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INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.

Certificate Issued Date

Account Reference

Unique Doc. Reference

Purchased by

Description of Document

Property Description

Consideration Price (Rs.)

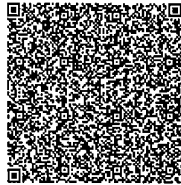
First Party

Second Party

Stamp Duty Paid By

Stamp Duty Amount(Rs.)

: IN-DL00531393887818T
: 22-Jul-2021 01:44 PM
: IMPACC (SH)/ dlshimp17/ TIS HAZARI/ DL-DLH
: SUBIN-DLDSLHIMP1799091987011107T
: R K KASHYAP
: Article 12 Award
: Not Applicable
: 0
(Zero)
: R K KASHYAP
: Not Applicable
: R K KASHYAP
: 100
(One Hundred only)



Please write or type below this line

NATIONAL INTERNET EXCHANGE OF INDIA
B Wing, 9th Floor, Statesman House Building
148, Barakhamba Road,
New Delhi-110001

AVANTI FEEDS LIMITED

V/s

PRADEEP CHATURVEDI

Pradeep Chaturvedi
14/8/2021

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

AWARD

1. THE PARTIES

The Complainant is Avanti Feeds Limited having its registered office at Flat No.103, Ground Floor, R Square, Pandurangapuram, Visakhapatnam-530003, Andhra Pradesh, India being represented by Altacit Global, Attorneys-at-Law, C-2-A, Industrial Estate, Guindy, Chennai-600032 duly authorized through Power of Attorney dated 16.04.2021. (The entire detail is available in **Annexure-11**.)

The Respondent is Pradeep Chaturvedi, Zirakpur-140603, Punjab, India, vide e-mail nandanaar.org@gmail.com.

2. THE DOMAIN NAME AND REGISTRAR:

This Arbitration pertains to a dispute regarding the Domain name **Avantifeeds.in**

The disputed Domain name is Avantifeeds.in

The abovesaid domain registered particulars in detail is provided and available in **Annexure-2**.

Registrar Name: #1Indian Domains dba Mitsu.in

IANA ID : 800001

ASSIGNED NAME SERVERS: ns1.jsmglobe.com

ns2.jsmglobe.com

ROID : DOBCE4C86C98E4A67B1DC90686E587AC8-IN

Date of creation: 04-01-2021

Date of Expiry : 04-01-2022

Registrant Client ID : MI_93451914

Registrant ROID: C5EAF734358064FOEA3C7ACC6A094D328-IN

Registrant Create Date: 03-12-2020

Email: nandanaar.org@gmail.com

Phone: (+91) 8195953595

INTERNATIONAL POSTAL NAME: Pradeep Chaturvedi

3. PROCEDURAL HISTORY

- (a) The Complainant has filed a complaint on 07-05-2021 with the NATIONAL INTERNET EXCHANGE OF INDIA. The Complainant made the registrar

Pradeep Chaturvedi

our all data going to facebook and google why we are bounded by USA based server why we are not focusing about bsnl who has huge infra what Govt. has done for bsnl largest why bsnl cannot become Jio what Ravi Shankar Prasad ji doing as IT Minister we suffer lot due to Govt. of India. Regards Pandit Pradeep Chaturvedi”

The respondent also sent a mail dated 04.08.2021 wherein mentioned that the case has been shorted out which mutual understanding between both side as this domain is more important to them than us, we are ready to transfer this domain and further given the confirmation that we have internally settled the same and we will transfer domain ownership and there will be no further dispute on this issue.

The above mentioned response has been sent by the respondent, wherein he has not stated any single word regarding the allegations leveled in the complaint and sent absolutely vague and evasive response.

The complainant sent a mail on 06.08.2021 wherein mentioned that they are in process of settling the issue amicably with the respondent, who has agreed to transfer the domain to the complainant for a consideration of Rs. 24,608/- which the complainant has accepted.

The respondent has sent a mail on 09.08.2021 wherein mentioned that the respondent is coordinating with NIXI for domain transfer with re-directed avantifeeds.in to avantifeeds.com, your main cooperate website, you can check now it is opening on your website only. Sending you signed documents. The respondent sent the settlement-cum-release agreement on Rs. 100/- non-judicial paper, which is only been signed by the respondent and not by the complainant.

The complainant sent a mail on 09.08.2021 at 03:20 PM wherein mentioned that, “we will not able to withdraw the complaint till the domain transfer take place. If we do not complete settlement process latest by tomorrow, we will have no other option but to inform the arbitrator that the settlement has not been reached yet and keep our complaint alive.”

Till now the complainant has not been sent any information that they have settled the matter with the respondent amicably.

Pradeep
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Hence, in these circumstances, I proceed with the matter on the basis of the available record and correspondence and passed the award on merit.

4. Factual Background:

The following information has been derived from the Complaint and the various supporting annexure to it, the Arbitrator has found the following facts:

Complainant's Activities

- a) The Complainant was founded in 1994 by its founder Mr..AlluriVenkateswara Rao in Kovvur, Andhra Pradesh. The Complainant is a limited company incorporated in India as per the incorporation certificate, the detail in this regard is available in **Annexure 4**. The Complainant tied-up with Pingtai Enterprises, Taiwan and introduced international quality shrimp feeds for shrimp farming in India. The Complainant has 4 prawn/shrimp and fish feed manufacturing units which have been certified ISO 9001:2008, in Kovvur, Vemuluru & Bandapuram in Andhra Pradesh and Pardi in Gujarat. The Complainant through its subsidiary, Avanti Frozen Foods Private Limited processes and exports shrimp. The Complainant's shrimp processing and exports unit which have been certified ISO 22000:2005 and is located in Gopalapuram, Andhra Pradesh and confirms to the highest global standards of HACCP, USFDA, EU, BRC& ACC. Owing to the state-of-the-art technology, coupled with the high-quality standards, excellent storage facilities, logistics capabilities, timely deliveries and commitment to customer satisfaction, the Complainant has become a pioneer in its field, with a long list of loyal customers from not only within in India but also countries such as USA, Europe, Japan, Australia and Middle East. Thus, the goods and services of the complainant provided under the mark "AVANTI" and its variants enjoys a formidable reputation and recall value in India and abroad.
- b. The Complainant has established a joint venture with Thai Union Frozen Products PCL., the world's largest seafood processors manufacturers of prawn and fish feeds in Thailand. Owing to which, the Complainant provides the highest quality of shrimp and animal feed and is the leading manufacturer and exporter of prawn and fish feeds in India. This can be evidenced by the fact that the Complainant's annual turnover for the financial year 2018-2019 was Rs.3541.60 crores and Rs.4185.53 crores in

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the year 2019-2020. Furthermore, the equity shares of the Complainant are listed and traded on the Bombay Stock Exchange and National Stock Exchange. Thus, the Complainant's blend of having an innovative business model and nearly three decades of experience have enabled progression from a regular business to being the premier business house in the seafood industry.

- c. The Complainant is the recipient of several awards since its inception making them amongst the leading manufactures and exporters of fish and shrimp feed. A non-exhaustive list of Awards received by the Complainant, the entire information is available in **Annexure-5**. Owing to the awards and accolades won by the Complainant over the years, the complainant has been at the forefront of the business community.

S. No	Award	Year	Authority
1	India's Best CEO	2020	Business Today
2	India's Most Trusted CEO	2019	WCRC Leaders Asia
3	India's Most Trusted CEO	2018	WCRC Leaders Asia
4	Leadership Award	2017	Forbes Leadership Awards

Placed by

	India's Best CEO	2016	Business Today
6	India's Best CEO	2015	Business Today
7	Fortune 500 companies 	2015	Fortune 500 India

- d. The Complainant is the **prior adopter and owner** of numerous well-established trademarks in multiple classes and have been continuously and extensively using these trademarks in India, the information in this regard is available in **Annexure-6**. The detailed list of the Complainant's Registered Trademark in India is provided in the complaint.
- e. Furthermore, the complainant also promotes the mark AVANTI and its variant through multiple websites containing the word "Avanti", as provided herein below:
- avantifeeds.com*
 - avantiindia.com*
 - avantifrozenfoods.com*
 - avantifrozen.com*
 - avantifoundation.in*

Owing to the efforts of the Complainant, the said portals have led to an enhancement of the awareness and recognition of the members of public and trade alike of the wide range of products available under the umbrella brand "AVANTI". The reputation

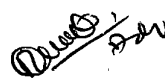
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acquired by the Complainant in respect of its registered trademarks and domain names are so enormous that, the use of any similar mark or domain name by others would result in confusion and deception and eventually mislead the public.

- f. The trademark and brand name of the Complainant has become indicative of the Complainant's goods and services and is familiar to all and is recognized by the public, inter alia by virtue of promotion of the trademark by way of advertising and publicity. The Complainant has been spending huge amounts on marketing their products and services under the said trademark. Furthermore, by virtue of extensive sales and sales promotion activities carried out by the Complainant, the Complainant's trademark is exclusively associated with the Complainant and has acquired an enviable reputation and goodwill. The trade mark AVANTI has become recognized amongst the members of the trade and public and has come to be exclusively associated and intricately linked to the said goods and services provided by the Complainant.
- g. The Complainant overall has spent huge amount on advertising expense as stated for promoting its products and brand 'Avanti', which is approximately Rs. 50,00,00,000 (Rupees Fifty Crores only) from 1992 to 2010. The Company has budgeted a spend of Rs. 8,83,111 for the financial year ending 2020-202, refer **Annexure-7.**

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- h. Recently, it had come to the Complainant's knowledge that the domain name <avantifeeds.in> was registered by a third party and the Complainant was shocked to know of the same. Further the Complainant had realized that the domain name was not in use and was being diverted to domain selling site <https://domaingurug.com/>, in this regard refer **Annexure-8**. Further, the Respondent is not a licensee nor an authorized agent of the Complainant or in any other way authorized to use the Complainant's trademarks "Avanti" and its variants. A pdf of the WHOIS status of this disputed domain name is annexed herein as **Annex 2**.
- i. The present complaint has been filed by the Complainant against the Respondent who is the current registrant of the domain name <avantifeeds.in>. The respondent has sent only aforementioned response /mail dated 16.06.2021 wherein he has not stated anything on the merits of the case. Apart from that there is no reply from the respondent till date and moreover the parties has failed to reach at any amicable settlement. Hence, the award on merit.
- j. The Respondent's disputed domain name is being used in bad faith. The Complainant submits that the Respondent's adoption and registration of the disputed domain name is dishonest and malafide. The Respondent had no previous connection with the disputed domain name. Any use of the disputed domain name by the Respondent, would result in confusion and deception of the trade, consumers and public, who would assume a connection or association between the complainant and the Respondent's website or other online locations of the Respondents or services on the Respondent's website, due to the use by Respondent of the Complainant's



said trademark in the disputed domain name, which trademarks have been widely used and advertised in India and all over the world by the Complainant and which trademarks are associated exclusively with the Complainant, by the public in India and all over the world. It is therefore clear that the Respondent has no legitimate rights in the domain name and is acting in bad faith.

TRADE MARK REGISTRATIONS AND COMPLAINANT:

The Complainant has statutory protection of its trade mark "Avanti" in several jurisdictions.

DOMAIN NAMES AND COMPLAINANT:

The Complainant owns so many trademarks registrations, the entire detail is available in Annexure-4, 5 & 6 in many countries or jurisdictions worldwide for marks that consist of or contain the word "avantifeeds.in" logo, which is a strong mark because it is entirely distinctive of the complainant.

RESPONDENT'S IDENTITY AND ACTIVITIES :

The Respondent registered the disputed domain name on 04.01.2021 (The entire detail provided in Annexure-2, Whereas, on other hand the complainant is using the aforesaid trademark since 1993 and registered on 09.11.1994 vide TM application No. 645071 and another TM application No. 1973766, date of application 01.06.2010, wherein mentioned the user detail as 01.01.1993. The complainant is the prior user, adopter and owner of the domain and using the same since 1993 and whereas the respondent has got registered his trademark only on 04.01.2021, much later than the complainant.

B: RESPONDENT :

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The Respondent did not submit any evidence or argument indicating his relation with the disputed domain name **avantifeeds.in** or any Trademark right, Domain name right or contractual right.

5. **DISCUSSION AND FINDINGS:**

The Rules instructs this Arbitrator as to the Principles to be used in rendering its decision. It says that, "a panel shall decide a Complaint on the basis of the statements and documents submitted by the parties in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any Rules and Principles of Law that it deems applicable". According to the Policy, the Complainant must prove that:-

- (i). The Registrant's Domain name is identical or confusingly similar to a name, Trademark or Service mark in which the Complainant has rights;
- (ii). The Registrant's has no rights or legitimate interests in respect of the Domain name that is the subject of Complaint; and
- (iii). The Registrant's Domain name has been Registered or is being used in bad faith.

(i). **Identical or Confusingly Similar:**

The disputed Domain name "**avantifeeds.in**" was Registered by the Respondent on **04.01.2021**. The registration of the said disputed Domain name is due to expire on 04.01.2022.

- i. The Complainant submits that they hold registered trademarks for the term "Avanti" (the details are available in para 9.d and **Annex 6** of the complaint). The Complainant submits that these trademarks are not generic or commonly understood by any other meaning, other than their association with the

Plaintiff

Complainant's goods and services. As further there are various articles to support Complainant's recognition in the Indian market, refer **Annexure-5** in this regard.

- ii. The domain name, <avantifeeds.in>, incorporates the term "avanti" and "avantifeeds" verbatim. The full incorporation of a Complainant's trademark is sufficient to make a finding that the domain name is identical, or at the very least, confusingly similar. An example of when this principle was applied, can be seen in the comments made by A.K. Singh in Zippo Manufacturing Company Inc. v. Zhaxia. Case No. INDRP/840(**Annex 10**):

"the Respondent has picked up the mark without changing even a single letter when a domain name wholly incorporates a complainant's registered mark that is sufficient to establish identity or confusing similarity for purpose of the Policy."

- iii. The mere addition of the ccTLD, ".in" should be disregarded in the comparison between the Complainant's trademark and the contested domain name, as it is merely a technical requirement to identify domain names in India. This principle has been continuously applied in prior decisions under the INDRP, such as the dispute between *Urban Outfitters. Inc. v. Hua An Holdings (H.K.) Limited*. Case No. INDRP /601 (**Annex 10**).

The Hon'ble Supreme Court of India has recently held that the Domain name has become a business identifier. A Domain name helps identify the subject of trade or Service that an entity seeks to provide to

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its potential customers. Further that, there is a strong likelihood that a web browser looking for "avantifeeds.in" products in India or elsewhere would mistake the disputed Domain name as of the Complainant.

Contention of Complainant is squarely covered in a decided Case No. **INDRP/776, Amundi versus GoaGou** "The disputed Domain name incorporates the trade name "Amundi" in its entirety and this is adequate to prove that the disputed Domain name is either identical or confusingly similar to the mark".

Contention of Complainant is also squarely covered in Case of *Walmart Stores, Inc. v. Richard MacLead*, (WIPO Case No. D2000-0662) wherein it has been held that "When the Domain name includes the Trademark, or a confusingly similar approximation, regardless of the other terms in the Domain name" it is identical or confusingly similar for purposes of the Policy. The reliance can be placed on the following cases of NIXI in this regards :-

- NIXI case number INDRP/956,
- NIXI case number INDRP/997,
- NIXI case number INDRP/1038,
- NIXI case number INDRP/992,

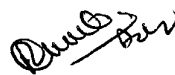
Therefore, I hold that the Domain name "avantifeeds.in" is phonetically, visually and conceptually identical or confusingly/deceptively similar to the Trademark of the Complainant "Avanti".

(b). Rights or Legitimate Interests :

The Respondent may demonstrate its rights to or legitimate interest in the Domain name by proving any of the following circumstances:

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- i. The Respondent registered the Domain Name in the year 2021; several decades after the Complainant invested huge amount in popularizing and seeking registration of "Avanti" mark and domain names www.avantifeeds.com. Moreover, by the time Respondent registered the disputed domain name, the Complainant had popularized the mark "Avanti". Accordingly, it is evident in the google search, refer **Annexure-9**, that the Respondent was well aware of Complainant's prior rights in "Avanti" mark and domain name www.avantifeeds.com at the time of registering the disputed domain name in the year 2021.
- ii. The Complainant submits that it firstly maintains its legal right to *<avantifeeds.in>*, based on the statutory protection of the "Avanti" and "Avantifeeds" term by way of trademarks in India. The Complainant also relies on the recognition acquired by the Complainant since 1994, which pre-dates the date when the Respondent registered the domain name on 4th January 2021. To the best of the Complainant's knowledge, the Respondent does not own any recognized rights to the term "Avanti" and "Avanti feeds", by way of trademarks, or any other protected right. Accord Young Genius Software AB v. MWD, James Vargas, WIPO Case No. D2000-0591(**Annex 10**), it was held that "Where a Respondent has constructive notice of a trademark, and yet registers a confusingly similar domain name thereto, the Respondent cannot be said to have a legitimate interest in the domain name.



- iii. Further, it is to be noted that the disputed domain name is not legitimately used by the Respondent and it is being diverted to the a third party website <https://domaingurug.com/> as set out in **Annex 8.**
- iv. Thus the Respondent has no rights or legitimate interests in the disputed domain name.

Further, the Complainant has not consented, licensed or otherwise permitted the Respondent to use its name or Trademark "Avanti" or to apply for or use the Domain name incorporating said mark. The Domain name bears no relationship with the Registrant. Further that, the Registrant has nothing to do remotely with the business of the Complainant.

Contention of Complainant is squarely covered in a decided Case number **INDRP/776 Amundi versus GoaGou**, the Complainant is required to make out a prima facie case that Respondent lacks right or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating right or legitimate interests in the Domain name. If Respondent fails to do so, the Complainant is deemed to have satisfied para 4(II) of the INDRP policy.

I, therefore, find that the Respondent has no rights or legitimate interests in the Domain name under INDRP Policy, Paragraph 4(ii).

(iii). Registered and Used in Bad Faith:

Any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the Domain name in bad faith:-

- i. Considering the popularity of the Complainant's brand and the fact that the Complainant also has registered trademarks

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containing the words "Avanti"/"Avanti feeds" and such trademark have been in existence before the Respondent registered the disputed domain name, it is highly unlikely that the Respondent was unaware of the Complainant's repute. To further establish the above statement, it is evident that anyone who has access to the Internet can find the "Avanti"/"Avanti feeds" trademarks on public databases and a simple Google search of the term 'Avanti feeds' shows results exclusively of the Complainant's website (**Annex 9**).

- ii. Given the reputation of the Complainant's mark and the absence of any license or permission from the Complainant; as previous panels have found in comparable cases, in this case bad faith can be inferred, as no actual or contemplated bone fide or legitimate use of the disputed domain name could reasonably be claimed and Respondent has not provided any evidence of actual or contemplated use in good faith. This was upheld in, *Novartis AG v. See PrivacyGuardian.org, Domain Administrator / Christian Lombok Case No. D2019-0674*(**Annex 10**).
- iii. The disputed Domain name is used in bad faith by the respondent since it is diverted to third party domain selling site <https://domaingurug.com/> is annexed herein as Annex 8 and as can be evident that the responded is soliciting the offers for this domain.

The Complainant submitted that the Respondent has no rights in trademark law or any legitimate interest in respect of the disputed domain name **avantifeeds.in**.

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The Respondent's disputed domain name is being used in bad faith. The Complainant submits that the Respondent's adoption and registration of the disputed domain name is dishonest and malafide. The Respondent had no previous connection with the disputed domain name. Any use of the disputed domain name by the Respondent, would result in confusion and deception of the trade, consumers and public, who would assume a connection or association between the complainant and the Respondent's website or other online locations of the Respondents or services on the Respondent's website, due to the use by Respondent of the Complainant's said trademark in the disputed domain name, which trademarks have been widely used and advertised in India and all over the world by the Complainant and which trademarks are associated exclusively with the Complainant, by the public in India and all over the world.

It was further submitted that the Respondent has not given complete and authentic contact details and has not been replying to the communications sent by the Complainant. It is therefore clear that the Respondent has no legitimate rights in the domain name and is acting in bad faith

The very use of a domain name by someone with no connection with the Complaint suggests opportunistic bad faith as stated **INDRP Case No 934 between Mozilla Foundation and Mozilla Corporation Vs LINA Double fist Limited .**

The respondent has no right or legitimate interest in the disputed domain name. The complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the respondent to register or used the "Avanti" as trademark in any manner. The respondent is neither a license of the complainant nor has it otherwise obtained authorization of any kind whatsoever to used the trademark of the complainant. In this regard the reliance can be placed in the following decision:-

NIXI Case No.INDRP/027.



NIXI Case No.INDRP/999.

NIXI Case No.INDRP/442.

NIXI Case No.INDRP/725.

SIX Continents Hotels, Inc. Versus Patrick Ory, WIPO Case No.D2003-0098.

Marriott International Versus Thomas Burstein and Miller, WIPO Case No.D2000-0610.

MBI, Inc Versus Moniker Privacy Services, WIPO Case No.D2006-0550.

Western Union Holdings Versus Anna Valdieri, WIPO Case No.D2006-0884.

Accordingly, the respondents has no rights or legitimate interests in respect of the disputed Domain name.

The foregoing circumstances lead to the presumption that the Domain name in dispute was Registered and used by the Respondent in bad faith.

6. DECISION

In light of the foregoing findings, namely, that the Domain name is confusingly/deceptively similar to Complainant's well-known brand "Avanti", a mark in which the Complainant has rights, that the Respondent has no claims, rights or legitimate interests in respect of the disputed Domain name, and that the disputed Domain name was Registered in bad faith and is being used in bad faith, in accordance with the policy and the rules, the Arbitrator orders that the Domain name "avantifeeds.in" be transferred to the Complainant.

This award is passed at New Delhi on this 14th day of August, 2021.

R. K. Kashyap
14/8/2021

R. K. KASHYAP
SOLE ARBITRATOR