



सत्यमेव जयते

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Purchased by : RAJESH KUMAR
Description of Document : Article 12 Award
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Second Party : Not Applicable
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ARBITRATION AWARD

BEFORE SH. SAJAL KOSER, SOLE ARBITRATOR, CHANDIGARH

INDRP CASE NO. 1830 OF 2024

DISPUTED DOMAIN NAME: <INDOSTEEL.IN>

RD 0021298335

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**INDUSTEEL France, Immeuble La Pacific – la defense 7, 11-13,
Cours Valmy, 92800 Puteaux France.**

...Complainant

Versus

**Harvans Lal, C-121, Srs City, Sector 6, Palwal, Palwal, Haryana
121102 India.**

...Respondent

1. INTRODUCTION:

The above titled complaint was submitted to the undersigned for Arbitration in accordance with the .IN Domain Dispute Resolution Policy (INDRP), and the INDRP Rules of Procedure framed there under.

2. PROCEDURAL HISTORY:

- i) In response to the email dated 13.03.2024, appointing undersigned as an Arbitrator vide email dated 13.03.2024, the undersigned submitted Statement of Acceptance and Declaration of Impartiality and Independence.
- ii) The Notice to the Respondent was issued on 16.03.2024, calling upon him to submit any response/reply within the stipulated period of 15 days.
- iii) In response to the notice and the Complaint, the Respondent vide email dated 29.03.2024 has submitted his response and vide order dated 29.03.2024, 5 days time was given to the Complainant to submit its response (if any) but the Complainant has not stated anything further except what has been stated in the complaint. In view of the facts, documents



on record and the response submitted by the Respondent, the following award is being passed.

3. **FACTUAL AND LEGAL GROUNDS:**

As per the averments made in the Complaint, the Complainant, "INDUSTEEL", is a subsidiary of ArcelorMittal, specializing in the production of hot-rolled and forged steel sheet, ingots and formed parts, and offering the widest range of sheet sizes in the world. Complainant further states that groups together 6 production sites with a long tradition of metallurgical know-how and different product specialties, and employs over 2,000 people. With almost 200 years of experience in metallurgy, INDUSTRIEEL operates worldwide with 40 sales offices in 40 different countries, namely India, and is one of the leading international steel manufacturers and in support of these averments; the Complainant has annexed documents/brouchure as **Annexure 2**. The Complainant has further submitted that it owns several trademarks including the wording "INDUSTEEL" in several countries, including in India, such as the Indian trademark "INDUSTEEL" Application no. 962044, class 6 registered since October 9th, 2000 and this is evident from **Annexure 3** in the Complaint. The Complainant has also submitted that it owns and communicates on Internet through various domain names, such as <industeel.fr> registered since March 17th, 2004. According to the Complainant, the disputed domain name <INDOSTEEL.IN> was registered on January 2nd, 2024 and resolves to a website selling competing products. The Complainant has submitted Annexure 5 in this regard.

As per INDRP policy, clause/para 4 requires for the complainant to establish the following 3 requisite conditions.

- a) *The disputed domain name is identical or confusingly similar to the trademark in which Complainant has right, and*
- b) *The respondent has no rights or legitimate interest in the domain name, and*
- c) *The respondent's domain name has been registered or is being used in bad faith.*

According to the Complainant, the disputed domain name <INDOSTEEL.IN> is confusingly similar to the trademark INDUSTEEL, as it incorporates the trademark in its entirety. The obvious misspelling of the Complainant's trademark "INDUSTEEL" (i.e. the substitution of the letter "U" by the letter "O") is characteristic of a typo squatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain names. The Complainant is relied upon various decisions in support of its above contention. Furthermore, the Complainant contends that the addition of ".IN" is not sufficient to escape the finding that the domain is identical to its trademark MITTAL and does not change the overall impression of the designation as being connected to the trademarks of the Complainant.

Therefore, the Complainant contends that the disputed domain name <INDOSTEEL.IN> is confusingly similar to its trademarks.

The other ground the Complainant has taken is that the Respondent has no rights or legitimate interests in respect of the domain name; According to the Complainant, 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 Complainant has contended that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the trademark, or apply for registration of the disputed domain name by the Complainant. Furthermore, according to the Complainant, the disputed domain name points to the website offering competing goods, namely manufactured steel products (**Annex 5**). Besides, there is no clear information/disclaimer on the page of the website to identify its owner such as the company's legal information. Thus, according to the Complainant, the Respondent failed at least in one of the elements of the *Oki Data* test, i.e. the website linked to the disputed domain name does not disclose accurately and prominently the registrant's relationship with the trademark holder. In view of above, the complainant contents that the disputed domain name was registered in order to create a likelihood of confusion with the Complainant and its trademarks. Thus according to the Complainant, 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.

Lastly, the Complainant states that the domain name was registered or is being used in bad faith:

According to the Complainant, it is a subsidiary of ARCELORMITTAL, the world leader in steelmaking and mining. With almost 200 years' experience in metallurgy, INDUSTRIAL operates worldwide with 40 sales offices in 40 different countries, and is one of the leading

international steel manufacturers. Besides, the disputed domain name is used for offering competing goods (**Annex 5**). Thus, given the distinctiveness of the Complainant's trademarks and reputation, it is inconceivable that the Respondent could have registered the disputed domain name <INDOSTEEL.IN> without actual knowledge of Complainant's rights in the trademarks, which evidences bad faith. Furthermore, the disputed domain name points to the website offering competing goods (**Annex 5**). The Complainant has contended that the Respondent uses the domain name to divert Internet users searching for the Complainant's website to the Respondent's competing website, and to create a likelihood of confusion with Complainant's mark for Respondent's commercial gain by offering competing products. Past panels have established that it is an evidence of bad faith. The Complainant has relied upon certain decisions passed by various panels/authorities. On those facts, the Complainant contends that the Respondent has registered the disputed domain name and is using it in bad faith.

4. **RESPONSE/REPLY OF THE RESPONDENT:**

The Respondent has submitted an evasive reply. He has not challenged on merits the averments and evidence brought on record by the Complainant. His averments that the Complaint is frivolous or does not contain true material facts, are vague and without any basis whatsoever. In fact, his commitment to transfer the disputed domain name INDOSTEEL.IN to the Complainant without any interruption shows his act of omission and commission. Also, it is settled law that admission is the best evidence.

5. **DISCUSSION/FINDINGS OF THE ARBITRATOR:**

From the pleadings supported by documents on record, the Complainant has been sufficiently able to prove its case and also fulfilled the essential ingredients of the INDRP Policy in the legal and factual grounds. The decision cited also support the case of the Complainant. Further, from the averments and documents on record as evidenced by the Complainant, it is evident that the registered trademark INDUSTEEL is well known trademark of the Complainant worldwide and therefore, it is hard to believe that the respondent could have registered the disputed domain name <INDOSTEEL.IN> without actual knowledge of Complainant's rights in the trademarks. Further, the act of the Respondent in first doing an act against the legitimate interest of the Complainant in its registered trademark and then seeking compensation through an evasive and vague reply, the Respondent, cannot be said to be acted bonafide.

6. **CONCLUSION:**

In wake of the abovementioned facts, documents, response of the Respondent, discussions and findings given above, the present Complaint is allowed and the following award is being passed in favour of the complainant and against the Respondent.

7. **AWARD:**

In view of above, it is awarded that the disputed domain name <INDOSTEEL.IN> be transferred to the complainant. Accordingly, the registry is directed to transfer the said domain name in favour of the Complainant. It is further ordered that the Respondent is barred from using the mark <INDOSTEEL.IN> and therefore, shall

immediately be ceased to use the said domain name in any manner whatsoever.

8. **COST:**

In view of the facts and circumstances of the Complaint fully detailed in the Award, the cost of the proceedings are also awarded in favour of the Complainant and against the Respondent.



(Sajal Koser)
Arbitrator
08.04.2024