



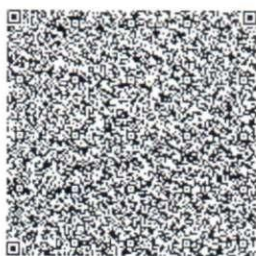
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

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Certificate Issued Date	: 17-Nov-2017 11:55 AM
Account Reference	: IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1710337038423816P
Purchased by	: ASHOK KUMAR SINGH
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: ASHOK KUMAR SINGH
Second Party	: Not Applicable
Stamp Duty Paid By	: ASHOK KUMAR SINGH
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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**BEFORE ASHOK KUMAR SINGH THE SOLE ARBITRATOR UNDER THE
.IN DISPUTE RESOLUTION POLICY**

IN THE MATTER OF:

- | | |
|------------------------------------|-----------------|
| 1. GLOBAL CAR GROUP PTE. LIMITED | |
| 2. CARS24 SERVICES PRIVATE LIMITED | ...COMPLAINANTS |

VERIFIED

VIENNA SOLUTIONS PRIVATE LIMITED

...RESPONDENT

Statutory Alert:

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A. THE PARTIES

The Complainants in this arbitration proceeding are Global Car Group PTE. Limited, a Company incorporated under the Laws of Singapore and Cars24 Services Private Limited, a wholly owned Subsidiary of the Complainant No.1 (collectively referred as "Complainant"). The Complainant is addressed at Plot # 120, Industrial Area, Sector 44, Gurugram, Haryana.

The respondent in this arbitration proceeding is Vienna Solutions Private Limited, through, Mr. Atul Dua of the address 493 Industrial Area, Phase-9, Mohali, Punjab -160068, India.

B. THE DOMAIN NAME AND REGISTRAR

The disputed domain name is "**cars24.in**". The Registrar is MITSU, Adarsh Place, 118, Old Hanuman Lane, Kalbadevi Road, Mumbai-400 002, India.

C. PROCEDURAL HISTORY:

I was appointed as Arbitrator by .IN registry, to adjudicate upon the complaint of the Complainant, regarding the dispute over the domain name **< cars24.in >**.

.In Registry has supplied the copy of the Complaint and annexures to me. Accordingly the Tribunal entered upon the reference. The dates and events took place thereafter are summarised below:

- | | |
|------------|--|
| 29.08.2017 | NIXI sent an email to the parties informing them about Tribunal's appointment. The soft copy and the hard copy of the complaint dated 28.07.2017 with annexures were sent to the Respondent. |
| 27.09.2017 | The Respondent sent an email to NIXI informing that it had received the hard copy of the complaint along with |



the annexures and had appointed a counsel in the matter.

04.10.2017 The Tribunal vide an email acknowledged the service of the complaint upon the Respondent. Considering no reply was received till date, the Tribunal in the interest of justice gave another opportunity to the Respondent to file its response within ten (10) days thereafter.

On the same day, the Respondent informed the Tribunal about appointment of a counsel in the matter and requested to arrange a meeting with the arbitrator.

05.10.2017 The Tribunal informed the Respondent that as per INDRP Rules, there shall be no personal hearings unless the Tribunal determines so in its sole discretion. The Tribunal further directed the Respondent to submit its reply to the complaint within the prescribed time period and directed the Complainants to file its rejoinder within 7 days thereafter.

16.10.2017 The Respondent instead of sending the reply and documents to the Tribunal, forwarded the same to NIXI vide email dated 13.10.2017, with copy to counsel of the Complainant. The said reply and the annexures were further forwarded to the Tribunal by NIXI.

25.10.2017 The Complainant confirmed the receipt of the reply of the Respondent (sent vide email dated 13.10.2017). The Complainant did not file the rejoinder within the time prescribed. However, after expiry of the time given by the Tribunal to file the rejoinder, request was made on 25.10.2017 for a further time of 10 days to file its rejoinder.

31.10.2017 Though sufficient opportunity was granted by the Tribunal



to the Complainant to file the rejoinder, in the interest of justice, a last opportunity was granted to file its rejoinder by 04.11.2017, failing which an award would be passed on the basis of the available pleadings and documents filed by the parties.

08.11.2017 The Complainant failed to file its rejoinder within the time granted by the Tribunal. Consequently, the Tribunal proceeded to prepare the award on the basis of the available documents and pleadings. However, after 4 days from the date the Complainant had to file its rejoinder, it again sought an extension of further period of 7 days for filing the rejoinder. No specific ground was given as to why the prescribed timelines were not adhered to. It was mentioned in the email dated 08.11.2017 of the Complainant that the rejoinder could not be finalized due to some unavoidable circumstances.

11.11.2017 Looking at the delay caused in the ongoing proceedings, the Tribunal informed the parties that the time is the essence of the ongoing arbitration proceedings as per INDRP Rules and the timelines prescribed by the Tribunal have to be strictly followed by the Parties. The tribunal keeping in view the delay and repeated requests of the Complainant seeking extension for filing the rejoinder without any plausible grounds, declined the request of the Complainant for extension to file its rejoinder.

11.11.2017 On the same day, the Complainant without moving any application for modification/review of the order of the Tribunal declining the request for extension to file its rejoinder, filed its rejoinder to the reply of the respondent. The Complainant sent another email to the Tribunal for setting up in person hearing for the matter.



Though the Tribunal should not have taken on record the Rejoinder filed by the Complainant as the Complainant repeatedly failed to file its rejoinder within the prescribed timelines and filed the same after its request was declined by the Tribunal, in the interest of justice the same was also perused and considered while passing the award.

The Tribunal has perused the pleadings of the parties and the documents placed on record. The tribunal considers that there is no need of any personal hearing and the matter can be disposed off on the basis of the record available. As such the request of the parties for personal hearing is declined. The analysis of the pleadings of the parties is as under:

D. COMPLAINANT'S SUBMISSIONS:

The relevant submissions of the Complainant as per the Complaint are as under:

1. That the Complainant No.1 is a Company incorporated under the Laws of Singapore and the Complainant No. 2 herein, is a wholly owned Subsidiary of the Complainant No.1 Company, and is engaged in the business of Operating, Developing and Managing "e-Commerce Portal", thereby rendering services for 'Sale and Purchase of pre-owned/used Cars', in India.
2. That the Complainant No.2 since its incorporation, i.e. 12-08-2015, has been operating and conducting its business activities under the name and style of "Cars24" and has been using and operating the domain "Cars24.com". The Complainant No. 2 has its business operations spread across the Country and at present it has 54 Centers and expanding.
3. That the Complainant No.2 has been marketing and advertising its Services and Products, in the Country, since 2015 onwards and has already incurred a composite sum of about INR 45,00,000,000/- (Rupees Forty Five Crores) till date on such marketing and advertising activities which is also growing rapidly.



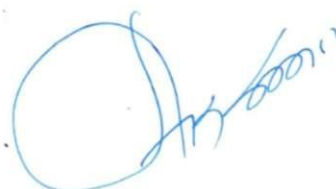
4. The Complainant No.1 is the Registered Proprietor and user of Trade mark "Cars24" and Domain name "**Cars24.com**" in various countries and has been using the said domain name, in connection with its on-going business, since past considerable period of time in a very extensive manner for its business activities.
5. That the Complainant has marked their presence across the Country and are expanding their business territory and volumes, rapidly since the year of its incorporation.
6. That since the date of Incorporation of the Complainant No.2, no objection whatsoever, from any Company, Enterprise, Organization, Entity or Individual has been received with respect to the usage of "Cars24" by the Complainants, much less from the Respondent. That the complainant has conceived and adopted the trade name "Cars24" and has been openly, continuously and extensively using the mark "Cars24" as its trade name, corporate name, business name, trading style, trade mark worldwide since its incorporation. The Complainant's trade name is well known in the country and specifically at around 54 locations wherever it has its offices.
7. Lately during the month of June 2017 it came to the notice of the Complainants, by means of "Public Calls", that the 'public' at large including the 'prospective customers' of the Complainant who actually intended to contact/deal with the Complainant No. 2, were being misguided by the domain of the Respondent and were consequently calling on the contact numbers of the Respondent Company, instead of calling on the contact numbers of the Complainant No. 2.

E. RESPONDENT'S SUBMISSIONS:

1. The Respondent has filed its reply wherein it has submitted as under:-

A handwritten signature in blue ink, appearing to be 'Shubham', is written over a large, light blue circular scribble.

- i. That disputed domain name i.e. www.cars24.in was registered by the respondent on 03.01.2007 by following each and every formality at the time of registration of domain name through the server i.e. Mitsu INC (R158-AFIN). It is further alleged that the said registration of disputed domain name was implemented by the competent authority. The disputed domain name was vacant at the time of registration and it was neither in use as informed to him by his server. That the Respondent is registered with the registrar of companies since 20.01.2006 and deals in IT solutions since its inception.
- ii. That in the year 2007 the Respondent ventured into the business of second hand cars and spent huge amount on its promotions and adds on radio, newspapers and pamphlets were given to people since the registration of disputed domain name. The Respondent has also bought many other domain names like Fly24.in, parties24.in, mobile24.in, city24.in, estates24.in, properties24.in, naukri24.in and is doing regular work on these domain names since their creation and such domain names are a regular source of income to the Respondent.
- iii. The Complainant's domain name "Cars24.com" is owned by a Singapore based person named as Anna Hass. The Complainant is totally a foreign entity which is trying to hijack a domain of Indian business operating much before the entry of the Complainant in India in 2015 and also before the said domain name i.e. cars24.com was owned by entity in Korea.
- iv. That since the registration of cars24.com i.e. in 2001, the domain name of the Complainant was put up for sale and the Complainant was not doing any sort of business regarding the sale and purchase of resale cars. The said domain name of the Complainant was for sale in 2003, 2004 and 2005 as well.



- v. That the said domain name of the Complainant in 2007 started posting ads regarding digital camera and other things and the same was also done in 2008, 2009, 2010, 2011, 2013 and 2014.
- vi. That the complainant was not dealing in the business of resale or purchase of second hand cars from its registration in 2001 till 2014 rather it was a domain name purchased only to gain monetary benefits out of the ads posted on the internet.
- vii. That the respondent is using the disputed domain name since 2007 and was prior in time in registration with the competent authority and at the time of registration, the Complainant's domain name "Cars24.com" was not in use with any other user and neither any company owned by the Complainant nor the Complainant was using the same.
- viii. That the respondent is dealing in the sale and purchase of second hand cars since 2007 and is flourishing well in the said business, but the Complainant only started their work after 2014 and the Complainant has unnecessarily used the image built up by the Respondent in the field of second hand cars market and also have taken undue advantage of the similar domain name "Cars24.com", as since its creation in 2001 till 2014 they did not do any work on sale or purchase of second cars on their domain name "cars24.com" and the said domain name was only a site making monetary gain out of adds on the net.

F. FURTHER SUBMISSIONS OF THE COMPLAINANT:

The Complainant made the following submissions in its rejoinder:

- a. The Complainant apart from reiterating all the submissions made in the complaint and denying all the contentions of the Respondent, for the first time alleged that the Respondent had agreed to sell the



disputed domain name to the representative of the Complainant. The Complainant has alleged that it approached the Respondent through its representatives in the beginning of July 2017 and discovered that there was no office in relation to "cars24.in" at the said premises. He there met Mr. Yogesh Kumar Sharma who later informed him that the disputed domain name belonged to them and his boss Mr. Atul Dua had asked him to inform the said representative that he was willing to sell the disputed domain name to the Respondent for \$ 1,00,000/-. However no conclusion could be arrived and therefore the said transaction could not be finalized.

The Complainant has also filed an affidavit of Mr. Sandeep Tanwar, Advocate as the representative of the Complainant. In the affidavit it is stated that an annexure A is filed with the affidavit. However no copy of the said annexure is sent by the Complainant with the rejoinder.

G. DISCUSSIONS AND FINDINGS:

The present proceedings have been conducted in accordance with Rule 8 (b) of the INDRP Rules of Procedure which states that "In all cases the Arbitrator shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case".

Rule 12 (a) of the INDRP Rules of Procedure provides that *"An Arbitrator shall decide a Complaint on the basis of the statements and documents submitted to it and in accordance with the Arbitration and Conciliation Act, 1996, Dispute Resolution Policy, the Rules of Procedure and any bye-laws, rules and guidelines framed there under and. any law that the Arbitrator deems to be applicable."*

Under paragraph 4 of .IN Domain Name Dispute Resolution Policy, the Complainant is required to satisfy three conditions outlined below:



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

- i. **The Respondent's disputed domain name is identical or confusingly similar to the name, trade mark or service mark in which Complainant rights.**

Complainant's submissions:

- a. The Complainant has contended that the disputed domain name "cars24.in" contains the Complainant's Trademark/Trade name which is already registered in Class 1 and is in extensive usage by the Complainant in India amongst other relevant classes as well wherein it has been applied by the Complainants and expects the registration certificates very soon. The disputed domain name is visually and phonetically identical and/or confusingly similar to the trademark and trade name of the Complainant. Such registration by the Respondent amounts to violation of Para 3 of the INDRP which states that a Registrant is solely responsible to ensure before the registration of the disputed domain name that such domain name registration does not violate the rights of any proprietor/brand owner.
- b. That it is the owner and extensive user of the trademark "Cars24" in India and is also the owner of website known as "Cars24.com" which is accessible worldwide and is available for use, by users globally, including those in India. The said website contains



extensive information about the Complainants and its 'Products & Services' marketed, provided and sold under the trademark and corporate name "Cars24".

- c. That it has painstakingly built up a good reputation since its incorporation and has invested substantial amounts of resources in advertising its products under the trademark "Cars24" in various Internet, other print and visual media and also through exhibitions and events.
- d. That upon perusal of the Respondent's website **www.cars24.in**, it appears as if the Respondent is engaged in the business of "Sale and Purchase of Used Cars", which directly conflicts with the Complainant's business activities in India.

Respondent's submissions:

- a. The Respondent has contended that the disputed domain name was registered by the Respondent in 2007 and at that time said domain name was vacant and it did not match any company's name and ID in India. The said domain name was registered in 2007, whereas the Complainant came in India in 2015.
- b. The trade mark of the Complainant is yet to be registered and they have only applied for the same. The Respondent has not violated any rule of INDRP. It's the Complainant who has violated the same as they have approached the country in 2015 and after coming to India they expanded their business in name of cars24. The Complainants did not enquire anything about the domain name if it is taken by any company in this country or not.

The Tribunal finds from the submissions and the documents filed by the Complainant that as per its own admission, the Complainants have been operating and conducting its business activities under the

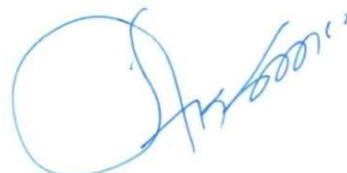


name and style of "Cars24" and using and operating the domain "Cars24.com" in India since 12-08-2015. From the Annexure C filed by the Complainant, it is clear that the earliest trade mark filed by the Complainant was in July 2015. However one of the trade mark "cars24" of the Complainant was registered on 15.01.2016 as is evident from Annexure Y filed with the rejoinder. Since the date of user of the said trade mark was not given, the Tribunal checked the online records of the trade marks registry and came to know that the Complainant claimed the user of the said trade mark w.e.f. 01.08.2015 only.

It is pertinent to note that from the documents placed on record by the Respondent, Annexure D to Annexure M, copies of archived website extracts of the domain name "cars24.com", it is clear that even though the domain name "cars24.com" was registered in 2001 by the Complainant, there was no actual use of the trade mark/name "Cars24" till 2015 by the Complainant and it was on sale in the year 2001, 2003, 2004 and 2005. From 2007 till 2014, the domain name "cars24.com" of the Complainant had merely posted ads for digital cameras etc and not operated any legitimate website on it.

Similarly to verify the claim of the Respondent using the disputed domain name w.e.f. 2007, the Tribunal checked the same at www.web.archive.org and found that the disputed domain name has a continuous operative website w.e.f 2007.

Now the issue arises whether the Complainant, whose domain name "cars24.com" was on sale for a long period and was used for advertisements only as is clear from the facts discussed above and who has been using the trade mark "Cars24" only w.e.f. 2015, can take benefit of the trade mark to claim the domain name "cars24.in" which was got registered way back in 2007 by the Respondent and which is being used by it since then?



The tribunal considers that even though the Complainant is a registered proprietor of the trade mark "Cars24" since 2016 and using the same since 2015, it cannot prevent the Respondent from using the disputed domain name which is in Respondent's use since 2007. The tribunal for its finding gets strength from the provisions of section 34 of the Trade Marks Act, 1999, which provides that the proprietor of a trade mark does not have the right to prevent the use by another party of an identical or similar mark where that user commenced prior to the user or date of registration of the registered proprietor. It is a settled law that the "first user" rule is a seminal part of the Trade Marks Act, 1999 and it has always enjoyed pre-eminence.

Keeping the above in view the Tribunal holds that even though the disputed domain name of the Respondent is identical or similar to the registered trade mark of the Complainant, it does not preclude the Respondent from using the same.

ii. The Respondent has no rights or legitimate interest in respect of the domain name.

According to paragraph 7 of the .IN Dispute Resolution Policy, the following circumstances show Registrants rights or legitimate interest in the domain name for the purpose of paragraph 4 (ii)

- 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;*
- 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.

Complainant's Submissions:

- a. The Complainants have contended that the 'domain name', "www.cars24.com" is registered since 05-07-2001 whereas the disputed domain name "www.cars24.in" was registered by the Respondent on 03-01-2007. Hence, such subsequent adoption and registration of the disputed domain name shows that the Respondent has no right or legitimate interest in the domain name "www.cars24.in".
- b. That the Respondent, is neither commonly nor popularly known, in the Public nor has it applied for any registration of the mark "**Cars24**" or any other similar mark. The Respondent has not even registered his business/Company under the said name, with the Ministry of Corporate Affairs, Government of India. The Respondent Company has in fact registered its business/Company with the Ministry of Corporate Affairs under the name "Vienna IT Solutions Pvt. Ltd".
- c. That the disputed domain name was intentionally created by the Respondent, for making unwarranted commercial gain by misleadingly confusing and diverting the consumers and Traders of the Complainants, to the disputed domain name, thereby causing irreparable loss, harm and damage to the goodwill, reputation and business/business prospects of the Complainants.

Respondent's Submissions:

- a. The respondent in 2007 registered the disputed domain name cars24.in with the competent authority and is using the said domain name for its business of sale and purchase of second hand cars.



- b. That the Respondent has complied with each rule and regulation of INDRP and the Respondent has full interest in the disputed domain name as it is using the disputed domain name since 2007. At the time of registering the disputed domain name, it was vacant and the Complainant was not present in India and after coming of Complainant in 2015, it wants to take the disputed domain name as it rhymes with their company name.

On perusal of the pleadings of the parties and documents produced by them, the following position emerges out:

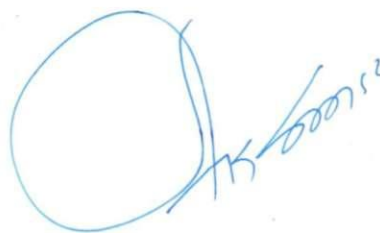
The Respondent in its reply has made claims regarding its business and usage of the disputed domain name 'cars24.in' in regards to its alleged business. The Respondent has produced documents on record to establish that the Respondent has bonafide/legitimate interest in using the disputed domain name 'cars24.in' for its business. It is pertinent to mention that the respondent in its reply to the complaint has stated that it has been using and operating a website on the disputed domain name since 2007 and also produced archive website extracts of 2008 evincing the running and operating of the website for the disputed domain name. As mentioned above, on checking the archive website extracts of the disputed domain name, it is clear that the Respondent has been continuously operating a website on the disputed domain name since 2007.

The respondent has also placed evidence on record demonstrating that the Complainant has not been using the trade mark/name at least till 2014. Even otherwise, the Complainant with its own admission in the complaint and also as per Annexure C attached with the Complaint, started using the mark/name "cars24" from 2015.



The Tribunal points out that paragraph 7 of the INDRP talks about the 'usage' of the disputed domain name by the Respondent in regards to its business and services before any notice was given to the Respondent of the dispute at hand. Under the said condition, it has to be seen if the Respondent was 'using' the disputed domain name or carrying on any business under the disputed domain name before the notice was given to the Respondent of the dispute at hand and has no intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. The Tribunal finds that the Respondent has satisfied this condition by establishing that it was using the disputed domain name and carrying on business under the disputed domain name w.e.f. 2007, i.e. much before any notice was given to the Respondent of the dispute at hand and has no intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. If the Respondent had got registered the disputed domain name after starting the operation of its business by the Complainant, the presumption could be drawn against it, but in case in hand the Respondent got registered the disputed domain name way back in 2007 and has been working since then, much prior starting the operation of the business by the Complainant in India and much before registration of the trade mark of the Complainant, no presumption can be drawn that it has intent for commercial gain to misleading and divert consumers or to tarnish the trade mark or service mark of the Complainant.

Thus, the above facts and evidence establish that the Respondent has right or legitimate interests in the disputed domain name under INDRP paragraph 4 (ii).

A handwritten signature in blue ink, appearing to be 'K. S. Srinivasan', is written over a large, light blue circular stamp.

- iii. **The domain name has been registered or is being used in bad faith.**

Complainant's submissions:

- a. That by using the disputed domain name, the Respondent has intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant's name or mark as to the source or sponsorship or affiliation or endorsement of the Respondent's website or the products or services offered/available on the Respondent's website thereby violating Para 6 of INDRP.
- b. That the Respondent has deliberately registered the disputed domain name with the intention of preventing the Complainants who are the owner of the trademark "Cars24" from reflecting the said trademark in its domain name in India.

Respondent's submissions:

- a. The Respondent has contended that the disputed domain name was registered by the respondent in 2007 and at that time the Complainant was nowhere present in India. The Respondent further contended that alleged trade mark of the Complainant is not registered in India till date.

Complainant's further submission in Rejoinder:

The Complainant in its rejoinder has contended that in order to ascertain the real working of the Respondent, approached the Respondent in the beginning of July 2017 through one of its representatives and discovered that there was no office in relation to "cars24.in" at the said premises. He there met Mr. Yogesh Kumar Sharma who later informed him that the disputed domain name



belonged to them and his boss Mr. Atul Dua had asked him to inform the said representative that he was willing to sell the disputed domain name to the Respondent for \$ 1,00,000/-. However no conclusion could be arrived and therefore the said transaction could not be finalised.

The Complainant for the first time in the rejoinder has made out a case of alleged talk with the Respondent. According to the Complainant the above negotiation and meeting had taken place in the beginning of July 2017. It is important to mention that the Complainant did not lodge any report to the .IN Registry or any authority. The Complainant also did not even protest to the Respondent about its conduct by sending an email or notice etc. The complaint was filed on 28.07.2017. Though a serious allegation is labeled in the rejoinder, there is not even a single word in the entire complaint about the said incident. Since complaint was filed only after about a few days from the alleged negotiations/meeting, it can also not be presumed that the complainant forgot about it or it escaped from its mind.

The Complainant in support of this allegation has placed on record with the rejoinder an affidavit of Mr. Sandeep Tanwar, Advocate. Interestingly the deponent of the said affidavit has failed to give the date and time when he allegedly visited the registered office of the Respondent. It is alleged that Mr. Yogesh Kumar Sharma, the alleged representative of the Respondent gave him a visiting card. Though it is stated that a copy of the same is attached with the affidavit but no such copy is supplied to the Tribunal. It is further alleged that after few days, the deponent of the said affidavit received a call from the representative of the Respondent and alleged demand was made. Interestingly neither the date or the time of the said call is given nor the telephone number from which it was made and on which it was received. It is even not mentioned as to when the deponent communicated about the same to his



client, i.e. the Complainant. It is also alleged that there were subsequent discussions however again no date, time, place or telephone number, if any used in those discussions is given. The affidavit filed in support of such a serious allegation by the Claimant does not inspire any confidence.

There is no cogent document or evidence on record that corroborates such a serious allegation.

The Tribunal finds that due to lack of proper and cogent evidence produced by the Complainant to establish that the Respondent was willing to sell the disputed domain name and the fact that such an important aspect was never taken up by the Complainant in its complaint, nor any action was taken by the complainant in respect thereto, the said averments appears to be an afterthought and untrustworthy. The Tribunal does not take cognizance of the same.

The tribunal further finds that the complainant has failed to establish that the respondent seeks to exploit the complainant's business to attract internet traffic to the respondent's website and to mislead customers to believe that the complainant and the respondent are associated with each other.

The Tribunal finds that the Respondent has registered the disputed domain name in 2007, when the Complainant was nowhere near to using the trade mark/name "Cars24" in India in relation to its business and services. The Complainant by its own admission has started using the trade mark/name "Cars24" from 2015 in India and also applied for registration of trade mark(s) in India not before 2015. Therefore it is clear that the registration of the disputed domain name predates both the filing date of the trade mark applications and date of first use in commerce of the trade mark/name by the Complainant by many years.

After perusing the contentions of both the parties and the evidence filed by them, the Tribunal does not find the arguments of the



Complainant persuasive. The complainant has failed to place anything reliable on record to establish that the respondent's intention and motive is to merely gain monetary profit from the disputed domain name.

For the reasons discussed above the Tribunal finds the disputed domain name has not been registered and used in bad faith by the Respondent under the policy.

H. DECISION:

In view of the above facts and circumstances and finding of the Arbitrator, the Complainant has not succeeded in its complaint and the same is dismissed. .IN Registry of the NIXI is hereby directed not to transfer the domain name of the Respondent i.e. <**cars24.in**> to the Complainant. The parties are left to bear their own cost.

The Award is accordingly passed on this day of November 17, 2017.

The Award is passed after the time period of 60 days due to the delay attributable to the parties for failing to adhere to the strict timelines prescribed by the Arbitrator as is mentioned above.



Ashok Kumar Singh

Sole Arbitrator

Date: 17.11.2017