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**.IN REGISTRY**  
**(NATIONAL INTERNET EXCHANGE OF INDIA)**  
**.IN Domain Name Dispute Resolution Policy (INDRP)**

Disputed Domain Name: www.la-z-boy.co.in

Dated: 4<sup>th</sup> January, 2021

IN THE MATTER OF:

La-Z-Boy Incorporated  
One La-Z-Boy Drive  
Monroe, Michigan 48162  
United States of America

..... Complainant

Vs.

Client ID C-601453

..... Respondent

**1. Parties**

1.1. The Complainant in this arbitration proceeding is La-Z-Boy Incorporated, having address at One La-Z-Boy Drive, Monroe, Michigan 48162, USA.

1.2 The Respondent in this arbitration proceeding as per 'Whois' record (as provided in Annexure A of the complaint) has Client ID C-601453. Upon enquiry from NIXI made by the Complainant, the complete details of Respondent were found, that is, Chong Hao, having address Si Ma Qian Residential District, Zhichuan Zhen, Hancheng, Shaanxi, 715409, China. The Respondent's email address is 403458510@qq.com.



2. **The Dispute-** The domain name in dispute is “la-z-boy.co.in”. According to the .IN ‘Whois’ search, the Registrar of the disputed domain name is Dynadot LLC.

3. **Important Dates**

S. No	Particulars	Date (All communications in electronic mode)
1.	Date on which NIXI’s email was received for appointment as Arbitrator	Nov 5, 2020
2.	Date on which consent was given to act as an Arbitrator in the case	Nov 5, 2020
3.	Date of appointment as Arbitrator	Nov 5, 2020
4.	Soft copy of complaint and annexures were received from NIXI through email	Nov 5, 2020
5.	Date on which notice was issued to the Respondent	Nov 6, 2020
6.	Date on which Respondent received physical delivery of complaint on address received from NIXI	Dec 9, 2020
7.	Date on which Respondent was served a notice to submit reply in 7 days	Dec 14, 2020
8.	Date on which Award passed	January 4, 2021

4. **Procedural History**

- 4.1 This is a mandatory arbitration proceeding in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP) adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28<sup>th</sup> June, 2005 in

accordance with the Indian Arbitration and Conciliation Act, 1996. The updated rules are available on <https://www.registry.in/INDRP%20Rules%20of%20Procedure>. By registering the disputed domain name accredited Registrar of NIXI, the Respondent agreed to the resolution of the disputes pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

- 4.2 In accordance with the Rules 2(a) and 4(a) of INDRP Rules, NIXI formally notified the Respondent of the complaint and appointed Dr. Karnika Seth as the sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996 and the rules framed thereunder. The Arbitrator submitted the statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.
- 4.3 The Complaint was filed in accordance with the requirements of the .IN Domain Name Dispute Resolution Policy.
- 4.4 The Arbitrator issued notice to the Respondent on Nov 6, 2020 at email address haooc <[403458510@qq.com](mailto:403458510@qq.com)> calling upon the Respondent to submit his reply to the Complaint within fifteen (15) days of receipt of the Arbitrator's email i.e., before 20<sup>th</sup> Nov 2020. The Complainant was directed to file proof of service of complaint upon the Respondent. Upon enquiry from NIXI, Complainant received complete address of Respondent and physical delivery of complaint was completed on 9 Dec 2020. On Dec 12, 2020, the Respondent enquired of process of arbitration by emailing the Arbitrator.
- 4.5 The Arbitrator issued another notice by email to the Respondent on Dec 14<sup>th</sup>, 2020 directing him to submit his reply within 7 days from receipt of notice. Despite notice, the Respondent failed to file any reply. Therefore, in accordance with the Rule 12 of INDRP Rules, the



Arbitration proceedings were conducted ex-parte and the Award is passed which is binding on both parties herein.

## **5. Factual Background**

- 5.1 The Complainant, trading as La-Z-Boy is a leading furniture manufacturer and retailer based in United States of America that makes residential furniture products including reclining chair and outdoor furniture, spas and hot tubs. The Complainant sells its product lines through its own 'LA-Z-BOY FURNITURE GALLERIES' stores, its website at [www.la-z-boy.com](http://www.la-z-boy.com) and via a global network of Distributors. The La-Z-Boy trademark is being used by the Complainant since 1929 and it is known for high quality of handcrafted furniture. The Complainant's operations are also spread extensively in countries like Australia, New Zealand, China, Japan, Singapore, Malaysia among other countries.
- 5.2 The Complainant owns the trademark "LA-Z-BOY" and by virtue of its long use, sale of the furniture products and retail through its online website, the trademark "LA-Z-BOY" is associated with the Complainant and has earned significant goodwill and international recognition.
- 5.3 The Complainant has been using the "LA-Z-BOY" trademark distinctively for use in connection with furniture and related products. La-Z-Boy maintains the website at [www.la-z-boy.com](http://www.la-z-boy.com), with the domain names lazboy.com and lazyboy.com, among others, directing to the [www.la-z-boy.com](http://www.la-z-boy.com) website. For Indian users, the Complainant maintains the website [www.la-z-boyindia.com](http://www.la-z-boyindia.com) and sells its products under the La-Z-Boy trademark. The Complainant is not only selling the furniture through its own website in India but also promoting and

selling them online on various e-commerce platforms in India like Amazon and Flipkart. (as per **Annexure D** of the complaint).

- 5.4 The Complainant owns numerous trademark registrations and exclusive rights in the distinctive 'LA-Z-BOY' trademark in many countries around the world including India. In India, the mark LA-Z-BOY is registered in name of the Complainant in class 20 since 22 Nov 1994. Copies of registration certificates for the mark LA-Z-BOY and variants from various jurisdictions in which the mark is registered are filed by the Complainant as Annexure E to the complaint.
- 5.5 The Respondent in this administrative proceeding, as per WHOIS database, is C- 601453 (Registrant client ID) as per the complaint filed. NIXI provided complete contact details of the Respondent as per INDRP Rules of Procedure, that is, Chong Hao, having address Si Ma Qian Residential District, Zhichuan Zhen, Hancheng, Shaanxi, 715409, China. The Respondent's email address is [403458510@qq.com](mailto:403458510@qq.com).

## **6. Parties Contentions**

### **6.1 Complainant's Submissions-**

- 6.1.1 The Complainant has been using its mark continuously for its products and services, not only in India but across various other countries. Due to its established reputation across various countries and in India, the word 'LA-Z-BOY' has been exclusively associated with the Complainant and no one else.
- 6.1.2 The Complainant has registered the domains [www.la-z-boy.com](http://www.la-z-boy.com) and [www.la-z-boyindia.com](http://www.la-z-boyindia.com) which contains detailed information about the products of the Complainant under the LA-Z-BOY marks. The Complainant states it is the owner and proprietor of various other domain names incorporating 'LA-Z-Boy' and operates websites



www.lazboy.com, www.lazyboy.com and www.la-z-boyindia.com.

The printouts of web pages relating to said domain names of the Complainant is annexed as **Annexure C** to the complaint. The Complainant submitted that the Respondent had registered the disputed domain name www.laz-boy.co.in without authorization. The disputed domain name leads to a page containing pay-per-click advertisements listing Recliners, Office chair and the Complainant's LA-Z-BOY mark at the top of the list which shows bad faith registration.

6.1.3 The disputed domain is identical to and is a clear imitation of the 'LA-Z-BOY' trademarks, and has used it with an intention to pass off as its own.

6.1.4 The Respondent has no legitimate interest in the domain name or the mark except to mislead consumers and thereby infringe the 'LA-Z-BOY' trademark and deceive consumers as to affiliation, connection or association of the disputed domain name with the Complainant, which is incorrect and injures the Complainant's interests.

## **6.2 Respondent's Defence**

6.2.1 Despite the service of notice by email, the Respondent failed to reply to the notice within the stipulated time.

6.2.2 The INDRP Rules of Procedure require under Rule 8(b) that the arbitrator must ensure that each party is given a fair opportunity to present the case. Rule 8(b) reads as follows:

*"The Arbitrator shall at all times treat the parties with equality and provide each one of them with a fair opportunity to present their case."*

6.2.3 Further the INDRP Rules of Procedure empowers the Arbitrator to proceed with arbitration proceedings *ex parte* and decide the

arbitration in case any party does not comply with the stipulated time limit to file its response. Rule 12 reads as follows:

*“In event any party breaches the provisions of INDRP rules and/or directions of the arbitrator, the matter can be decided ex-parte by the Arbitrator and such arbitral award shall be binding in accordance to law.”*

6.2.4 In present arbitration, the Respondent has failed to file any reply to the Complaint and has not sought any further time to answer the Complainant's assertions, contentions or evidences in any manner. The Arbitrator thus finds that the Respondent has been given a fair chance to present its case. Since the Respondent has failed to reply to Notice to submit its response, Arbitration has been conducted ex-parte in accordance with Rule 12 of the INDRP rules and decided on merits exparte.

## **7. Discussion & Findings**

7.1 The .IN Domain Name Dispute Resolution Policy (“.IN Policy”), in para 4 requires Complainant, to establish the following three requisite conditions –

- (a) The disputed domain name is identical or confusingly similar to the trademark in which Complainant has rights,
- (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.

**7.2 The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights (Paragraph 4(a))**



The Complainant has filed documents of its registered trademarks in India and other countries as well to prove its rights in the trademark "LA-Z-BOY". The Complainant is the registered proprietor of the mark "LA-Z-BOY" (word mark) in India under the Trade Marks Act, 1999. The Trademark "LA-Z-BOY" (word) is registered in India in class 20 since 22 Nov 1994. The Complainant has filed supporting proof of registration of trademark in other countries too. The Complainant has filed sufficient proof to substantiate that the Trademark "LA-Z-BOY" (word) is registered in India in class 20 since 22 Nov 1994. Therefore, it is established that the Complainant has statutory protection and trademark in the "LA-Z-BOY" in India since 22 November 1994. The Arbitrator finds that the disputed name www.la-z-boy.co.in, is clearly identical and deceptively similar to the Complainant's trademark in which the Complainant has exclusive trademark rights. The Respondent has even copied exactly the structure of the trademark i.e., with the hyphen between the LA and Z and similarly between the Z and BOY to reflect LA-Z-BOY. Therefore, Arbitrator the Complainant's registered trademark (as well as the Complainant's domain names www.la-z-boy.com and www.la-z-boyindia.com and the disputed domain name www.la-z-boy.co.in are identical to the Respondent's disputed domain name.

As per WIPO Synopsis 3.0, while each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to the mark for purposes of UDRP standing.



The disputed domain name consists of “La-Z-Boy”, the Complainant’s trademark in entirety and the cc TLD “co.in” with ‘spaces exactly same as in Complainant’s trademark which is likely to deceive and confuse consumers. It is well recognized that incorporating a trademark in its entirety, particularly if the mark is an internationally well-known mark, is sufficient to establish that the domain name is identical or confusingly similar to the Complainant’s registered mark. (*LEGO Juris A/S v. Robert Martin*, INDRP/125 (2010))

Also, it is a settled law that the presence or absence of spaces, punctuation marks between words or indicators for top-level domains, such as .com, or ccTlds .in, co.in are irrelevant to the consideration of similarity between a trademark and a disputed domain name. (*Magnum Piering, Inc v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO case no. D2000-1525)

Similarly, in the case of *Kaviraj Pandit Durga Dutt Sharma vs Navaratna Pharmaceutical*, 1965 AIR 980 the Hon’ble Supreme Court held as follows-

*“The persons who would be deceived are, of course, the purchasers of the goods and it is the likelihood of their being deceived that is the subject of consideration. The resemblance may be phonetic, visual or in the basic idea represented by the plaintiff’s mark. The purpose of the comparison is for determining whether the essential features of the plaintiff’s trade mark are to be found in that used by the defendant. The identification of the essential features of the mark is in essence is a question of fact and depends on the judgment of the Court based on the evidence led before it as regards the usage of the trade.”*





As the Respondent's disputed domain name is exactly same in structure and appearance with Complainant's registered trademark, and the Respondent failed to file any reply to rebut the contentions of the Complainant, the Arbitrator finds that the Respondent's domain name is identical to Complainant's registered trademark and is likely to deceive the customers.

### **7.3 The Registrant has no rights or legitimate interests in respect of the domain name (Paragraph 4(b))**

Under paragraph 6 of the policy, a Respondent or a Registrant can prove rights or legitimate interest in the domain name. The Complainant has filed sufficient evidence to prove disputed domain name is identical to the 'LA-Z-BOY' trademark, in which the Complainant enjoys substantial reputation and goodwill including web shots of its websites (annexed as Annexure C to complaint) and registration of trademarks in several countries (annexed as Annexure E to the complaint). The Respondent can have no legitimate interest in the disputed domain name which is identical to the Complainant's prior, registered and well-known 'LA-Z-BOY' trademark and domain names [www.la-z-boy.com](http://www.la-z-boy.com) and [www.la-z-boyindia.com](http://www.la-z-boyindia.com). Despite notice, the Respondent has not rebutted the contentions of the Complainant and has not produced any documents or submissions to show its interest in protecting its own right and interest in the domain name.

The Complainant has submitted that the Respondent is engaging in unfair commercial use of the disputed mark and is engaging in pay per click advertisements through the use of disputed domain name (annexed as per **Annexure F** to the complaint).

Further, the Complainant submitted that the Respondent has no rights or legitimate interests in the disputed domain name and has registered the domain name only to take unfair advantage of Complainant's global reputation and goodwill. The fact that the disputed domain name has not been put to legitimate non-commercial fair use or commercial/business use shows Respondent, holds no legitimate rights or interest in the disputed domain name pursuant to ICANN Policy 4(b).

It is the Respondent's responsibility to determine whether the Respondent's domain name registration infringes or violates someone else's rights. Since the Complainant's said website and trademarks were in existence and extensively used when disputed domain was registered by the Respondent (registered on 29-2-2020), the Respondent has to prove whether he discharged this responsibility at the time of purchase of disputed domain name. However, despite notice Respondent failed to reply and also failed to discharge this onus.

The Respondent also failed to file any reply to show that he is making any legitimate, non-commercial or fair use of domain name without intent for commercial gains nor is likely to divert consumers or tarnish trademark by registering the disputed domain name. The Arbitrator finds that the Respondent has no rights and/or legitimate interests in the disputed domain name.

**7.4 The Registrant's domain name has been registered or is being used in bad faith (Paragraph 4 (c))**



For the purposes of Paragraph 4 (c) of .IN Policy, under paragraph 7 of the policy, the Complainant is required to establish that the domain name was registered or is being used in bad faith.

The Complainant has secured registration of the mark "La-Z-Boy" (word mark) in India since 22 November, 1994 in relation to manufacturing residential furniture products including reclining chair and related products in class 20. The Respondent has produced no evidence or justification for registering the disputed name. Infact, Complainant has filed evidence to show bad faith registration by filing screen shot of the web page of disputed domain showing its unfair use by Respondent through publishing pay per click ads, including the trademark 'LA-Z-BOY' of the Complainant without any authorization (**Annexure F** of complaint). The Complainant submitted that the Respondent is not authorized by the Complainant to use the disputed domain name in the absence of any license or agreement from Complainant to use or apply its trademark.

Thus, Arbitrator finds that Respondent's disputed domain name feature pay-per-click advertisement with the Complainant's trademark 'La-Z-Boy' clearly establishes the bad faith and malafide intention of the Respondent. It also shows that he intended to hoard the disputed domain name preventing the Complainant from using it or divert customers of the Complainant.

As stated before, Respondent was under obligation to check if registering disputed domain name would not infringe another entity's rights, an onus which he failed to discharge. *AB Electrolux vs. Liheng* INDRP/700 (August 03, 2015)

The Complainant's domain name www.la-z-boy.com was created and used since 1994. (supporting document filed as Annexure C to complaint). The disputed domain name www.la-z-boy.co.in was registered by Respondent on 29<sup>th</sup> February, 2020. Thus, Complainant's rights in the LA-Z-BOY mark pre-dated Respondent's registration of the disputed domain name.

The Respondent is also using the disputed domain name for pay-per-click advertisements listing recliners, office chair and other furniture and preventing its bonafide use by the Complainant. Further, the Complainant affirmed that he has neither authorized nor licensed to the Respondent to use the word 'La-Z-Boy' in any manner and the Respondent in no way is connected with the Complainant or its business. It is also settled principle that the registration of a domain name that incorporates a well-known mark by an entity that has no relation to the mark is evidence of bad faith. (*The Ritz Carlton Hotel Company LLC v Nelton Brands Inc, INDRP/250, 2011*; ref. WIPO Overview 3.0, at section 2.9 notes that a pay-per-click website "does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users".)

Moreover, it is settled law that the incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith. (*Microsoft Corporation vs. Montrose Corporation, (WIPO Case No. D2000-1568)*). In present case, the Respondent failed to file any response to the contentions and submissions of the Complainant.



For the aforesaid reasons, the Arbitrator finds the disputed domain name has been registered and used in bad faith under the .IN Policy.

## **8. DECISION**

On the basis of the abovesaid findings the Sole Arbitrator finds that:

- (a) The Complainant has successfully established three grounds required under the policy to succeed in these proceedings
- (b) Respondent has failed to rebut averments, contentions and submissions of the Complainant.

The Arbitrator directs the .IN Registry of NIXI to transfer the domain name “la-z-boy.co.in” to the Complainant.

The Award is passed on this 4<sup>th</sup> January, 2021

Place: Noida



Dr. Karnika Seth

Sole Arbitrator