



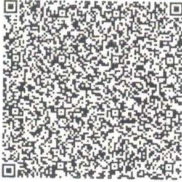
सत्यमेव जयते

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**BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME
DISPUTE RESOLUTION POLICY**

INDRP Case No: 1389

IN THE MATTER OF:

Philippe Starck,
Rua dos 4 Moinhos
104, Malveira da Serra, p-2755-190
Alcabideche Portugal

... Complainant

Email:

remfry-sagar@remfry.com;
gaurav.mukerjee@remfry.com;
raghav.paul@remfry.com

VERSUS

Doublefist Limited
Milwaukee Wisconsin,
WI 53214
United States of America
Email: ymgroup@msn.com

... Respondent

AWARD

1. THE PARTIES:

The Complainant is one Philippe Starck Rua is an individual residing at Rua dos 4 Moinhos 104, Malveira da Serra, p-2755-190 Alcabideche, Portugal.

The Respondent is one Doublefist Limited is a company having its office at Milwaukee Wisconsin, WI 53214 , United States of America

2. THE DOMAIN NAME AND REGISTRAR:

The disputed domain name : www.starck.in

The domain name registered with IN REGISTRY

3. PROCEDURAL HISTORY:

May 21, 2021: Date of Complaint

June 14, 2021: The .IN REGISTRY appointed Sridharan Rajan Ramkumar as Sole Arbitrator from its panel as per paragraph 5 (b) of INDRP Rules of Procedure after taking a signed statement of acceptance and declaration of impartiality and independence.

June 14, 2021: Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per Paragraph 4 (c) of INDRP Rules of Procedure, marking copy of the same to Complainant's authorized representative and to the .IN REGISTRY to file response within 15 days of receipt of same.

June 29, 2021: Respondent failed to file his response within the 15 days time period intimated to all parties.

August 10, 2021: Hence this award

4. FACTUAL AND LEGAL BACKGROUND:

It was submitted that the Complainant is an individual residing at Rua dos 4 Moinhos

104, Malveira da Serra, p-2755-190 Alcabideche, Portugal and that he was an internationally acclaimed French creator, designer and architect. It was further submitted that the Complainant's profound comprehension of contemporary mutations, determination to change the world, anticipatory concern for environmental implications, love for ideas and desire to defend the intelligence of usefulness have accompanied one iconic creation after the other. That from everyday products such as furniture and lemon squeezers, to revolutionary mega-yachts, individual windmills, electric bikes or hotels and restaurants that aspire to be wondrous, stimulating and intensely vibrant places, the Complainant creates unconventional places and objects whose purpose is to be "good" before being beautiful.

It was submitted that the Complainant, born in Paris on January 18, 1949, known for his works in interior design, consumer goods and industrial design as well as architectural creations, has a career rich with 10,000 creations. That in the year 1969, the Complainant developed one of his first creations - the Inflatable House. It was submitted that the Complainant's aforesaid creation caught the eye of Pierre Cardin, a French fashion designer who gave the Complainant a job as an artistic director of his publishing house. It was further submitted that the Complainant's career began to excel in the early 1970's after attending the prestigious school of product and interior design viz. École Nissim de Camondo in Paris and designing two nightclubs La Main Bleue and Les Bains Douches in Paris. It was further submitted that in 1979, the Complainant founded Starck Product, his first industrial design company which was later renamed Ubik. It was further submitted that the Complainant continued to grow his recognition in the design industry through not only interior design and home furnishings but also in several different product categories as well.

It was further submitted that heralding the phenomena of convergence and dematerialization, the Complainant aims straight for the heart, highlighting the essential, extracting the structural minimum of every object, in order to offer creations and propositions closest to man and nature, best adapted to the future. It was further submitted that an illustrative list of the Complainant's iconic creations was as under:

DATE	EVENTS
1969	Designed an inflatable house
1976	Designed two nightclubs viz. La Main Bleue and Les Bains Douches in Paris
1985	Designed the Theatron restaurant, Mexico
1989	Designed the Nani Nani anthropomorphic building in Tokyo
	Designed the Fluocaril toothbrush
1995	Designed the Delano hotel in Miami
2000	Designed the floor lamp –
	SuperArchimoon for providing direct and diffused light
2001	Initiated the Yoo Building Project along with building magnate – Mr. John Hitchcox
2007	Designed the interior structure and decoration of the Fasano hotel, Rio de Janeiro
2008	Designed the yacht A (119 meters long), a discreet and ecological vessel
2012	Introduced his Electric Car
2014	Created the portable multi-media library - The Ideas Box
	Developed the Brut Nature 2006 vintage champagne

2015	Creation of a collection of kitchen equipment such as refrigerators, hot plates etc. for the Slovenian appliance company - Gorenje
	Designed the Sir Gio table - characterized by a central leg created using a high-tech mold
2016	Introduction of Starck Paris - a first collection of perfumes made in collaboration with three master perfumers: Daphné Bugey, Annick Ménardo and Dominique Ropion

Copies of the Photographs of a few of the Complainant's creations/designs was attached as Annexure-A (Colly.).

It was further submitted that the reputation and renown of the Complainant and his products is evident from the fact that he has been honoured with more than 100 prizes and decorations. It was further submitted that the details of a few of such recognitions received by the Complainant are as under:

- The Grand Prix National de la Création Industrielle and the Oscar du Design in 1988;
- The President's Award from the British association D&AD and the Harvard Excellence in Design Award in 1997;
- The médaille de Chevalier de l'Ordre National de la Légion d'Honneur in 2000;
- The Compasso d'Oro in 2001;
- Lifetime Achievement Award at the Indian Design Forum (IDF) in 2018; and
- Lifetime Achievement Award during the Frame Awards in 2019.

It was further submitted that in connection with his worldwide business, the Complainant offers his products and renders services under the trade/service mark

STARCK. It was further submitted that the trade/service mark STARCK also forms an integral part of the Complainant's trade name/trading style and serves as his principal trade/service mark and domain name. It was further submitted that as a natural consequence of the Complainant's worldwide presence, the trade/service mark/name STARCK has come to be exclusively associated with the Complainant. Copies of the printouts of the Online extracts from the Complainant's website www.starck.com providing general information about the Complainant, his business etc. were attached as Annexure-B (Colly.). Also attached herewith and marked as Annexure-C (Colly.) were press releases and articles acknowledging the Complainant's reputation and worldwide presence.

It was further submitted that the Complainant's presence in India can be traced back to over 2 decades i.e. year 2001 when his products viz. bathroom installations were introduced in the Indian market. It was further submitted that given below was a table outlining the Complainant's sales in respect of his aforesaid products under the trade mark STARCK for the period 2001-2020 in India:

Year	Gross sales (in Euro)
2001	22,212
2002	107,329
2003	97,034
2004	154,497
2005	338,642
2006	488,793
2007	580,061
2008	698,724
2009	442,123
2010	1,102,704
2011	1,006,750
2012	1,090,112


2013	1,249,288
2014	920,415
2015	1,070,096
2016	881,474
2017	350,615
2018	626,152
2019	401,637
2020	318,459

It was further submitted that the Complainant has since expanded business operations in India across several different product categories. The Complainant introduced unique eyewear products in the year 2015. It was further submitted that in 2018, the Complainant launched YooPune in India - his 30th YOO project in the world. It was further submitted that the horse-shoe shaped project was a contemporary landmark in glass and steel-look with lush green landscaping at the center and ample indulgence for a discerning clientele. It was further submitted that the project has 228 well-appointed, spacious residences spread across 6 towers and offer a plethora of indulgent lifestyle amenities.

It was further submitted that the trade/service mark STARCK, being his most valued intellectual property, the Complainant has taken utmost care to secure statutory rights therein through trade mark registrations in numerous jurisdictions of the world such as France, Argentina, Brazil, Canada, United Arab Emirates, Japan, Thailand, U.S.A etc. It was further submitted that the Complainant's earliest registration for the trade/service mark STARCK dates back to the year 1979 in France. A list of the Complainant's active worldwide registrations/applications for the trade/service mark STARCK was attached as Annexure-D. Also attached as Annexure- E (Colly.) were copies of a few registration certificates in respect of the Complainant's trade/service mark STARCK from various jurisdictions.

It was further submitted that in so far as India is concerned, the Complainant's

application under No. IRDI-3714587 for the trade/service mark STARCK is pending registration, details whereof were as under:

Mark	Application No.	Class(es)	Date of Application
	IRDI-3714587	3, 9, 11, 12, 20 and 42	January 9, 2017

Copy of the online extract of the Trade Marks Registry as well as the WIPO notification in respect of the Complainant's aforesaid application was attached as Annexure-F(Colly.).

It was further submitted that the trade/service mark/name "STARCK" was representative of the Complainant/his brand identity, business reputation and public identification throughout the globe including India. It was further submitted that the Complainant has invested years of time, capital, efforts and resources in advertising and promoting his business under the trade/service mark/name STARCK across the globe through various forms of media in different countries of the world. It was further submitted that the Complainant's trade/service mark/name STARCK has also featured in a wide variety of press releases and other media coverage. It was further submitted that the aforesaid press releases and coverage have left an indelible impression in the minds of the public in as much as the trade/service mark/name STARCK is exclusively associated with the Complainant and none other. Attached as Annexure-G was a presentation of the Complainant providing an insight of his global presence and media coverage.

It was further submitted that the Complainant has registered numerous top level domain names (TLDs) and country level domain names (ccTLDs) such as 'starck.com', 'starck.com.cn', 'starck.fr', 'starck.es' etc. The Complainant's websites are accessible across the globe including in India and are a comprehensive source of knowledge of his business activities and, therefore, it is apparent that the goodwill and reputation of the

Complainant as regards the trade/service mark/name STARCK pervades both the real world as well as cyber space. The Complainant has also registered India specific domains such as 'philippestarck.co.in', 'philippe-starck.co.in' and 'philippe-starck.in' since January 14, 2008. A list of the domain names comprising the trade/service mark/name STARCK registered in favour of the Complainant was attached as Annexure-H.

It was further submitted that on January 29, 2021, the Complainant became aware of a domain name viz. 'starck.in' registered in the name of Doublefist Limited (hereinafter referred to as the "Registrant") when it was approached by the Registrant *via* email for acquiring the said domain. It is pertinent to mention here that the Registrant of the domain name 'starck.in' has no affiliation with the Complainant. It was further submitted that the said domain name was registered on December 26, 2012. A copy of the WHOIS record in respect of the domain name in question was attached as Annexure-I.

It was further submitted that the Complainant was under the *bona fide* belief that the Registrant was a legitimate entity assisting the Complainant in acquiring the domain 'starck.in'. It was further submitted that under the said belief, the Complainant addressed an email to the Registrant on the same day requesting him to intimate the expected price for the sale of the domain 'starck.in'. It was further submitted that in response thereto, the Registrant offered to sell the said domain for Euro 2890. It was further submitted that on account of the exorbitant price quoted by the Registrant for acquiring the domain 'starck.in', the Complainant was shocked at the Registrant's conduct which clearly indicated its *mala fide* and aggrieved by the same, the Complainant immediately, with a view to safeguard his rights in the trade/service mark/name STARCK, addressed an email to the Registrar of the domain 'starck.in' apprising him of the Registrant's conduct. It was further submitted that the Complainant did not receive any response from the Registrar and his reminders also went unattended. Copy of the emails/reminders addressed by the Complainant to the Registrar of the domain 'starck.in' were attached as Annexure-J. It was further submitted that the Registrant with a view to make unjust pecuniary gains, approached the Complainant again to acquire the domain 'starck.in'. It was further submitted that while

the Complainant made it clear to the Registrant that the Complainant shall not concede to any of the Registrant's nefarious demands, the Registrant threatened the Complainant by addressing an email on March 17, 2021 stating as under:

“Many companies have purchased our domain names, and then we will not register any domain names related to their trademarks.

But for companies that arbitrate our domain names, we will register them on a large scale and display advertisements for their competitors' products. If these companies arbitrate our domain name again, we will attack their company's main website.

It is easy to solve this problem if you quote an appropriate price. If you think that you can show your strength through the law, the problem will become more and more complicated.”

Copy of the correspondence exchanged between the Complainant and the Registrant was attached as Annexure- K.

It was further submitted that the fact that the impugned domain name ‘starck.in’ contains only sponsored listings clearly establishes that the same was registered by the Registrant solely for the purposes of making monetary gains. Printout of the impugned website www.starck.in was attached as Annexure-L.

It was further submitted that the Registrant was a habitual cybersquatter and has been the subject of numerous other INDRP decisions including proceedings pertaining to the domains ‘colgate.in’, ‘fiskers.co.in’, ‘goldmansachs.in’, ‘lesaffre.in’, ‘mozilla.co.in’ etc. wherein Awards were passed against the Registrant with directions for transfer of the domains to the Complainants therein. Attached as Annexure-M (Colly.) were copies of a few such INDRP decisions/Awards.

It was further submitted that the reverse WHOIS lookup identifies over 450 domain names currently registered in the Registrant's name. It was further submitted that out of the total 450 domain names, 443 are .IN domain names. It was further submitted that the Registrant's pattern of extensive domain registrations and cybersquatting to prevent trade mark owners from reflecting their marks in corresponding domain names further

demonstrates the Registrant's bad faith registrations including that of the domain in question. The exorbitant number of domain names that the Registrant has registered demonstrates that the Registrant has engaged in a clear pattern of registering domain names in bad faith to block the legitimate and superior rights of trade mark owners in those domain names only to later ransom the domain names to the trade mark owner as is the case of the Complainant. Attached herewith and marked as Annexure-N is a list of domains registered by the Registrant which comprises various renowned marks/brand names such as Coca Cola, Hewlett-Packard, Louis Vuitton, Versace etc.

It was further submitted that it was thus evident that the Registrant is using the objectionable domain name illegally and dishonestly to derive unjust pecuniary gains.

It was further submitted that the Complainant is extremely diligent in protecting its intellectual property and has successfully prosecuted many cases before various fora. By way of an example, attached herewith and marked as Annexure-O is a decision of the WIPO in respect of the domain starcks-brand.com.

It was further submitted that there is no *iota* of doubt that the impugned domain name is identical to the Complainant's trade/service mark/name STARCK. It was further submitted that in the circumstances, the Registrant's impugned domain name 'starck.in' ought to be transferred to the Complainant or cancelled forthwith on the following, amongst other grounds, which are exclusive and without prejudice to each other.

It was further submitted that the Complainant has appointed Counsel in India to file, institute and present this INDRP Complaint and receive all correspondence relating thereto in terms of the Authorization dated March 24, 2021. The stamped original Authorization was attached as Annexure-P. Copies of the relevant policies and laws/regulations applicable to the dispute and relied upon by the Complainant was attached as Annexure-Q.

5. PARTIES CONTENTIONS:

A. Complainant

- (a) The Domain Name is identical or confusingly similar to a Trademark of the Complainant
- (b) Respondent has no legitimate interest in the domain name
- (c) Respondent has registered the domain name in bad faith

B. Respondent

The Respondent failed to file a reply inspite of service of the Complaint and hence was placed *exparte*.

6. **DISCUSSION AND FINDINGS:**

A) I hold that the Respondent's domain name is identical to the trade mark in which the Complainant has rights.

I find on perusal of the pleadings and documents before me that The Registrant's impugned domain name 'starck.in' is identical to, and comprises in entirety, the Complainant's trade/service mark STARCK which is registered in numerous countries.

I find that the Respondent has registered the impugned domain name 'starck.in' with the *mala fide* intent to trade upon the immense goodwill and reputation enjoyed by the Complainant in his well-known mark/domain name comprising STARCK and thereby gain undue leverage from it and make illicit pecuniary gains. It is evident that the objectionable domain name has no meaning or significance independent of the Complainant's trade/service mark STARCK. This is a clear case of passing off which is in violation of the rights enjoyed by the Complainant in his well-known and established trade/service mark/domain name comprising STARCK. Moreover, the Respondent's use of the Complainant's trade/service mark STARCK clearly establishes that the Respondent's registered the impugned domain name with full knowledge of the Complainant, his business activities and intellectual property which is also evident from the correspondence exchanged between the Complainant and the Registrant.

I find that the impugned domain name 'starck.in' is identical to, *inter alia*, the

following domain names registered in the name of the Complainant:

Sr. No.	Domain names	Registrant's domain name
1.	<u>starck.com</u>	<u>starck.in</u>
2.	starck.fr	
3.	starck.com.cn	
Note: The list is illustrative and not exhaustive.		

I find that the Respondent's registered/adopted the impugned domain name 'starck.in' on December 26, 2012 whereas the Complainant's primary domain 'starck.com' was registered on October 26, 2001. Further, the Complainant's earliest trade/service mark registration in respect of the trade mark STARCK dates back to the year 1979. Thus, the Complainant's adoption of the trade/service mark/domain name STARCK is much prior to the Registrant's registration of the impugned domain name 'starck.in'. In view of the same, it is crystal clear that the Complainant has prior rights in the trade/service mark/domain name STARCK *vis-à-vis* the Registrant.

B) I hold that Respondent has no legitimate interest in the domain name

I find that the Respondent is not offering any goods/services under the domain name 'starck.in'. A review of the website under the objectionable domain name 'starck.in' reflects only a few sponsored listings. Therefore, by no stretch of imagination, can the Registrant demonstrate any use relating to *bona fide* offering of goods or services before any notice of this dispute or at any point in time whatsoever.

I find that the Respondent is not commonly known by the domain name 'starck.in' and is not authorized or licensed by the Complainant to use its trade/service mark/name STARCK. The Complainant conducts business under the trade/service mark/name STARCK which is inextricably interwoven and identified exclusively with the Complainant by the trade and public at large. Further, the Complainant is not only using the trade/service mark/name STARCK since the 1960s but has also registered the said

mark and various domain names comprising the trade/service mark STARCK in numerous jurisdictions. Due to the extensive and continuous use of the trade/service mark/name STARCK for many years, the same has become well-known and come to be exclusively associated with the Complainant and no one else. Hence, the Respondent cannot establish any association with the domain name in question for any reason/s whatsoever.

I find that the Respondent is not making any legitimate non-commercial or legitimate fair use of the domain name 'starck.in'. In fact, the conduct of the Respondent as highlighted above cannot come under the definition of *bona fide* use. Registration of the impugned domain is aimed at gaining leverage from the immense goodwill and reputation of the Complainant's trade/service mark/name STARCK, diverting visitors/customers by creating initial internet confusion and thereby commercially profiting from use of the Complainant's trade/service mark/name STARCK. Thus, the Respondent is indulging in:

- (i) unfair use of the domain name with an intention to reap profits therefrom;
- (ii) misleading/diverting customers to third party websites, competitors etc.; and
- (iii) tarnishing the goodwill and reputation enjoyed by the Complainant's well-known trade/service mark/name STARCK. The Registrant, therefore, cannot justify any legitimate interest in the domain name 'starck.in'.

C) I hold that the Respondent has registered the domain name in bad faith

I find that the Respondent has registered the impugned domain name 'starck.in' with the sole purpose of selling/transferring the same for excessive consideration to make illicit gains which is evident from the correspondence exchanged between the Complainant and the Registrant and the fact that the website under the impugned domain contains only sponsored listings (re: Annexure-L).

I find that it is beyond doubt that the Respondent registered the impugned domain name 'starck.in' knowing fully well of the Complainant and its business. The registration of the domain name 'starck.in' by the Respondent has resulted in the Registrant's (mis)use of the Complainant's trade/service mark/domain name comprising STARCK for undue

pecuniary gains. The Complainant has already established that several TLDs/ccTLDs comprising the trade/service mark STARCK including the domain 'starck.com' is owned and managed by the Complainant.

I find that the Respondent's website has been constructed in a manner so as to portray an association/affiliation with the Complainant. The confusion is further enhanced by the presence of links to the websites of third parties, competitors etc. Thus, the conduct of the Registrant amply proves its *mala fide* to attract internet users to its website by using the mark of the Complainant and consequently creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the Registrant's website and/or of a product on the Registrant's website. Further, internet users desirous of accessing the Complainant's website may get confused and resultantly be led to the impugned website. Thus, the domain 'starck.in' resolving to the website www.starck.in may be accessed by internet users believing it to be a part/unit of the Complainant or to have originated from the Complainant.

I also find that in addition to the above findings the address provided by the Registrant 'Wisconsin, U.S.A.', is far from complete. And that the Respondent has also provided a bogus address for China as is evident from the aforesaid INDRP Awards (Re: Annexure-M).

I further find that in the instant case, as elaborated hereinabove, the Registrant's domain name 'starck.in' comprising the Complainant's trade/service mark STARCK impinges upon the proprietary rights of the Complainant vesting in the said trade mark. Apart from above the Respondent has registered the impugned domain name 'starck.in' with *mala fide* to mislead innocent customers and prospective customers of the Complainant to its website thereby making unjust pecuniary gains therefrom and in the process tarnish the Complainant's goodwill and reputation vesting in the trade/service mark/name STARCK. That the registration of the impugned domain name 'starck.in' violates not only INDRP/INDRP Rules of Procedure but is also in violation of the provisions of the (Indian) Trade Marks Act, 1999 and opposed to the principles of business ethics.

That it has been consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can itself create a presumption of bad faith and so it opined about the Respondent's registration of the impugned domain name.

That I did not receive any Response / Reply to the Complaint dated May 21, 2021 on behalf of the Respondent and hence rely only on the documents and pleadings submitted on record by the Complainant.

7. DECISION

a) In view of the above facts and circumstances, it is clear that the Complainant has succeeded in its complaint.

b) That the .IN Registry of NIXI is hereby directed to transfer the domain name/URL of the Respondent “[starck.in](#)” to the Complainant;

c) In the facts and circumstances of the case no cost or penalty is imposed upon the Respondent. The Award is accordingly passed on this 10th Day of August, 2021.

Sridharan Rajan Ramkumar
Sole Arbitrator

Date: 10/08/2021