

INDIA NON JUDICIAL



Government of Uttar Pradesh

IN-UP42583235508852X

Signature : .....

ACC Name : Jay Prakash Tyagi

ACC Code : 015404

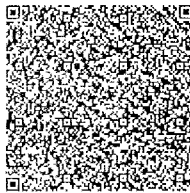
ACC Address : Gautambuddh Nagar 1/ UP-GBN

Mobile No. : 9871591299

License No.: 187

e-Stamp

Certificate No. : IN-UP42583235508852X  
 Certificate Issued Date : 17-May-2025 10:11 AM  
 Account Reference : NEWIMPACC (SV)/ up14015404/ GAUTAMBUDDH NAGAR 1/ UP-GBN  
 Unique Doc. Reference : SUBIN-UPUP1401540482708417549264X  
 Purchased by : VARUN SINGH  
 Description of Document : Article 12 Award  
 Property Description : Not Applicable  
 Consideration Price (Rs.) :  
 First Party : VARUN SINGH  
 Second Party : Not Applicable  
 Stamp Duty Paid By : VARUN SINGH  
 Stamp Duty Amount(Rs.) : 100  
 (One Hundred only)



Please write or type below this line

**BEFORE NATIONAL INTERNET EXCHANGE OF INDIA**  
**MR. VARUN SINGH, ADVOCATE: SOLE ARBITRATOR**  
**INDRP CASE NO. 1989**

**IN THE MATTER OF:-**

Arbitration under the .IN Domain name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India which sets out the legal framework for resolution of dispute in connection with .IN domain name, and the INDRP Rules of Procedure

**AND IN THE MATTER OF:-**

Dispute relating to domain name <imerys.in>

Varun Singh

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**Statutory Alert:**

1. The authenticity of this Stamp certificate should be verified at 'www.shreestamp.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 onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

**AND IN THE MATTER OF:-**

**Imerys SA**

43 Quai de Grenelle

75015 Paris

France

.....Complainant

**Versus**

**DingDing / Dingcorp**

(Please contact us via email,

and our email is [chromebooks@hotmail.com](mailto:chromebooks@hotmail.com))

A3, JiaZhaoYe, JiangBei,

Huicheng District,

HuiZhou, GuangDong, China

(Arbitration documents to this address)

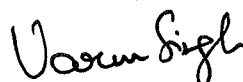
HuiZhou California, 516000, US

.....Respondent

**AWARD**

**21.05.2025**

1. The present arbitration proceedings are initiated under and in accordance with the INDRP, and the INDRP Rules of Procedure which are adopted by the National Internet Exchange of India (NIXI) which governs the dispute in connection with .IN domain name.
2. The Complainant has filed the subject Complaint against the Respondent seeking transfer of domain name <imerys.in> from the Respondent to the Complainant.
3. The Registrant/Respondent has registered the <imerys.in> (hereinafter 'disputed domain name') with the domain name Registrar duly accredited with the NIXI i.e. Dynadot LLC, since 27.09.2022.



### **Procedural history**

4. The consent of the Arbitrator was sought for in the present matter by the NIXI vide email dated 26.03.2025 and the Arbitrator gave his consent along with his statement of acceptance and declaration of impartiality vide his email dated 26.03.2025.
5. I was appointed as an Arbitrator by the NIXI in the present matter vide their email dated 09.04.2025 which email containing the complaint and all relevant documents was marked to the Respondent (<chromebooks@hotmail.com>) as well. The Arbitrator issued a notice dated 10.04.2025 under Rule 5(c) of INDRP Rules of Procedure whereby the Respondent was directed to file its reply to the Complaint till 21.04.2025. The said notice issued by the present Arbitrator was marked via email to the Complainant and to the Respondent, which email did not bounce back. The Respondent was duly served with the complaint and documents vide email dated 09.04.2025 by NIXI. Thereafter, the notice 10.04.2025 of the Arbitrator was also duly served on the Respondent vide Arbitrator's email dated 10.04.2025.
6. In the said Notice dated 10.04.2025, the Complainant was directed to serve again on the Respondent the subject complaint and all accompanying documents, including the said Notice, so that the Respondent is provided with ample opportunity to file his reply.
7. The Complainant vide email dated 14.04.2025 to the Respondent, which email was marked to the Arbitrator as well, served the complaint and all its annexures. The said email of the Complainant is addressed to the email id

*Vaish Singh*

<chromebooks@hotmail.com> of the Respondent which is also the email id mentioned in the WHOIS record of the disputed domain name. It is noted that the said email dated 14.04.2025 mentions the fact that the address of the Respondent is not correct as addresses of both China and USA are provided for by the Respondent. Therefore, the Respondent was properly served by email dated 14.04.2025.

8. In view of foregoing, it is apparent that the Respondent was served with domain complaint along with all other documents firstly by NIXI vide their email dated 09.04.2025, secondly by the Complainant vide their email dated 14.04.2025. The Notice dated 10.04.2025, via email dated 10.04.2025, by the Arbitrator was also served on the Respondent. The said email of the Arbitrator did not bounce back.
9. All possible attempts were made to serve the Respondent. Furthermore, it is apparent that the wrong address is deliberately mentioned by the Respondent while registering the disputed domain name. Therefore, I can safely hold that the Respondent was duly served with the domain complaint along with documents thereto and is aware of the present proceedings. This Tribunal has not received any communication from the Respondent till date. The Respondent has avoided any participation in the present proceedings.
10. Rule 5(d) of the INDRP Rules of Procedure states that the date of commencement of the arbitration proceeding shall be the date on which the arbitrator issues notice to the Respondent. Therefore, the date of commencement of arbitration in the present case is 10.04.2025. Rule 5(e) of the

INDRP Rules of Procedure states that an Arbitrator shall pass an award within a period of 60 days from the date of commencement of the arbitration proceeding and in exceptional circumstances, the timeline may be extended by a maximum period of 30 days by the Arbitrator subject to a reasonable justification in writing. The present award is passed within the timelines prescribed under the INDRP Rules of Procedure.

### **Issues for consideration**

11. Paragraph 4 of the INDRP provides the grounds on which a Complaint can be filed by the aggrieved Complainant who considers that a registered domain name conflicts with his/her legitimate rights or interests on the following grounds:

- (a) the Registrant's domain name is identical and/or confusingly similar to a Name, Trademark or Service Mark etc. in which the Complainant has rights; and
- (b) the Registrant has no rights or legitimate interests in respect of the domain name; and
- (c) the Registrant's domain name has been registered or is being used either in bad faith or for illegal/unlawful purpose.

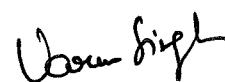
### **Contention of the Parties**

12. The Complainant in its complaint, *inter alia*, states the following:-

- a. The Complainant has various trade marks registered under its name in India, US, France and WIPO.



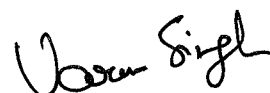
- b. The trade mark 'IMERYYS' is registered trade mark in India and is registered under trademark nos. 899720, 899721, 1246407, and 2405366. Furthermore, the said trade mark 'IMERYYS' is also registered in US, WO, France, and EU under trade mark nos. 77865853, 745233, 99805676 and 001470723, respectively.
- c. The Complainant has its domain names <imerys.com> and <imerys.co.in> registered since 29.07.1999 and 02.07.2012, respectively.
- d. The Complainant is the parent company of the Imerys group. It is engaged in the business of mining and metallurgical trades. It is engaged in the areas of energy transition, sustainable construction, consumer goods, etc. It is a supplier of mineral based specialty solutions for the industry offering high value added and functional solutions.
- e. The Complainant has a huge footprint across digital and social platforms. There are many visits on the domain names of the Complainant.
- f. In India, it has 3 plants in Nadiad, Kadthal and Vizag and a mine location in Mehsana.
- g. The 'IMERYYS' brand is well organized and respected worldwide and in its industry.
- h. When the trade mark 'IMERYYS' is searched on [www.google.co.in](http://www.google.co.in), it reveals the website of the Complainant i.e. <imerys.com>.
- i. The website under the disputed domain name is not functioning at all.



- j. Furthermore, the disputed domain name is made available for sale by the Respondent.
13. The Respondent has not filed any reply to the Complaint filed by the Complainant, despite ample opportunity, as mentioned above.

**Respondent's disputed domain name confusingly similar to Complainant's trade mark**

14. The trade mark 'IMERYS' is a registered trade mark in India and is registered under trademark nos. 899720, 899721, 1246407, and 2405366. Section 28 of the Trade Marks Act, 1999, confers rights to the Complainant by registration of the trade mark 'IMERYS' including the right to exclusive use of the said trade mark. Furthermore, The Complainant has shown the usage of the trade mark 'IMERYS', inter alia, through the trade mark registrations, articles, publications, website extracts, active domain names and visits on the websites under its domain names.
15. The Complainant has an active business in India and its website under its domain name reflects so.
16. The trade mark 'IMERYS' is registered in jurisdictions, apart from India as well.
17. The social media presence of the trade mark 'IMERYS' of the Complainant is visible on Linked In and YouTube.
18. The domain name of the Complainant shows the business of the Complainant in India.



19. When the trade mark 'IMERYS' is searched on [www.google.co.in](http://www.google.co.in), it reveals the website of the Complainant i.e. <imerys.com>.
20. The website under the disputed domain name is not functioning at all.
21. Furthermore, the disputed domain name is made available for sale by the Respondent.
22. The Complainant's trade mark registrations in India and abroad, WHOIS record, extracts from the website to show the prior use of the trade mark 'IMERYS'.
23. The website of the Complainant <imerys.com> which reflects the business of the Complainant in India is also visible from India.
24. It is well established law that the specific top-level domain such as '.com', '.net', '.in' etc does not affect the domain name for the purpose of determining whether it is identical or confusingly similar (*Relevant decision:- Rollerblade, Inc. v. Chris McCrady*<sup>1</sup>). Therefore, TLD '.in' is to be disregarded while comparing the disputed domain name with the trademark of the Complainant. When the trade mark of the Complainant 'IMERYS' and the disputed domain name is considered, there is no doubt that the disputed domain name is confusingly similar to the registered trade mark 'IMERYS', the trade name and domain name of the Complainant.

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<sup>1</sup> WIPO Case No. D2000-0429





25. Furthermore, the Respondent has used the whole of the registered trade mark of the Complainant in disputed domain name.
26. In view of foregoing, it is apparent that the disputed domain name is confusingly similar to the registered trade mark 'IMERYYS' of the Complainant, the domain name <imeryys.com> and trade name of the Complainant. Therefore, The Complainant has established its case under paragraph 4 (a) of the INDRP.

**Respondent has no rights or legitimate interests in disputed domain name**

27. The Respondent has used the entire trade mark 'IMERYYS' of the Complainant, in the disputed domain name. The Respondent is not known by the domain name. Furthermore, the registration of the disputed domain name is created and used without any consent of the Complainant.
28. The disputed domain name also makes a hopeless attempt to make an association with the Complainant's trade mark and domain name which can never be termed as legitimate use of the disputed domain name. The disputed domain name uses in its entirety the word 'IMERYYS' which is the registered trade mark of the Complainant to divert the users from the Complainant's platform.
29. The Respondent cannot be said to have any legitimate right or interest in the disputed domain name which is confusingly similar to a registered trade mark of the Complainant.

*Varun Singh*

30. The disputed domain name incorporates a trade mark which is neither owned by the Respondent nor the Respondent is known by the name 'IMERYS'.
31. Furthermore, failure to make an active use of the disputed domain name demonstrates that Respondent is not using the disputed domain name for a bona fide offering of goods or services or a legitimate non-commercial fair use.
32. The Complainant has its domain names <imerys.com> and <imerys.co.in> registered since 29.07.1999 and 01.07.2012, respectively, whereas the registration of the disputed domain name is much subsequent and the disputed domain name is not showing any active website.
33. Therefore, the Respondent/Registrant has no rights or legitimate interests in respect of the disputed domain name. The Complainant has established its case under paragraph 4 (b) of the INDRP.

#### **Baid Faith**

34. The registration of the disputed domain name affects the rights of the Complainant vis-à-vis its registered trade mark 'IMERYS' which finds its place prominently in its domain name i.e. <imerys.com> and its trade name as well. Therefore, the Complainant's right to exclusively use its registered trade mark 'IMERYS' is affected by the registration of the disputed domain name.
35. The disputed domain name will negatively affect the goodwill and reputation of the Complainant thereby disrupting business of the Complainant. The disputed domain name which diverts the internet users to itself who otherwise

would have visited the websites of the Complainant acts in disrupting the business of the Complainant. Therefore, the registration of the disputed domain name is in bad faith according to paragraph 7(d) of the INDRP.

36. In *Telstra Corporation Limited v. Nuclear Marshmallows*<sup>2</sup> it was observed that “*It is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith.*” Notwithstanding the absence of activity on the website relating to disputed domain name, its confusing similarity to the Complainant's registered trademark, coupled with the Respondent's lack of legitimate rights, demonstrates bad faith registration.
37. The Respondent registered the disputed domain name and not even using the said domain name for any purpose, therefore the said registration is in bad faith to confuse internet users as to a possible association between the disputed domain name and the Complainant. The registration of the disputed domain name is in bad faith according to paragraph 7(c) of the INDRP.
38. Furthermore, the Respondent's use of an arbitrary address during the registration of the disputed domain name evidences a deliberate attempt to conceal identity, indicating awareness of their infringement upon the Complainant's trademark rights.
39. In view of foregoing, it is apparent that the registration of the disputed domain name is in bad faith to hurt the commercial

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<sup>2</sup> WIPO Case No. D2000-0003

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activity of the Complainant. The Complainant has established its case under paragraph 4 (c) of the INDRP.

### **Decision**

40. In view of the foregoing, it is ordered that the disputed domain name <imerys.in> be transferred to the Complainant from the Respondent. Parties are ordered to bear the cost of the present proceedings.



**(VARUN SINGH)**

Sole Arbitrator

Varun Singh

Advocate-on Record

1203, Tower-8, SDS NRI Residency,  
GH 04/A, Sector-45, Noida, ~~Uttar Pradesh~~  
Uttar Pradesh-201303