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BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME DISPUTE RESOLUTION POLICY
(Appointed by the National Internet Exchange of India)

ARBITRATION AWARD

Disputed Domain Name: <ETSY.CO.IN>

IN THE MATTER OF

Etsy, Inc.

117 Adams Street, Brooklyn, New York,
New York 11201, United States of America

...Complainant

-----versus-----

Cao Rui,

Jiefang Lu 28 Hao
Wuhan 430010
China

...Respondent

Vikrant Rana

Statutory Alert:

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1. The Parties

The **Complainant** in this arbitration proceeding is **Etsy, Inc.**, of the address: *117 Adams Street, Brooklyn, New York, New York 11201, United States of America.*

The **Respondent** in this arbitration proceeding is **Cao Rui** of the address: *Jiefang Lu 28 Hao, Wuhan 430010, China.*

2. The Domain Name, Registrar and Registrant

The present arbitration proceeding pertains to a dispute concerning the registration of domain name **<ETSY.CO.IN>** with the .IN Registry. The Registrant in the present matter is **Cao Rui**, and the Registrar is **Dynadot LLC**.

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 May 24, 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 the next day, i.e. May 25, 2021. Thereafter the Arbitrator received soft copies of the domain complaint and the annexures thereto from NIXI on May 27, 2021. Consequently, on May 27, 2021, the Arbitrator received an email from the Complainant providing snapshots of the emails (as sent to the Respondent) serving the soft copy of the complaint and annexures on the Respondent. As regards service of hard copy, Complainant stated that owing to the lockdown in Tamil Nadu they are unable to serve the same by post. The Arbitrator, vide email dated May 28, 2021 directed the Complainant to submit proof of service of soft copy (in the form of delivery/ read receipts) and acknowledged that the Complainant is unable to serve the hard copy on the Respondent at that time.

On June 02, 2021, the Arbitrator sent a follow up email to the Complainant enquiring about the status of service of the complaint on the Respondent. The Complainant informed the Arbitrator vide email dated June 02, 2021 that they have not received any delivery or read receipt with respect to the service of soft copy and have also not received any errors regarding delivery in this regard and further enquired whether this may suffice as sufficient service. With respect to service of hard copy, Complainant stated that in view of the lockdown in Tamil Nadu, they shall dispatch the hard copy as soon as it would be practicable to do so. The Arbitrator, vide email dated June 03, 2021, asked the Complainant whether they received any bounce back notification and in accordance with the INDRP Rules further advised them to attempt to serve the soft copy on the Respondent's corresponding 'postmaster@' id as well.

On June 08, 2021, the Arbitrator sent another follow up email to the Complainant enquiring about the status of service of the complaint on the Respondent. The Complainant provided a status update to the Arbitrator on June 08, 2021 inter alia stating that they have served a copy of the complaint on the Respondent's corresponding 'postmaster@' id as well, however have yet to receive any delivery/ read receipts in this regard. Further, Complainant enquired whether it is mandatory to serve the hard copy of the complaint in view of the extension of lockdown in Tamil Nadu. Vide email of the same date, the Arbitrator informed the Complainant that since

Vikrant Rana

they did not receive any delivery/ read receipts, service of soft copy cannot be deemed to be successful. Further, given that postal services were exempted from lockdown restrictions in Tamil Nadu, the Arbitrator requested the Complainant to physically serve the hard copy on the Respondent via courier/ post and provide proof of service thereof on or before June 24, 2021.

On June 15, 2021, the Complainant informed the Arbitrator that they have dispatched a hard copy of the complaint to the Respondent's address in China. Thereafter, on June 19, 2021, the Complainant informed the Arbitrator that it appears that the Respondent has refused delivery of the physical copy of the complaint (as evidenced by the tracking details in this regard) and that they are attempting delivery once again. On June 24, 2021, the Complainant informed the Arbitrator that the physical copy of the complaint as dispatched to the Respondent's address is still on hold as the Respondent is refusing to accept delivery and provided an extract of the courier tracking details in this regard. In view of the numerous attempts to serve a copy of the complaint on the Respondent, the Complainant requested the Arbitrator to consider deemed service on the Respondent. Accordingly, vide email dated June 25, 2021, the Arbitrator requested the Complainant to submit a short affidavit (via email) along with a copy of the Airway Bill as well as a copy of the email received from the courier service stating that the Respondent refused delivery. On June 29, 2021, the Complainant submitted the requested documents along with an affidavit and requested the Arbitrator to proceed further in the matter.

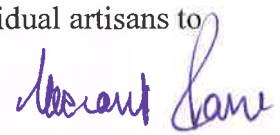
Vide email dated June 30, 2021, the Arbitrator confirmed receipt of the affidavit. The Respondent was deemed to have been sufficiently served with the Complaint and Annexures thereto and was granted a period of **fourteen (14) days** from the date of receipt of the email, i.e. till July 14, 2021, within which to file a response to the Complaint and forward copies of the same to the Complainant, the Arbitrator and the .IN Registry, failing which, the matter would be decided on the basis of material already available on record and on the basis of applicable law. The arbitration proceedings were therefore deemed to have commenced from **June 30, 2021**.

On July 15, 2021, the Arbitrator, vide email addressed to the Respondent, brought it on record that despite the prescribed deadline for the Respondent to respond in the matter having elapsed on July 14, 2021, in the interests of justice the Respondent was being granted an additional but final and non-extendable period of **seven (7) days** i.e. till July 22, 2021, within which to submit a response (if any) in the matter.

As no response to the Complaint was preferred by the Respondent in the matter even after expiration of the aforementioned final time period of **seven (7) days**, the Arbitrator, vide email dated July 23, 2021, reserved the award to be passed on the basis of facts and documents available on the record.

4. Factual Background

Complainant has submitted that it is an e-commerce global marketplace for unique and creative goods which commenced its operations in 2005 and specializes in the sale of vintage items, handmade goods, art, and crafts. Complainant has submitted that their items fall under a wide range of categories, including jewellery, bags, clothing, home décor and furniture, toys, wedding, parties, art, as well as craft supplies and tools and has claimed to come to be recognized as one of the key figures in the online handmade goods space since 2005. As per the Complainant, their business model allows for community sellers and individual artisans to turn their unique skills into viable businesses.



Complainant has submitted that they are based out of the United States with operations all over the globe, including India and have claimed to have been providing its e-commerce and allied services under the trademark **ETSY** since 2005. Further, Complainant has submitted details of their trademark registration for the name/ mark **ETSY** in various countries around the world including in India and attached copies of registration certificates in this regard as **Annexure C**.

It is pertinent to note that the earliest Indian registration adduced by the Complainant for the name/ mark **ETSY** is dated September 10, 2012 and has been filed claiming use since **May 13, 2006**. Further, the earliest date of use of the name/ mark **ETSY** claimed in the Complainant's US registrations is mentioned as **January 06, 2005**.

Complainant has further submitted that they own and operate the domain www.etsy.com since **February 05, 2004** and use the website to promote and sell third party products ranging from handcrafted pieces to vintage items. Copy of WHOIS record of the impugned domain as well as snapshots from the Complainant's website has been annexed as **Annexure D**.

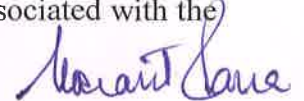
Complainant has claimed that the profile and popularity of their e-commerce platform and services has been continuously increasing since the date of adoption and use of the Complainant's **ETSY** mark. Complainant has further stated that they have over 60 million items on its online marketplace and claims to have connected almost 2.1 million sellers with nearly 40 million buyers throughout the globe. As per the Complainant, they have further employed 900 employees and has a total sales or Gross merchandise sale (GMS) of US\$3.93 billion on its website platform.

Additionally, Complainant has submitted that they invested its time and efforts to promote and develop its mark "**ETSY**" across various digital platforms and the Complainant's services under the **ETSY** mark are also available as mobile applications in the iOS and Android platforms wherein the buyer or seller can download the said app and purchase the products provided by the Complainant. In this regard, the Complainant has adduced snapshots of their mobile app as **Annexure D**.

Further, Complainant vide **Annexure E** has submitted snapshots of their social media accounts under the name/ mark **ETSY** on Facebook, Instagram, Pinterest, etc. wherein the Complainant has amassed millions of followers.

With specific reference to India, Complainant has claimed that they have been using the name/ mark **ETSY** in India. Further, as per the Complainant, they aim at promoting Indian heritage and consumer demand for goods of Indian origin, and has a wide user base of buyers and sellers in India. Complainant has further claimed that they have been featured in various news articles and media platforms, including on many Indian news portals and platforms including but not limited to YourStory, Inc42, The Hindu, Livemint, and others. Accordingly, the Complainant has stated that their **ETSY** mark has come to be recognized amongst the relevant segment of the Indian public as a reputed marketplace for inter alia handmade goods, crafts, and vintage items. In this regard, Complainant has annexed instances of media attention received by the name/ mark **ETSY** in India as **Annexure F**.

Further, Complainant has submitted that owing to the reputation and goodwill earned by the Complainant across the globe (including in India), the word "**ETSY**" has come to be exclusively associated with the Complainant's products and services and no one else. Accordingly, Complainant has claimed that any unauthorized use of the name/ mark **ETSY** will lead the public to believe that such use has been authorized and/ or is associated with the Complainant in some manner.



5. Complainant's Contentions and Arguments

Complainant has submitted that they came across the disputed domain name www.etsy.co.in incorporating the name/ mark **ETSY** and registered without any authorization. Upon accessing the website hosted on the impugned domain, the Complainant discovered a landing page therein which displayed products similar to those dealt with by the Complainant. Further, as per the Complainant, upon selecting a particular product, a list of various sellers dealing with those products was displayed. In this regard, the Complainant has submitted a copy of the webpage www.etsy.co.in as **Annexure G**.

Complainant has further stated that the Respondent does not own the disputed trade mark "**ETSY**" in India and has registered the disputed domain name with a mala fide intention to deceive and mislead the customers of the Complainant.

Based on the Respondent's adoption and use of domain name that incorporate the **ETSY** mark, in its entirety, the Complainant has stated that Respondent is using and has used the disputed domain name to intentionally attempt to attract internet users and consumers looking for legitimate **ETSY** products and services by creating a likelihood of confusion with the Complainant for commercial gain.

Further, Complainant has stated that there is no evidence that the Respondent has any legitimate claims to the disputed domain name and that any current or conceivable future use of the disputed domain name would be in violation of the Policy.

Additionally, as per the Complainant, such unauthorized use of the disputed domain name by Respondent would severely harm the Complainant by tarnishing and infringing its trademarks, hard earned reputation and goodwill in the U.S. and across the world.

Complainant has stated that each of the factors mentioned in Paragraph 4 of the INDRP are satisfied in the present dispute, as below:

- i. *The Domain Name is confusingly similar to the Complainant's trade marks (Paragraph 4(a) of the .IN Policy)*

The Complainant owns the **ETSY** mark and has used its registered **ETSY** mark in its own domain name www.etsy.com since February 05, 2004 as evidenced by **Annexures C and D**.

The Complainant has claimed that the impugned domain name **ETSY.CO.IN** incorporates the name/ mark **ETSY** and is identical to the Complainant's domain name www.etsy.com (excluding the difference in the ccTLD). Accordingly, Complainant has submitted that a person with average intelligence and imperfect recollection would not realize the minor difference and be misled into thinking that the said domain belongs to or is associated with the Complainant. Further, the Complainant has stated that the fact that the Respondent has registered the disputed domain name which contains the registered trademarks owned by the Complainant leads to the inevitable conclusion that the disputed domain name is confusingly similar to the **ETSY** mark, as well as the Complainant's domain name www.etsy.com.

The Complainant has relied on a Supreme Court decision as well as prior decisions of this Panel wherein it has been held that a domain name wholly incorporating a registered trademark is sufficient to establish identity or confusing similarity.

Murant Lane

ii. *The Respondent has no rights or legitimate interests in respect of the Domain Name (Paragraph 4 (b) and Paragraph 6 of the .IN Policy)*

Complainant has submitted that the Respondent has no right or legitimate interest in the disputed domain name. As per the Complainant, the very fact that the impugned domain is parked and only features links connected to Complainant's products like jewellery, fabrics, bracelet etc. portrays that the said domain has been registered by the Respondent with no legitimate interest but to deceive the public.

Further, given that the mark **ETSY** is distinctive to the Complainant's services and is registered in several countries around the world and has garnered immense goodwill and reputation, the Complainant has claimed that the Respondent cannot have any legitimate interest in the impugned domain name www.etsy.co.in.

Complainant has stated that the fact that the disputed domain name has not been put to legitimate commercial fair use or commercial/business use showcases that the Respondent has no rights or legitimate interests in respect of the disputed domain name, more so owing to the fact that the mark **ETSY** is known and associated with the Complainant and that the Respondent deliberately chose an identical name in this regard. The Complainant has thus claimed that the Respondent holds no legitimate rights or interest in the disputed domain name.

Complainant has further submitted that this wrongful domain registration brings to light, the lack of interest of the Respondent to honestly use the domain name. Thus, the Complainant has claimed that the Respondent has registered the domain name only to take unfair advantage of the Complainant's global reputation and goodwill in the mark **ETSY** and such use does not constitute a bona fide offering of goods or services or a legitimate non-commercial fair use.

iii. *The Domain Name was registered or is being used in bad faith (Paragraph 4(c) and Paragraph 7 of the .IN Policy)*

The Complainant has claimed that given the reputation and goodwill of the **ETSY** mark for over 15 years along with the substantial resources spent in promotion and advertising of the same, the impugned mark is distinctive to the Complainant around the globe.

Accordingly, as per the Complainant, by using the disputed domain name the Respondent has intentionally attempted to attract, for commercial gain, internet users to the disputed domain's website by creating a likelihood of confusion with the Complainant's **ETSY** mark, as to the source, sponsorship, affiliation, or endorsement of the disputed domain name. Further, the Complainant has claimed that the fact that the website features the term **ETSY** along with the India-specific ccTLD establishes the fact that the Respondent only aims at luring unwary customers and consumers in order to ride upon the reputation and popularity of the Complainant, hence showcasing the bad faith of the Respondent.

Further, the Complainant has submitted that given that the **ETSY** mark was adopted and applied to unique and popular products and services by the Complainant since

Navant Sane

many years prior to the registration of the disputed domain name, it is extremely unlikely that the Respondent created the said domain independently without any knowledge of the Complainant's **ETSY** mark or website.

Complainant has further reiterated that the Respondent is attempting to use the disputed domain name in such a manner so as to lure unwary consumers and customers as a legitimate domain name owner would create an active working website and keep it live if the same was adopted in an honest manner. As per the Complainant, this fact coupled with the deceptively similarity of the domain name with the Complainant's **ETSY** mark and website www.etsy.com proves that the said domain has been registered only to misrepresent and mislead consumers all over the world, hence establishing that the said domain has been registered in bad faith by the Respondent

The Complainant has relied on decisions of the Supreme Court as well as Panels under the INDRP and UDRP establishing bad faith adoption and use of a deceptively similar and prior trademark incorporated in a domain name.

Further, the Complainant has submitted that the nature of Respondent's fraudulent activity in registering a domain name incorporating the **ETSY** mark not only showcases the full extent of knowledge that the Respondent has, of the Complainant, but also the extreme bad faith and mala fide intent of the Respondent, while simultaneously causing damages and prejudice to the business of the Complainant, by unlawfully using the prior and registered **ETSY** mark. Additionally, Complainant has submitted that the Respondent has failed to comply with Para 3 of the INDRP which requires that it is the responsibility of the Respondent to ensure before the registration of the impugned domain name that the domain name registration does not infringe or violate someone else's rights.

Thus, as per the Complainant, the Respondent has registered the disputed domain name in bad faith.

Other Legal Proceedings

The Complainant has submitted that they have not initiated any other legal proceedings against the impugned domain name **<ETSY.CO.IN>**.

Reliefs claimed by the Complainant (Paragraph 10 of the INDRP read with Paragraph 4(b)(vii) of the INDRP Rules of Procedure)

The Complainant has claimed that the domain name **<ETSY.CO.IN>** be transferred to them.

6. Respondent's Contentions

As already mentioned in the Procedural History of the matter, despite making attempts to duly serve a copy of the Domain Complaint on the Respondent, and thereafter granted adequate time to respond to the same, the Respondent repeatedly refused delivery of the Domain Complaint and has consequently not submitted any response thereto, or in fact sent any communication of any kind to either the Complainant, NIXI and/ or the Arbitrator in respect of the matter.

Murant Lome

7. 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 **ETSY** in India (vide Registration No. 2392852 dated September 10, 2012 and filed claiming use since May 13, 2006) and based on the evidence placed on record, Complainant has demonstrated that it is the owner and registered proprietor of the trademark **ETSY** which is registered in many jurisdictions throughout the world including in India.

Additionally, Complainant has submitted that they are the owner of the domain name **ETSY.COM**. It is pertinent to mention that the domain **ETSY.COM** was created on February 05, 2004. These rights significantly pre-date the registration of the domain name **<ETSY.CO.IN>** by the Respondent, which was only registered on **June 26, 2018**.

Complainant has further submitted evidence of promotion and use of the mark **ETSY** across various digital platforms as well as submitted instances of media attention received by the Complainant in this regard. Further, snapshots from the Complainant's social media pages under the name/ mark **ETSY** (which have amassed millions of followers) have been adduced to establish the fame and popularity of the Complainant's **ETSY** mark.

It is observed that the disputed domain name **<ETSY.CO.IN>** incorporates the trade mark **ETSY** in toto. It is further noted that the Respondent is *prima facie* using the website hosted on the domain name to portray pay-per-click links for products which are overlapping/ identical to those in which the Complainant has rights, i.e. handmade goods/ jewelry/ handbags, etc. sold online and in fact even makes reference to the name/ mark **ETSY** therein.

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 **<ETSY.CO.IN>** is confusingly identical/similar to the Complainant's trade mark(s).

Arbitrator's Name

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 the Respondent has no right or legitimate interest in respect of the domain <ETSY.CO.IN>.

In the present dispute, Complainant has established that it has rights over the name/mark **ETSY** and that the domain <ETSY.CO.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 has not submitted any response and/or any evidence of its rights and interests even though extended time period and ample opportunities were granted to the Respondent in this regard. The Respondent has not been able to establish any of 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.

Further, it has been contended by the Complainant that the very fact that the impugned domain is parked and only features links connected to Complainant's products/ services related to online handmade goods, jewellery, fabrics, bracelet etc. portrays that the said domain has been registered by the Respondent with no legitimate interest.

In view of the above, it can be stated that *prima facie* the Respondent cannot be said to be making legitimate or fair use of the domain name.

The Complainant has established a prima facie case of its rights in the name/mark **ETSY**, and in view of the Respondent's non-response, despite ample opportunities having been provided to them, the Arbitrator finds that Respondent has not established any rights or legitimate interests in the disputed domain name and that the 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.

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 given the reputation and goodwill of the **ETSY** mark for over 15 years along with the substantial resources spent in promotion and advertising of the same, the impugned mark is distinctive to the Complainant around the globe. Accordingly, as per the Complainant, by using the disputed domain name the Respondent has intentionally attempted to attract, for commercial gain, internet users to the disputed domain's website by creating a likelihood of confusion with the Complainant's **ETSY** mark, as to the source, sponsorship, affiliation, or endorsement of the disputed domain name.

Further, the Complainant has submitted that given that the **ETSY** mark was adopted and applied to unique and popular products and services by the Complainant since many years prior to the registration of the disputed domain name, it is extremely unlikely that the Respondent created the said domain independently without any knowledge of the Complainant's **ETSY** mark or website.

Complainant has further reiterated that the Respondent is attempting to use the disputed domain name in such a manner so as to lure unwary consumers and customers as a legitimate domain name owner would create an active working website and keep it live if the same was adopted in an honest manner. As per the Complainant, this fact coupled with the deceptively similarity of the domain name with the Complainant's **ETSY** mark and website www.etsy.com proves that the said domain has been registered only to misrepresent and mislead consumers all over the world, hence establishing that the said domain has been registered in bad faith by the Respondent

Additionally, Complainant has submitted that the Respondent has failed to comply with Para 3 of the INDRP which requires that it is the responsibility of the Respondent to ensure before the registration of the impugned domain name that the domain name registration does not infringe or violate someone else's rights.

Based on the above, it appears that by registering and using the domain **<ETSY.CO.IN>**, specifically with respect to PPC advertisements overlapping with the Complainant's area of business, the Respondent has engaged in conduct as enumerated in paragraph 7 (c) of the INDRP, namely that *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.

Further, the Respondent's use of the disputed domain name has not been defended as having been bona fide and the Respondent has not submitted any reply nor rebuttal to the Complainant's contentions, or evidence in support of its bona fide use and/ or adoption of the disputed domain name.

In light of the above and in the absence of any defense by the Respondent, the Arbitrator finds that the disputed domain name was registered and is being used in bad faith.

In view of the aforesaid, the Arbitrator concludes that the Complainant has satisfactorily proved the requirements of Paragraph 4(c) and Paragraph 7 of the INDRP.

8. 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 established rights over the name/mark **ETSY**. In light of the non-response by the Respondent, the Complainant has 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 **<ETSY.CO.IN>** to the Complainant.

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



Vikrant Rana, Sole Arbitrator

Date: July 29, 2021.

Place: New Delhi, India.