



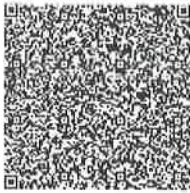
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Certificate Issued Date	: 19-Apr-2021 01:00 PM
Account Reference	: IMPACC (IV)/ dl916803/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL91680348980226939672T
Purchased by	: VIKRANT RANA
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: VIKRANT RANA
Second Party	: Not Applicable
Stamp Duty Paid By	: VIKRANT RANA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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BEFORE THE SOLE ARBITRATOR UNDER .IN DISPUTE RESOLUTION POLICY
(Appointed by .IN Registry- National Internet Exchange of India)

ARBITRATION AWARD
Disputed Domain Name: <XPO.IN>

IN THE MATTER OF

XPO Logistics Inc.,
Five American Lane,
Greenwich Connecticut 06831
United States of America

...Complainant

-----versus-----

Wangchen,
Xichengqu Liupukang,
Beijing – 100120, China

...Respondent

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1. The Parties

The **Complainant** in this arbitration proceeding is **XPO Logistics Inc.**, of the address: *Five American Lane, Greenwich Connecticut 06831, United States of America.*

The **Respondent** in this arbitration proceeding is **Wangchen** ("Respondent") of the address: *Xichengqu Liupukang, Beijing – 100120, China.*

2. The Domain Name

The present arbitration proceeding pertains to a dispute concerning the registration of domain name **XPO.IN** with the .IN Registry.

3. Procedural History

The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI).

NIXI vide its email dated February 23, 2021, had sought consent of Mr. Vikrant Rana to act as the Sole Arbitrator in the matter. The Arbitrator informed of his availability and gave his consent vide Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure vide email on February 24, 2021.

Thereafter, NIXI forwarded the soft copy of the Complaint, along with Annexures, as filed by the Complainant in the matter, to all Parties, including the Arbitrator vide email dated February 24, 2021 and made the pronouncement that Mr. Vikrant Rana, in his capacity as Arbitrator, would be handling the matter.

The Arbitrator then, vide email to NIXI on the same date, confirmed receipt of the soft copy of the Complaint along with annexures, and in accordance with the amended rules of the INDRP, requested the Complainant to confirm once the copy of the Complaint (along with Annexures) has been served upon the Respondent (by post as well by email) and provide proof of service thereof.

On February 27, 2021, the Arbitrator was copied on an email from the Complainant, serving a soft copy of the Complaint along with Annexures to the Respondent and further stating that they are taking necessary steps to forward a hard copy to the Respondent's address in China. The Arbitrator was then also copied on an email of March 01, 2021 from the Complainant to the Respondent, wherein the Complainant stated that the hard copy of the Complaint with Annexures has been dispatched to the Respondent's address in China and further providing the consignment details in this regard.

Thereafter on March 11, 2021, the Arbitrator followed up with the Complainant regarding proof of delivery of service of the complaint (along with Annexures) on the Respondent, which was acknowledged by the Complainant vide email of the same date. Shortly thereafter, on March 11, 2021, the Complainant (vide a separate email) provided an update regarding service of the complaint to the Arbitrator inter alia stating that while delivery by email was successful, the hard copy was still in transit owing to the fact that the address may be incorrect/ incomplete.

On March 16, 2021, NIXI provided the Complainant with the complete WHOIS details of the Respondent, pursuant to which the Complainant filed a revised Complaint reflecting the complete details/ contact information of the Respondent.

In the meantime, the Arbitrator was copied on an email dated March 16, 2021 from the Respondent inter alia confirming receipt of the complaint.

In view of the Respondent's aforesaid email acknowledging receipt of the Complaint (along with Annexures thereto), Respondent was deemed to have been sufficiently served with the Complaint and Annexures thereto and was granted a period of **fourteen (14) days** from the date of receipt of the email, i.e. till March 31, 2021, to file a response.

Thereafter on March 31, 2021, the Respondent furnished a response via email. The same was taken on-record on April 01, 2021 and the Complainant was thereafter granted a time period of 14 days, i.e. till April 14, 2021 to tender a rebuttal (if any). On April 13, 2021, the Complainant sent across their rebuttal with a copy of the same marked to the Respondent. Accordingly, on April 14, 2021, the Complainant's rebuttals were taken on-record and the Respondent was afforded a period of 14 days, i.e. till April 28, 2021 to tender a response.

As no response to the rebuttals has been preferred by the Respondent within the given time period, the Arbitrator, vide email dated April 29, 2021, reserved the award to be passed on the basis of facts and documents available on the record.

4. Factual Background

The Complainant has listed its relevant trademarks for **XPO** and marks incorporating **XPO** that are registered in India. Notably, the earliest registration in India for **XPO** dates back to 2015.

The Complainant has submitted that it was founded in 2011 and is a multinational transportation and logistics company catering to 1506 locations globally. With a yearly investment of USD 550 million into technology, the Complainant claims to offer its customers efficiency and visibility, and optimizes their operations through automation and customization.

With reference to India, the Complainant has submitted that they have supply chain warehouses in various cities in India including New Delhi, Gurgaon, Mumbai, Bangalore, Chennai, Ahmedabad, Kolkata, etc. The Complainant has also provided an extract from the records of the Registrar of Companies (marked as **Annexure 4**) evidencing registration of the Indian

company XPO LOGISTICS WORLDWIDE INDIA PRIVATE LIMITED (name as changed in 2016).

Complainant has submitted that they have received numerous awards and recognitions for their services provided under the **XPO Marks**. Details of such awards have been annexed as **Annexure 5**.

Further, Complainant has submitted that their goodwill in the **XPO Marks**, as of December 31, 2019, was calculated at USD 4,450 million. In light of the extensive marketing and promotion of the **XPO Marks**, Complainant claims to have acquired a cross-border reputation and distinctiveness in respect of its products and services.

Complainant has submitted that it owns and has used the marks **XPO/ XPO LOGISTICS** and variations thereof as part of its corporate name and in numerous jurisdictions around the world. The Complainant's worldwide portfolio of **XPO Marks** along with copies of registration certificates (including in India) has been annexed as **Annexures 6 and 7**.

Complainant has further submitted details of the domain names owned by them including **XPO.COM**, which hosts the Complainant's primary website and has been registered and regularly renewed since **June 23, 1995**. Copy of the WHOIS details of **XPO.COM** has been annexed as **Annexure 8**. The Complainant has also provided a list of 71 domains incorporating the name **XPO** and their corresponding WHOIS details annexed as **Annexure 9**.

Complainant has further averred to its popularity on social media platforms such as Facebook, LinkedIn, YouTube, Twitter and Instagram under its house brand **XPO** wherein they have amassed more than 460,000 followers. Extracts from the Complainant's social media pages has been annexed as **Annexure 10**.

5. Complainant's Contentions

Complainant has claimed that the impugned domain <**xpo.in**>, registered on **January 11, 2018**, leads to a parked page, www.xpo.in, which has been listed for sale for USD 16,500 and also displays pay-per-click (PPC) advertisements wherein one of the links displays the Complainant's name/ mark **XPO LOGISTICS**. Purportedly, these links direct to webpages related to services competing with the Complainant's core business. Snapshots from the impugned website evidencing the above have been annexed as **Annexure 11**.

6. Legal Grounds Submitted by the Complainant

The Complainant has submitted the following legal grounds in support of its complaint:

- A. The Disputed Domain Name's Similarity to the Complainant's Rights
[.IN Domain Dispute Resolution Policy, Paragraph 4(a)]

The Complainant has contended that the impugned domain **XPO.IN** is identical to the Complainant's registered trademark **XPO**.

Complainant has further contended that incorporation of the Complainant's mark in the domain in its entirety is sufficient to establish confusing similarity. The Complainant has relied on several decisions as passed by earlier panels adjudicating under the UDRP.

Further, Complainant has stated that a search for **XPO** on the popular search engine Google leads only to the Complainant's genuine websites/ webpages and has provided evidence in this regard as **Annexure 13**. In view thereof, Complainant has contended that the mark **XPO** is associated with the Complainant alone and no one else.

Additionally, Complainant has relied on its rights in the domain **XPO.COM** dating back to 1995 as against the impugned domain which has been registered only in 2018.

B. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name
[.IN Domain Dispute Resolution Policy, Paragraph 4(b)]

Complainant has contended that the Respondent in the present case has not fulfilled any of the conditions under the INDRP for it to have demonstrable rights or legitimate interests in the disputed domain name. This assertion has been based on the following arguments:

- That the masking of the WHOIS records by the Respondent is a clear indication of the Respondent's intention to evade notice of the present dispute;
- That the mere fact that the impugned domain is registered does not imply that the Respondent has any rights or legitimate interest in them;
- Given that no actual content is being hosted at the impugned domain, and only a parked page is available there, the Respondent has not used, nor made any demonstrable preparations to use the impugned domain name in connection with a bona fide offering of services or goods;
- That the domain has been registered for fraudulent purposes in an attempt to make illicit gains by offering the same for sale;
- That a search on Google for **XPO** does not reveal any information on the Respondent;
- That the Complainant has not assigned or licensed or authorized the Respondent to register or make use of **XPO**;
- That inclusion of the term **XPO** reflects the intention of the Respondent to deceive the public into believing that some association/ nexus exists between the parties when there is, in fact, none;
- That the Respondent has registered the impugned domain with mala fide intention in order to earn profits, perhaps even by selling it at a mark-up to the genuine right holder;

C. The Registrant's Domain Name has been registered or is being used in bad faith
[.IN Domain Dispute Resolution Policy, Paragraph 4(c)]

Complainant has contended that they are vested with worldwide statutory and common law rights in its **XPO Marks** since 2011. In light of this, the Respondent's registration of the impugned domain is of concern to them due to the likelihood of the impugned domain being perceived as the Complainant's India-specific domain.

Further, Complainant has stated that as per Paragraph 3 of the INDRP, it is the responsibility of the Respondent to determine before registration that the domain does not infringe or violate third party rights. Complainant has claimed that since **XPO** is a reputed mark, it is unlikely that the Respondent was not aware of the Complainant's rights in the marks and domain incorporating **XPO**. Moreover, Complainant has stated that the fact that the domain hosts PPC links reflecting the Complainant's brand/ corporate name constitutes strong evidence of bad faith.

Complainant has contended that the Respondent being aware of the Complainant's well-known mark reflects its dishonesty and mala fide intention in registering the impugned domain and suggests 'opportunistic bad faith' in violation of the INDRP.

Complainant has contended that the adoption of **XPO** by the Complainant predates the registration of the impugned domain. Further, such registration by the Respondent has prevented the Complainant from operating the .IN country code corresponding to India. Additionally, the fact that there has been no active use of the domain name coupled with passive holding has also been contended by the Complainant as evidence of bad faith.

Complainant has further contended that the registration of the impugned domain is with a clear intention to generate revenue through PPC pages. Given that the PPC pages are linked to services similar to those of the Complainant, Complainant has submitted that the Respondent must be deriving revenue therefrom.

Additionally, the Complainant has stated that the Respondent is trying to solicit profits by offering the impugned domain for sale in order to transfer the same to one of the Complainant's competitors which could in turn tarnish the goodwill and reputation of the Complainant's **XPO Marks**.

Remedy Requested

Complainant has requested to issue a directive for the disputed domain name **XPO.IN** to be transferred to the Complainant.

Other Legal Proceedings

The Complainant has submitted that there are no other legal proceedings that have been commenced against the Respondent in relation to the domain name **XPO.IN**.

7. Respondent's Contentions

Respondent has contended that they were not aware of the Complainant's mark **XPO** until receipt of the domain complaint. Further, Respondent has stated that they had no intention of violating the Complainant's alleged rights and that the domain was not registered in bad faith.

Respondent has contended that **XPO** is a non-distinctive acronym and may have several full forms such as "Express Persistent Objects", "Executive Petty Officer", "External Portable Office" etc.

Respondent has contended that there are other corporations apart from the Complainant using the XPO domain name, such as XPO.net, XPO.org. Further, Respondent has stated that from the logo of the Complainant, it appears that they are known as XPO Logistics and not XPO. Accordingly, the disputed domain name **XPO.IN** is not identical to the Complainant's mark XPO Logistics.

Further, Respondent has stated that given that the Complainant was founded in 2011, it can be considered that the Complainant is a newly founded company with its main operations in the USA. Respondent stated that they registered the domain name because XPO is very short and falls in the category of a generic LLL. Respondent has also contended that the disputed domain name has value for itself, not for marks and was not registered in bad faith.

Additionally, Respondent has stated that the fact that the WHOIS records pertaining to the impugned domain were redacted was owing to NIXI asking all domain registrars to hide WHOIS details of every .IN domain name after the GDPR policy took effect.

Accordingly, Respondent has claimed honest and bona fide adoption of the impugned domain name.

8. Complainant's Rejoinder

Complainant, in its rejoinder, has rebutted the contentions of the Respondent stating that the Complainant enjoys exclusive rights in the term '**XPO**' being vested with worldwide statutory and common law rights in the same since 2011. Accordingly, The Complainant has claimed that at the time of registration of the **XPO.IN**, the Complainant was already known by its business / corporate / trade name **XPO** for many years and is therefore protected against all use of its mark **XPO** (including by the Respondent herein) that dilutes and tarnishes its rights and diverts web traffic away from the Complainant's legitimate business. Complainant has stated

that despite this the Respondent still chose to register **XPO.IN** and offered the domain name for sale so as to misappropriate the Complainant's **XPO Marks** in an unauthorised manner.

Complainant has contended that since **XPO** is a reputed mark in the relevant trade and industry and has been registered in multiple jurisdictions worldwide, including in India, it is unlikely that the Respondent was 'unaware' of the Complainant's rights in the mark or its domain name. This is further evidenced by the fact that the domain name has been registered with the identical **XPO** mark and further hosts PPC webpage reflecting Complainant's brand and corporate name – **XPO LOGISTICS**. Given this, Complainant has contended that it is highly probable that consumers searching for the Complainant's **XPO** branded services may perceive the Disputed Domain Name to be an India-specific domain name of the Complainant.

Complainant has further contended that the mark **XPO** is an inherently distinctive mark. Citing the search results for **XPO** on the search engine Google resolving to the Complainant's website or to third parties referencing the Complainant, Complainant has stated that this augments the indisputable association between the Complainant and its **XPO Marks** thereby lending the **XPO Marks** an additional layer of distinctiveness in commerce. Complainant has also alluded to evidence showing its statutory rights in **XPO** around the world as well as use of the same on its website/ social media accounts/ domain names demonstrating that **XPO** is recognised by members of trade and the consuming public.

Further, Complainant has reserved its right to take action against other third parties using **XPO** in relation to their business and contended that such third party use does not give the Respondent any right to make use of **XPO** as part of the impugned domain name. The Complainant has stated that is an established principle of law, that any use of a trademark by third parties, is no defense against the malicious adoption and use by the infringing party and averred to the lack of evidence submitted by the Respondent in this regard.

Complainant has re-iterated the fact of adoption and use of the mark **XPO** by them to rebut the Respondent's allegations of being known by the name of **XPO Logistics**.

Complainant has admitted to having been founded in 2011 and has averred that in a short span of 10 years the Complainant has come to be rated as one of the top ten global logistics provider. Further, Complainant has re-iterated details of its business activities in India, namely their offices in various cities in the country as well as their Indian company, to rebut the Respondent's contention that they are known only in the U.S.

Complainant has further contended that Registrar "Dynadot LLC" does not allow for domain privacy and all Dynadot Account holders can add privacy protection, by choosing to use the Registrar's domain privacy service which masks the personal information, including name, email address, mailing address and phone number. Documents in support of this have been annexed by the Complainant as **Annexure R1**.

Additional contentions by the Complainant are re-iterations as made in the complaint that are already on-record and are not being repeated here for the sake of brevity.

9. Discussion and Findings

In a domain complaint, the Complainant is required to satisfy three conditions as outlined in Paragraph 4 of the .IN Domain Name Dispute Resolution Policy, i.e.:-

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

i. The Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights
(Paragraph 4(a) of the .IN Domain Name Dispute Resolution Policy)

The Complainant has established its rights in the mark **XPO** in India, and based on the evidence placed on record, the Complainant's trade mark rights in India for the same date back at least to the year 2015. Further, the Complainant has submitted evidence showing that it is the owner of many **XPO** trademarks that are registered in various classes in India and around the world. Additionally, Complainant has submitted that they are the owner of the domain **XPO.COM** registered on **June 23, 1995**. These rights significantly pre-date the registration of the domain name **XPO.IN** by the Respondent, which was only registered on **January 11, 2018**.

The Complainant has further submitted evidence of awards conferred on the **XPO Marks**, list of **71 domains** incorporating **XPO** in their possession and their social media outreach on social media platforms such as Facebook, LinkedIn, YouTube, Twitter and Instagram. Complainant has also averred to the search results of **XPO** on Google resolving only to the Complainant's website and/ or third parties making reference to the Complainant.

The disputed domain name **XPO.IN** incorporates the trade mark **XPO** in toto. It is further noted that the Respondent is *prima facie* using the website hosted on the domain name to display pay-per click advertisements that lead to webpages belonging to the competitors of the Complainant and offering overlapping services. In fact, the name of the Complainant **XPO Logistics** is displayed on one of the links on the impugned website.

It has been upheld by prior INDRP panels in *Indian Hotels Company Limited v. Mr. Sanjay Jha (INDRP/148)*, that in cases where the disputed domain name incorporates a mark in its entirety, it is adequate to prove that the domain name is either identical or confusingly similar to the mark. The same has also been held by other INDRP panels, such as *Voltas Limited v. Sergi Avaliani INDRP/1257 <voltasac.in>*, *M/s Merck KGaA v. Zeng Wei INDRP/323 <Merckchemicals.in>*, *Instagram LLC v. Osbil Technology Ltd. INDRP/1130 <instagrampanel.in>* and *Advance Magazine Publishers Inc. v. Abhishek Singh INDRP/1240 <voguetravelhouse.co.in>*.

In view of the aforesaid, the Arbitrator finds that the Complainant has successfully established the requirements as under Paragraph 4(a) of the .IN Domain Name Dispute Resolution Policy, and that the Respondent's domain **XPO.IN** is confusingly identical/similar to the Complainant's trade mark(s).

ii. **The Registrant has no rights and legitimate interest in respect of the domain name (Paragraph 4(b) and Paragraph 6 of the .IN Domain Name Dispute Resolution Policy)**

The Complainant has contended that since they are the registered proprietor and owner of the trademark **XPO** and variants thereof, the Respondent has no right or legitimate interest in respect of the domain **XPO.IN**.

Complainant has further contended that the Respondent is taking advantage of unaware customers who may be deceived into believing that the domain **XPO.IN** is the India-specific domain of the Complainant.

Complainant has also contended that the mark **XPO** is its exclusive property and that Respondent has no right to use the said mark and the said use is not licensed and is thus an infringement of the trademark **XPO**, and that the Respondent has developed the domain **XPO.IN** only to illegally benefit from the goodwill and reputation of the Complainant's mark **XPO**. Further, the fact that the Respondent has listed the said domain for sale and is using the website hosted on the domain name to display pay-per click advertisements that lead to webpages belonging to the competitors of the Complainant further evidences lack of legitimate rights on the Respondent's part.

In the present dispute, Complainant has established that it has rights over the mark **XPO** and that the domain **XPO.IN** is confusingly identical/similar to the Complainant's trade mark.

The element under Paragraph 4(b) and Paragraph 6 of the .IN Domain Name Dispute Resolution Policy necessitates that Complainant has to establish a prima facie case that Respondent has no rights or legitimate interests in the disputed domain in question. The burden thereafter lies on the Respondent to rebut the showing by providing evidence of its rights or legitimate interests in the domain name. It has been held in numerous cases, including in *Huolala Global Investment Limited v Li Chenggong (INDRP /1027)* that the onus of proving

rights or legitimate interest in the disputed domain name lies on the Respondent. If the Respondent fails to come forward with relevant evidence to prove rights and legitimate interest in the disputed domain name, and if the Complainant is found to have put forward a prima facie case, then the Complainant prevails.

In this case, the Respondent (in its response dated March 31, 2021) has not submitted any argument and/or any evidence of holding legitimate rights and interests in the impugned domain. The Respondent has not tendered any argument that would establish the conditions pre-requisite for considering a registrant's rights and legitimate interests in a domain name as set out under Paragraph 6 of the INDRP, such as it is commonly known by the domain name or is using the domain name without intent for commercial gain.

The Complainant has established a prima facie case of its rights in the name/mark **XPO**, and in view of the lack of any arguments/ evidence tendered by the Respondent demonstrating legitimate interest in the impugned domain, the Arbitrator finds that Respondent is not using the disputed domain name for a bonafide offering of services and is not making legitimate non-commercial or fair use of the Complainant's trade mark.

Further, use of such a confusingly and deceptively similar domain name by the Respondent is likely to mislead and misrepresent to the general public and members of the trade as to the source, sponsorship, affiliation or association of the activity being carried on through the website.

In view of the aforesaid, the Arbitrator finds that the Complainant has successfully established the requirements as under Paragraph 4(b) of the .IN Domain Name Dispute Resolution Policy.

iii. The Registrant's domain name has been registered or is being used in bad faith (Paragraph 4(c) and Paragraph 7 of the INDRP)

Paragraph 7 of the INDRP stipulates the below circumstances which show registration and use of a domain name in bad faith - (a) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or (b) 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, provided that the Registrant has engaged in a pattern of such conduct; or (c) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other online location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.

Complainant has submitted that the Respondent has adopted the impugned domain name with a *mala fide* intent to misrepresent itself as belonging to the Complainant's India-specific operations in order to earn revenue from the pay-per click advertisements displayed on the impugned website. Further, Complainant has stated that by unauthorizedly adopting the impugned domain **XPO.IN**, the Respondent intends to divert traffic to its website which is further linked to webpages related to services competing with the Complainant's core business, thereby resulting in dilution and tarnishment of its **XPO Marks**.

Based on the evidence on record, it appears that by registering and using the domain **XPO.IN**, the Respondent has engaged in conduct as enumerated in Paragraph 7 (a) and (c) of the INDRP, namely that: *(a) ... the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; and (c) it has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.*

This is principally borne out by the facts that: 1) the Respondent has listed the impugned domain for sale at the exorbitant initial asking price of USD 16,500 which is clearly much greater than any costs the Respondent could have incurred in registering the impugned domain and maintaining it till date; and 2) the Respondent is hosting pay-per click advertisements on the impugned domain which prima facie direct consumers/internet users to websites belonging to the Complainant's competitors.

Further, the Respondent's averments as to bona fide adoption of the impugned domain are unaccompanied with any evidence in support thereof and are therefore rejected on the grounds of being unsubstantiated and without merit. The Respondent has been unable to provide a satisfactory explanation as to how they chanced upon the identical name **XPO**. Moreover, the Respondent has failed to respond to the Complainant's specific allegations demonstrating bad faith, such as the attempts to make monetary gain, whether by directly listing the domain as for sale, or by displaying pay-per click advertisements which prima facie direct consumers to websites belonging to the Complainant's competitors.

Accordingly, given the lack of evidence tendered by the Respondent, the Arbitrator does not find registration of the disputed domain name to have been bona fide.

In view of the aforesaid, the Arbitrator concludes that the Complainant has satisfactorily proved that the disputed domain name was registered and is being used in bad faith as per Paragraph 4(c) and Paragraph 7 of the INDRP.

10. Decision

Based upon the facts and circumstances and further relying on the materials as available on the record, the Arbitrator is of the view that the Complainant has statutory and proprietary rights over the trade mark **XPO** and variations thereof. The Complainant has herein been able to prove conclusively that:

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

The Arbitrator therefore allows the prayer of the Complainant and directs the .IN Registry to transfer the domain **XPO.IN** to the Complainant.

The Award is accordingly passed and the parties are directed to bear their own costs.

Vikrant Rana, Sole Arbitrator

Date: May 03, 2021.

Place: New Delhi, India.