology LLP
Address: 2321 George Street Ocala, 24471, US
Telephone: (+001).352459724

The Respondent did not engage any counsel / advocate in the present administrative proceeding and neither did the Respondent file any reply to the instant domain complaint. Hence, this Complaint has been proceeded ex-parte.

II. THE DOMAIN NAME AND REGISTRAR:

The Disputed Domain Name is: farfetch.co.in

The Disputed Domain Name is registered with IN Registry.



III. PROCEDURAL HISTORY:

18 th July June 2022 (updated on 11 th November, 2022)	Date of Complaint
10 th November 2022	Sole Arbitrator appointed to adjudicate the dispute
11 th November 2022	Amended Complaint along with Amended Annexures filed and also served on Respondent by the Complainant
26 th November 2022	Pleadings completed as Respondent failed and neglected to file its response to the domain complaint within 15 days' time period which commenced on 11/11/2022

Hence this award is proceeded with on basis of the available pleadings and documents only.

IV. TRADEMARK OF THE COMPLAINANT:

It was submitted that the Complainant owns numerous trade marks for 'FARFETCH', advertises extensively under the brand and had revenue of \$2.3 billion in 2021 (the vast majority of which is attributable to the 'Farfetch' brand). It was submitted that the group of companies associated with Farfetch make use of 'Farfetch' in their company names, and the group uses 'farfetch.com' as its primary top level domain name. The Complainant has provided herein below the Complainant's select trademark registrations for the FATFETCH Mark in jurisdictions, including in India, details of which are as follows:

Mark	Registration No.	Date of Filing	Classes
FARFETCH	1148755	25 October 2012	35, 41 and 42



FARFETCH	1280050	25 February 2015	9, 35, 36, 39, 41, 42 and 45
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A copy of relevant trade mark databases in respect of the above trade marks was annexed with the amended complaint and marked as **Annex 7**.

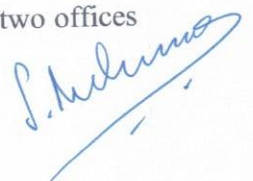
It was submitted that the Complainant owns the domain names www.farfetch.com/in, and numerous Farfetch country specific domains deriving from the top-level domain www.farfetch.com such as: www.farfetch.com/uk, www.farfetch.com/br, www.farfetch.com/de, www.farfetch.com/pk. Screenshots of www.farfetch.com/in.

V. FACTUAL AND LEGAL BACKGROUND:

ABOUT THE COMPLAINT

1. It was submitted that the Complainant's business was founded in 2007 by José Neves, and has traded as Farfetch since this date. Farfetch began as an e-commerce marketplace for luxury boutiques around the world. Today, Farfetch connects customers in over 190 countries and territories with items from more than 50 countries, including India, and over 1,400 of the world's best brands, boutiques and department stores. Farfetch owns numerous trade marks for 'FARFETCH', advertises extensively under the brand and had revenue of \$2.3 billion in 2021 (the vast majority of which is attributable to the 'Farfetch' brand). It was submitted that the group of companies associated with Farfetch make use of 'Farfetch' in their company names, and the group uses 'farfetch.com' as its primary top level domain name. Copy of the Complainant's incorporation certificate has been filed with the amended Complaint and marked as **Annex 1**.
2. It was submitted that the Complainant launched its website www.farfetch.in, which redirects to www.farfetch.com/in on or about 31 March 2010 as evidenced by DNS UK domains.google.com search result. Copy of the relevant webpage with the search result has been filed with the amended Complaint and marked as **Annex 2**.

3. It was submitted that the Complainant website www.farfetch.in, generates a large number of visits per year from numerous countries around the world. The total number of sessions initiated at the homepage of www.farfestch.com between 01 January 2015 and 25th May, 2021 was 2,239,020,915 with 35,209,514 sessions initiated in India, evidence of which could be provided by the Complainant. It was further averred that the Complainant has made considerable investments in the Indian market, and has two offices in Bangalore and Gurgaon Farfetch and that the Complainant had paid service fees of 51,507,883 INR in respect of these two offices in quarter one of 2022 as evidenced by the invoice at **Annex 3**. It was submitted that Farfetch currently had approximately £8,697.39 worth of commissions approved or pending in India over the period of January 2020 to January 2022.
4. It was further, submitted that the Complainant has spent a considerable amount on marketing over the last few years, which has translated in the year 2020 to an increase in revenues by 64%. That an example of the said marketing was available at **Annexure 4** to the Complaint, which shows recent Vogue articles, as well as media coverage within India. It was submitted that the Complainant also ran a media campaign with UNIDAYS within India, valued at £3,500, as evidenced by the agreement and corresponding insertion order invoice at **Annexure 4** to the Complaint.
5. It was submitted that the Complainant's website www.farfetch.com generates a large number of visits per year from numerous countries around the world. It was submitted that the total number of sessions initiated at the homepage of www.farfetch.com between 01 January 2015 and 25 May 2021 was 2,239,020,915, with 35,209,514 sessions initiated in India, evidence of which can be provided upon request. It was submitted that for the Complainant's Indian specific site www.farfetch.com/in, in the previous 10 days from 31 May 2022 received 325 visitors.
6. It was submitted that the Complainant has made considerable investments in the Indian market, and has two offices in Bangalore and Gurgaon. It was submitted that Farfetch paid service fees was 51,507,883 INR in respect of these two offices



in quarter one of 2022 as evidenced by the invoices. It was submitted that the Farfetch currently has £8,697.39 worth of commissions approved or pending in India over the period of January 2020 to January 2022. Copy of the relevant invoices and report has been filed with the amended Complaint and marked as **Annex 3**.

7. It was submitted that the impugned domain name as per DNS UK domains.google.com search result was registered by the Complainant on May 1, 2014 and that the dispute is within the scope of the Policy and the panel has jurisdiction to decide the dispute. Copies of search result as per DNS UK domains.google.com was filed as Annex 5 and copy of the terms and conditions of the Policy was filed as **Annex 6**.

LEGAL GROUNDS

The Complainant relied upon the following grounds in support of the Complaint and its claim:

A. The domain name(s) <farfetch.co.in> is identical to the FARFETCH Mark in which Complainant has rights:

- (i) It was submitted that the Complainant owns numerous trade marks for FARFETCH around the world including, for example:
- (a) International trade mark number 1148755 for FARFETCH in classes 35, 41 and 42 registered with effect from 25 October 2012;
 - (b) International trade mark number 1280050 designating India in classes 9, 35, 36, 39, 41, 42 and 45 registered with effect from 25 February 2015;
- (ii) A copy of relevant trade mark databases in respect of the above trade marks was annexed with the amended complaint and marked as **Annex 7**.

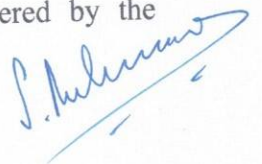


- (iii) It was submitted that the Complainant is a global platform for luxury fashion which owns the domain names www.farfetch.com/in, and numerous Farfetch country specific domains deriving from the top-level domain www.farfetch.com such as: www.farfetch.com/uk, www.farfetch.com/br, www.farfetch.com/de, www.farfetch.com/pk. Copy of the screenshots of the domain name has been filed with the amended Complaint and marked as **Annex 8**. Copy of the DNS UK domains.google.com search result in respect of www.farfetch.in, conducted on 14 June 2022 has been annexed with the amended complaint and marked as **Annex 2**. It was submitted that whilst these have also been redacted for privacy, these show that Farfetch has registered www.farfetch.com since 29 May 2003 and www.farfetch.in since 31 March 2010.
- (iv) It was submitted that infringing Domain Name incorporates the well-known FARFETCH trade mark in its entirety. Consequently, the Domain Name may be considered as identical to the FARFETCH trade marks which heavily implies the site is operated either by the Complainant, or in affiliation with the Complainant. It was submitted that there is nothing in the Domain Name which would dispel confusion with the FARFETCH trade marks.
- (v) It was submitted that The Domain Name is being used for goods which are highly similar to those covered by the Complainant's registered trade marks: namely fashion goods and services, including but not limited to, "promoting the goods and services of others", "operating and providing on-line marketplaces for sellers and buyers of goods and services" in class 35. It was submitted that the Respondent's website features advertisements for "online store", "online seller platforms" and refers to the sale of "designer bags". It was submitted that there are not affiliated with the Complainant. Copy of the extract of the Domain Name website has been filed with the amended Complaint and marked as **Annex 9**. It was submitted that there is therefore a strong likelihood of confusion given the similarity of the goods being offered by the Respondent.



B. The Respondent has no rights or legitimate interests in respect of the domain name <farfetch.co.in>:

- (i) It was submitted that the Respondent has no rights or legitimate interest in respect of the Domain Name.
- (ii) It was submitted that Respondent (as an individual, business or part or whole of any organization) has not been commonly known by FARFETCH. It was submitted that the word FARFETCH denotes solely the Complainant and its products.
- (iii) It was submitted that the Respondent has no registered trade mark for the word FARFETCH.
- (iv) It was submitted that the Respondent has no relationship with the Complainant or permission to use its trademarks: the Complainant has not licensed or otherwise permitted the Respondent to use any of its trade marks, or to register any domain name incorporating the FARFETCH trade marks. It was submitted that the Complainant has not consented to associate its FARFETCH mark with the material on the Respondent's website. Copy of the relevant screenshot of the webpage of the Domain Name website showing the word FARFETCH has been filed with the amended Complaint and marked as **Annex 9**.
- (v) It was submitted that none of the grounds established by Paragraphs 6(a) to (c) of the Policy for a finding of legitimate interest in respect of the Domain Name on the part of the Respondent are met.
- (vi) It was submitted that the ground at Paragraph 6(a) of the Policy is not met as the Respondent has neither used nor demonstrated preparations to use the Domain Name in connection with a bona fide offering of goods or services. It was submitted that as described at paragraph 23 of this Complaint, the Domain Name is being used for goods which are highly similar to those covered by the

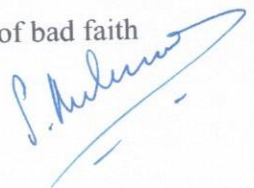


Complainant's registered trade marks with no attempt made to differentiate those goods from the goods of the Complainant.

- (vii) It was submitted that the ground at Paragraph 6 (b) of the Policy is not met as the Respondent has not been commonly known by the Domain Name. It was submitted that for the reasons set out at paragraphs 2 to 8 of this Complaint in combination with the evidence contained in the annexes mentioned therein, the Complainant has association in the mind of the public with the Domain Name.
- (viii) It was submitted that ground at Paragraph 6(c) of the Policy is not met as the Respondent is not making a legitimate non-commercial or fair use of the domain name, without the intention of commercial gain by misleading or diverting consumers or to tarnish the Trademark or Service Mark at issue. It was submitted that as described at paragraph 23 of this Complaint, the Domain Name is being used for commercial gain by misleading consumers into believing the goods offered for sale are those of the Complainant.

C. The domain name <farfetch.co.in> was registered or is being used in bad faith:

- (i) It was submitted that the Domain Name has been used to attempt to attract, for commercial gain, internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's FARFETCH trade mark as to the source, affiliation or endorsement of the Respondent's website. It was submitted that constitutes bad faith as provided for in paragraph 7(c) of the Policy.
- (ii) It was submitted that the Complainant has no control over the website operated by the Respondent, content could be produced which would damage the reputation of the FARFETCH trade marks. It was submitted that the public are likely to attribute the domain to the Complainant along with the activities conducted under the domain and the products promoted on it. It was submitted that Paragraph 7(b) of the Rules specifically identifies as indicative of bad faith



circumstances where 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.

- (iii) It was submitted that the word FARFETCH denotes the Complainant, and products originating from the Complainant. The Complainant believes it is impossible that the Respondent could not know of the Complainant's rights since the FARFETCH mark is so well known globally and has become distinctive of the goods and services in relation to which the Complainant operates.
- (iv) It was submitted that the Domain Name has evidently been registered in an opportunistic attempt to benefit from the well-known nature of the FARFETCH trademarks, and deceive internet users in order to either draw in custom directly, or attract hits on revenue generating advertisements.
- (v) It was submitted that the Respondent is unfairly benefitting from the goodwill and reputation in the Complainant's trade mark, and is clearly and indefensibly using the Domain Name in bad faith.
- (vi) It was submitted that given the similarity to the FARFETCH mark it is to be inferred that it was also registered in bad faith, as required by paragraph 4(c) of the Policy. It was submitted that the Panels adjudicating on alternative ccTLDs have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trade mark, such as the FARFETCH, by an unaffiliated entity can by itself create a presumption of bad faith (see paragraph 3.1.4 of WIPO Overview 3.0).

IV. PARTIES CONTENTIONS:

A. COMPLAINANT

- (a) The Domain Name is identical or confusingly similar to a Trademark of the Complainant;
- (b) Respondent had no legitimate interest in the domain name;
- (c) Respondent had registered the domain name in bad faith.



B. RESPONDENT

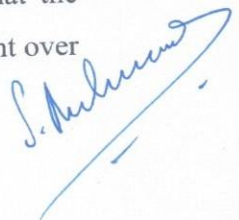
The Respondent did not file its reply to contest the claims of the Complainant and thus this award is based on pleadings and documents filed by the Complainant only.

V. DISCUSSION AND FINDINGS:

The INDRP (.IN Domain Name Dispute Resolution Policy), adopted by NIXI, provides that a domain name owner must transfer its domain name registration to a complainant/trademark owner if:

- i. The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant have rights;
- ii. The Registrant has no rights or legitimate interests in respect of the domain name; and
- iii. The Registrant's domain name has been registered or is being used in bad faith.

I have gone through the pleadings i.e., the Complaint filed by Complainant. I have also gone through the document filed by the Complainant with its Complaint. I have also gone through the case laws cited by the Complainant with the Complaint. After giving due consideration to pleadings, documents, fact and legally settled principles, I hold that in the present case all three requirements for transfer of the disputed domain name have been met. I further hold that the disputed domain name of the Respondent is visually, phonetically, structurally and conceptually deceptively similar to the trademark and domain name of the Complainant over which the Complainant, who is the registered proprietor of trademarks FARFETCH and the owner of the domain name < farfetch.co.in >, has absolute and sole rights. I hold that that the mark FARFETCH is exclusively and solely associated and recognized with the Complainant. I hold that due to such exclusive association of the FARFETCH mark with the Complainant, and also considering the registered domain name < www.farfetch.co.in > of the Complainant, the Complainant alone has the right to utilize the mark FARFETCH as a domain name registered with .IN Registry. I hold that the Respondent is not entitled to register the disputed domain name as he has no right over



the FARFETCH trademark in India and the same is associated only with the Complainant.

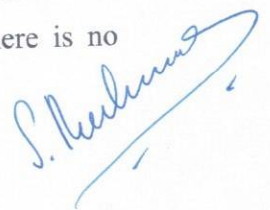
A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

- a. I find that the ownership of the Complainant over the FARFETCH trademark is firmly established. Therefore, I find that sufficient grounds are made out to hold that the disputed domain name <www.farfetch.in> of the Respondent is identical or confusingly similar to the Complainant's trademark FARFETCH in which the Complainant has international prior rights and trans-border reputation in India, and the prior and registered domain name <www.farfetch.in>. Hence, I hold that the requirements of Paragraph 4(a) of the INDR Policy as well as Paragraphs 4(b)(v-vi) of the INDRP Rules are satisfied.
- b. I hold that the disputed domain name is confusingly similar to the FARFETCH mark of the Complainant as it expropriates the entirety of the Complainant's registered marks and contains no other distinguishing factors.
- c. Therefore, in view of the above said findings, I hold that the requirements of Paragraph 4(a) of the INDR Policy as well as Paragraphs 4(b)(v-vi) of the INDRP Rules are suitably established.

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

I hold that the Complainant has successfully demonstrated by way of its Complaint that the Respondent has no right or legitimate interest in the disputed domain name <www.farfetch.in> for the following reasons:

- a. I find that the Complainant has never consented to Respondent's use of its trademarks in connection with any domain name. I find that there is no affiliation or connection between the Complainant and Respondent.

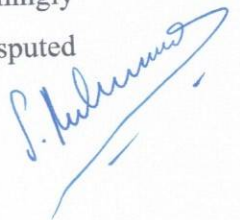


- b. I find that the Respondent has no legitimate rights or interest in the domain name. I find that the Respondent does not appear to be operating a legitimate business or use the domain in connection with a bona fide offering of goods and services. I find that the Respondent is operating a website at the domain that only contains pay-per-click advertising for competitive legal services.
- c. I find that the Respondent is not commonly known by the domain name and the website hosted at the disputed domain contains no information that would suggest the Respondent has commonly used the domain name.
- d. I find that the Respondent began using the disputed domain name with knowledge of the Complainant's trademarks with the intent to profit off the mark by misleading consumers and by selling the disputed domain name to the Complainant for profit.
- e. Therefore, in view of the aforesaid findings, I hold that the Respondent has no rights and legitimate interests in in respect of the disputed domain name under the provisions of Paragraph 4(b) and Paragraph 6 of .IN Policy and Paragraph 4(b)(vi) of the .IN Rules.

C. The domain name was registered and is being used in bad faith

I hold that the Respondent had registered the impugned domain name in bad faith as per Paragraph 7(c) of the INDRP for the following reasons:

- a. I find that the Respondent registered and is using the disputed domain name in bad faith by creating a likelihood of confusion with the Complainant's FARFETCH mark as to the source, sponsorship, affiliation, and endorsement of Respondent's site.
- b. For aforesaid reasons, I hold that the facts and evidence overwhelmingly support the conclusion that the Respondent has registered the disputed



domain name in bad faith and the requirements of Paragraphs 4(c) and 7 of the .IN Policy and Paragraph 4(b)(vi) of the .IN Rules are satisfied.

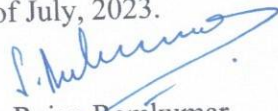
VI. DISCUSSION AND FINDINGS:

The INDRP (.IN Domain Name Dispute Resolution Policy), adopted by NIXI, provides that a domain name owner must transfer its domain name registration to a complainant/trademark owner if:

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

VI. DECISION:

- a) In view of the above facts and circumstances, it is clear that the Complainant had succeeded in its complaint.
- b) That the .IN Registry of NIXI is hereby directed to transfer the domain name/URL of the Respondent "**www.farfetch.co.in**" to the Complainant;
- c) In the facts and circumstances of the case no cost or penalty is imposed upon the Respondent. The Award is accordingly passed on this 10th day of July, 2023.


Sridharan Rajan Ramkumar
Sole Arbitrator

Date: 10/01/2023