



मध्य प्रदेश MADHYA PRADESH

BG 160986

BEFORE THE ARBITRATOR RAJESH BISARIA
UNDER THE
.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)
[NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)]

ARBITRAL AWARD

Date-14.08.2021

Disputed Domain Name: www. indeedgroups.in

INDRP Case no -1398

THE PARTIES

(1)

The **Complainant** is **Indeed, Inc.** 06433 Champion Grandview Way , Building 1,
Austin, Texas 78750, United States of America

The **Respondent** is **Uli Ali** , Elearning Service Pvt. Ltd.,
29/90, Nio Build, Near Jusu – 256898 Timon, Usman,
Netherlands



THE DOMAIN NAME AND REGISTRAR

(2)

The disputed domain name: www.indeedgroups.in and it is registered with Registrar GoDaddy.com, LLC . The Registrar's contact information is as under:

Godaddy.com, LLC
14455 N Hayden Rd Ste 226.
Scottsdale, AZ 85260-6993.
Phone: (480) 505-8877
Fax Numbers (480) 624-2546
Email: udrpdisputes@godaddy.com

PROCEDURAL HISTORY

(3)

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| The NIXI appointed RAJESH BISARIA as Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of procedure | 02.07.2021 |
| Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per paragraph 4(c) of INDRP Rules of Procedure, marking a copy of the same to Complainant's authorized representative and NIXI . | 02.07.2021 |
| Due date of submission of Statement of Claim by Complainant (instructed by mail dated 02.07.2021) | 12.07.2021 |
| Complainant's response by submitting their Statement of Claim. Soft copy | 12.07.2021 |
| Hard copy | 12.07.2021 |
| Due date of submission of Statement of Defense by Respondent (instructed by mail dated 02.07.2021) | 17.07.2021 |
| Extended due date of submission of Statement of Defense by Respondent (instructed by mail dated 19.07.2021) | 26.07.2021 |
| Respondent's response by submitting their Statement of Defense against the due date of submission as 17.07.2021 & 26.07.2021 | Not submitted |
| Complainant's response by submitting their Rejoinder. (Statement of Defense not submitted by Respondent) | Not required |



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| Complainant's response by submitting proof of delivery of complaint along with all annexures to Respondent Soft copy | 09.07.2021 |
| Intimation that the ' Respondent failed to submit the required/said documents within the time limit mentioned in mail ie 26.07.2021. Therefore the Respondent has lost their right to entertain it. The proceeding of this case is kept closed for award and the matter would be decided ex-parte on the basis of the material on record with this tribunal as per INDRP policy'. | 31.07.2021 |
| The language of the proceedings. | English |

FACTUAL BACKGROUND

(4)The Complainant :

Indeed, Inc..06433 Champion Grandview Way , Building 1, Austin, Texas
78750, United States of America

(5) Authorized Representative of the Complainant:

Mr. Sanjay Chhabra
Archer & Angel
#5B, 5th Floor, Commercial Towers
Hotel J W Marriott, Aerocity
New Delhi - 110037
India
Tel: +91-11 41954195
Fax: +91-11 41954196
Email: schhabra@archerangel.com

Mr. Bidyut Tamuly
Archer & Angel
#5B, 5th Floor, Commercial Towers
Hotel J W Marriott, Aerocity
New Delhi - 110037
India
Tel: +91-11 41954195
Fax: +91-11 41954196
Email: btamuly@archerangel.com



(6) The Respondent

Uli Ali , Elearning Service Pvt. Ltd., 29/90, Nio
Build, Near Jusu – 256898 Timon, Usman,
Netherlands

(7) Complainant's Activities:

- (a) The Complainant, Indeed, Inc., provides the world's largest job site in 28 languages, with over 250 million unique visitors every month from over 60 different countries. Indeed owns and has used its corporate website www.indeed.com as an employment related search engine since at least the year 2004, and continues to do so. Extracts of web pages highlighting information about Indeed and its services and goods are collectively submitted as Annexure 3.
- (b) With specific reference to India, the Complainant has ensured significant presence of its brand and trademark INDEED in the market also through various promotional and advertising activities. In 2017, the Complainant had sponsored the "Talent Acquisition Summit" in Mumbai. The Complainant has also worked with Yash Raj Films, a leading Indian film production company, to integrate its brand and trademark INDEED in a film (released in India in March 2018) wherein the Complainant's brand was central to the premise. Extracts of relevant web articles in support of the above submissions are collectively submitted as Annexure 4.
- (c) As a direct result of its impeccable quality, the Complainant's business has been recognized for its consistency in providing outstanding services. It is submitted that the Complainant has been rated as the top source of external hires and interviews by the Human Capital Management company, Silk Road, for 6 years in a row. Extracts of a report in support of the above submission are submitted as Annexure 5.

(8) Complainant's Trade Marks And Domain Names :

- (a) The Complainant owns and has used the brand and trademark INDEED and variations thereof (hereinafter collectively referred to as the "INDEED Marks") for over a decade in relation to its highly successful job websites and search engines, as well as related goods and services such as mobile applications and online advertising services. In addition to its extensive



common law rights, the Complainant owns trademark registrations for the INDEED Marks in different countries worldwide. Copies of Registration Certificates issued by the Trade Marks Offices of the United States and India are collectively submitted as Annexure 6.

- (b) The Complainant owns the domain name <indeed.com> and operates its corresponding primary website at www.indeed.com, through which it conducts a significant portion of its business and where information about Indeed and its business is easily accessible and available to millions of internet users, who may be current or potential consumers. As is evident, the Complainant's domain name in its entirety incorporates its registered trademark INDEED, thus further augmenting its proprietary rights in the said mark.
- (c) The aforementioned domain name <indeed.com>, as evident, is based on the corporate name of the Complainant's company, Indeed, Inc., and was created / registered on and has been regularly renewed since March 30, 1998. An extract from the WHOIS database supporting the aforementioned date is submitted as Annexure 7. By virtue of the said domain's association with the Complainant for over two decades now, it has become synonymous with the Complainant and its business.
- (d) The Complainant is also the owner of the India specific domain <indeed.co.in>, which was created / registered, on and has been regularly renewed since December 14, 2006. An extract from the WHOIS database supporting the aforementioned date is submitted as Annexure 8. It is pertinent to note that Indian users are redirected from the Complainant's website at www.indeed.com to www.indeed.co.in.
- (e) As a result of and to leverage its internet-based business model, the Complainant has also set up several other dedicated country-specific domain names and websites in major markets such as Australia <indeed.com.au>, Canada <indeed.ca>, France <indeed.fr>, Hong Kong <indeed.hk>, Japan <indeed.jp>, Mexico <indeed.com.mx>, New Zealand <indeed.co.nz>, South Africa <indeed.co.za>, Singapore <indeed.com.sg> and <indeed.sg>, Sydney <indeed.sydney>, United Arab Emirates <indeed.ae>, United Kingdom <indeed.uk> & <indeed.co.uk>, United States <indeed.us>, etc. through which it lists specific job opportunities in these markets. Relevant extracts from the WHOIS database in support of the above submission are collectively submitted as Annexure 9.
- (f) The Complainant is also the owner of several other domain names containing its registered trademark INDEED viz. <indeed.blog>, <indeed.career>, <indeed.ceo>, <indeed.design>, <indeed.expert>,



<indeed.help>,<indeed.jobs>, <indeed.me>, <indeed.net>,
<indeed.online>, <indeed.org>, <indeed.scot>, <indeed.tech> and
<indeed.trade>. Relevant extracts from the WHOIS database in support of
the above submission are collectively submitted as Annexure 10.

(g) Besides its websites, the Complainant's INDEED Marks and services and goods there under are prominently advertised on major social networking sites such as Facebook, Instagram, LinkedIn, Twitter and YouTube - which collectively have about 200 million followers / views who may arguably be considered as potential, if not existing customers. Given the fact that these websites attract masses from every social, geographical, economic and age demographic worldwide, the INDEED Marks have consequently been exposed to an exponentially large section of both Indian and international public. Extracts of relevant web pages, in support of the above submissions, are collectively submitted as Annexure 11.

(h) Further, in order to meet customer needs and ease of accessibility, the Complainant also makes its services available to the public via its mobile applications on the two most prominent mobile platforms in the world - Apple (App Store) and Android (Google Play Store) - where the INDEED Marks are prominently used. Screenshots in support of the above submissions are collectively submitted as Annexure 12

(9) Respondent's Identity and activities :

(a) Registrant Contact/Administrative Contact/Technical Contact :

Name: UIi Ali
Organization: Elearning Service Pvt.Ltd.
Street: 29/90, Nio Build, Near Jusu
City: Timon
State / Province: Usman
Postal Code: 256898
Country: Netherlands
Phone: (31)023578456
Email: elearninginfotech@gmail.com

(b) The identity and other activities of the Respondent are not known as, they failed to submit Statement of Defense or any of the documents, within the given time schedule.



SUBMISSIONS BY COMPLAINANT

- (10) Complainant submitted Domain name complaint with pages 1 to 11 and annexure from pages from 12 to 173 As per the INDRP Rules of Procedure, Clause 4(a) – *The (maximum) word limit shall be 5000 words for all pleadings individually (excluding annexure). Annexure shall not be more than 100 pages in total. Parties shall observe this rule strictly subject to Arbitrator's discretion.*

The Complainant submitted Pleadings of more or less 5000 words and annexures with 162 pages. The complainant failed to follow this clause, by submitting about 162 pages of annexures and other documents, otherwise the application is submitted as per INDRP Rules of Procedure. The extra documents submitted as mentioned above has been allowed, in the interest of justice at large, with a caution to Complainant for submitting application as per INDRP Rules of Procedure in future.

- (11) Complainant was directed to submit proof of delivery of complaint along with all annexure (to Respondent) to the AT. Complainant vide their mails dated 09.07.2021, submitted that-
'soft copy of the INDRP Complaint along with all Annexures was forwarded on behalf of the Complainant to the Respondent - Mr. Uli Ali, via email on July 03, 2021. This email has been duly delivered on the Respondent (email delivery report attached).
Further, a hard copy of the entire set of the Complainant and Annexures was also sent to the Respondent's address via Maruti Courier (under consignment no. 21027200044487). However, the delivery failed as the Respondent's address was incomplete (tracking status report + intimation from the courier service provider via email attached) and his contact number (1800290907) is incorrect'.

THE CONTENTIONS OF THE COMPLAINANT

- (12) The Complainant recently learnt of the Respondent's registration of the Disputed Domain Name and use of its corresponding fraudulent website at www.indeedgroups.in for offering inter alia job search, career solutions and other recruiting solutions identical to those of the Complainant. Extracts from the website www.indeedgroups.in are submitted as Annexure 13.



(13) The domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights:

(a) The Complainant submits that the Disputed Domain Name is identical with and/or confusingly similar to the Complainant's INDEED Marks. The Disputed Domain Name incorporates the Complainant's registered trademark INDEED in its entirety along with the descriptive and non-distinctive word 'groups' as a suffix, which - for the reasons outlined below -is insufficient for differentiation.

(b) The Complainant has well-established rights in respect of the INDEED Marks which have been recognized and confirmed by NIXI (National Internet Exchange of India). In the INDRP order *Indeed, Inc. v. Indeedworld<indeedworld.in>* (INDRP/931) passed in January 2018, the Learned Arbitrator in its decision stated:

"... it is well settled proposition that when the relevant trademark is recognizable within the disputed domain name, the addition of any generic or common language term_would not prevent a finding of confusing similarity under the first element of UDRP Policy".

As recently as in February 2019, the Learned Arbitrator, in its order directing transfer of the disputed domain to the Complainant in *Indeed, Inc. v. Indeedworld<indeedonline.in>* (INDRP/1059), held that:

"In my opinion, owing to the worldwide presence of the Complainant's business, the term 'online' in the disputed domain name could make Internet users to believe that such domain name and the contents originating therefrom belongs to the Complainant."

A few other recent disputes where the Complainant has received favorable orders from the present forum are *Indeed, Inc. v. Ajit Kumar <indeedjobalerts.in>* (INDRP/1338) in April 2021; *Indeed, Inc. v. Sunny Rai <indeedcareer.co.in>* (INDRP/1339) in April 2021; *Indeed, Inc. v. Rohan Sharma <indeedwork.in>* (INDRP/1337) in March 2021; *Indeed, Inc. v. Ankur Shrivastav<indeedgroup.in>* (INDRP/1216) in May 2020; *Indeed, Inc. v. Shiv Soni<recruiter4indeed.in>* (INDRP/1210) and *Indeed, Inc. v. Education Fly <indeedjobs.co.in>* (INDRP/1213) in March 2020; *Indeed, Inc. v. Indeed India <indeedindia.in>* (INDRP/1188) in February 2020; *Indeed, Inc. v. Rohan Sharma <indeedworks.co.in>* (INDRP/1173) and *Indeed, Inc. v. CH Sarkaar<indeedworks.ind.in>* (INDRP/1174) in January 2020; *Indeed, Inc. v. Gulf Talant<indeedglobal.co.in>* (INDRP/1126) in September, 2019; *Indeed, Inc. v. Akshay Kapoor <indeedjobs.ind.in>* (INDRP/1051)



in January 2019; Indeed, Inc. v. Rahul Kumar <indeedcareers.co.in> (INDRP/1012) and Indeed, Inc. v. Dinesh Sarang <indeedjob.ind.in> (INDRP/1011) in August 2018; Indeed, Inc. v. Deepak Singh <indeedjob.org.in> (INDRP/987) and Indeed, Inc. v. Deepak Singh <indeedjob.net.in> (INDRP/973) in May 2018.

The Complainant's rights to the INDEED Marks have also been upheld by the WIPO (World Intellectual Property Organization) as well as Forum (formerly, the National Arbitration Forum) in numerous arbitration proceedings / domain disputes.

Copies of a few orders passed by NIXI, WIPO and Forum are collectively submitted as Annexure 14.

- (c) It is indisputable that the Disputed Domain Name comprises the Complainant's registered trademark INDEED in its entirety. It was held in Six Continent Hotels, Inc. v. The Omni corp, WIPO Case No. D2005-1249 that *"the fact that a domain name wholly incorporates a complainant's registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy"* (quoting Oki Data Americas, Inc. v. Asd, Inc.com, WIPO Case No. D2001-0903). Similar lines of reasoning have been adopted in several cases including Britannia Building Society v. Britannia Fraud Prevention, WIPO Case No. D2001-0505; PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS) - WIPO Case No. D2003-0696; and Hoffmann-La Roche AG v. Andrei Kosko, WIPO Case No. D2010-0762.
- (d) The addition of the word 'GROUPS' as a suffix to the Complainant's registered trademark INDEED is incapable of lending the Disputed Domain Name any distinctiveness or reduce its similarity with the Complainant's INDEED Marks and on the contrary, enhances the degree of similarity between the rival brands. The word 'GROUPS' simply indicates a collective association of people who, in the present context, are looking for job services being offered by the Respondent - which are in fact identical to those offered by the Complainant under the INDEED Marks around the world, including in India. The Complainant is known globally as an employment / job search engine since early 2000s and hence use of the Disputed Domain Name will, in all likelihood, make internet users believe that it originates from the Complainant, when that is not the case. Therefore, the term 'GROUPS' as a suffix to the prior and registered trademark INDEED is not sufficient to avoid confusion between the Disputed Domain Name and the INDEED Marks of the Complainant. In this regard, it is relevant to mention that a mere search for the words contained in the Disputed Domain Name, i.e. 'INDEEDGROUPS', on the popular search engine Google.com leads to the Complainant's genuine



websites. Extracts of the Google search in support of the above submission is submitted as Annexure 15. This result establishes beyond doubt that the two concerned words are associated with the Complainant alone and none else.

- (e) As informed in the preceding paragraphs, the Complainant has been continuously and extensively using the registered trademark INDEED in commerce since its adoption in 2004 - both internationally as well as in India - and thus its rights in the INDEED Marks are beyond reproach. Moreover, since the Disputed Domain Name has only been registered since July 2020, it is vastly subsequent to the Complainant's adoption, usage and statutory rights in the INDEED Marks globally and in India.
- (f) In light of the above, it is respectfully put forth that the condition in Paragraph 4 of the INDRP is fully met by the Disputed Domain Name

(14) The Respondent has no rights or legitimate interests in respect of the domain name:

- (a) Under Paragraph 6 of the INDRP, the following conditions (in particular but without limitation) must be met for the Registrant to have rights or legitimate interests in the disputed domain name:
 - (i) *before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a bonafide offering of goods or services;*
 - (ii) *the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or*
 - (iii) *the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.*

It is respectfully submitted that the Respondent in the present case has not fulfilled any of the aforementioned conditions for it to have demonstrable rights or legitimate interests in the Disputed Domain Name.

- (b) At the outset, the mere fact that the Disputed Domain Name is registered does not imply that the Respondent has any rights or legitimate interests in them. In *Deutsche Telekom AG v. Phonotek Ltd.* (WIPO Case No. D2005-1000), it has been held that "*Registration of a domain name in itself does not establish rights or legitimate interests for purposes of paragraph 4(a)(ii) of the Policy*".



- (c) The Respondent has not used nor made any demonstrable preparations to use the Disputed Domain Name in connection with a "bonafide offering of services or goods". It is submitted that the Respondent's use of the Disputed Domain Name is for fraudulent purposes, namely, to imitate a legitimate, well-reputed and trustworthy entity, i.e. the Complainant, so as to deceive job seekers into purchasing services that may be false / inaccurate or never provided.
- (d) To the Complainant's knowledge, the Respondent has never been commonly known by the Disputed Domain Name and has never acquired any trademark or service mark rights in the Disputed Domain Name. In fact, as clearly seen in Annexure 15, a general Google search for the string 'INDEEDGROUPS' does not reveal the Respondent's impugned website or any site that leads to information on the Respondent or reflecting its association with the word 'INDEED'- again clearly signifying that the Respondent is not known by the Disputed Domain Name. As held in Alpha One Foundation, Inc. v. Alexander Morozov, NAF Case No. 766380, *"This fact, combined with the lack of evidence in the record to suggest otherwise, allows the Panel to rule that Respondent is not commonly known by the disputed domain name or any variation thereof pursuant to Policy 4(c)(ii)"*.
- (e) The Respondent neither has rights or legitimate interests in the Disputed Domain Name nor has the Complainant assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or make use of its registered trademark INDEED. The Complainant relies on the case of Six Continents Hotels, Inc. v. Patrick Ory, WIPO Case No. D2003-0098 wherein it was held *"There is no evidence of any commercial relationship between the Complainant and the Respondent which would entitle the Respondent to the mark. Consequently, the Panel concludes that the Respondent has no rights nor legitimate interests in the Domain Name given there exists no relationship between the Complainant and the Respondent that would give rise to any license, permission or authorization by which the Respondent could own or use the Domain Name"*.
- (f) The inclusion of the words 'INDEED' (registered trademark of the Complainant) and 'GROUPS' (a mere descriptive, and hence inconsequential word) in the Disputed Domain Name amply reflects that the intention of the Respondent is to deceive the public into believing that some association or commercial nexus exists between the Complainant and the Respondent and cash-in on such deception. As held in The Dow Chemical Company v. Hwang Yiyi, WIPO Case No. D2008-1276, use of a disputed domain name in connection with a website that is "very similar



to the Complainant... intends to mislead the consumers into thinking that the Respondent has some kind of business relationship with the Complainant or it is the Complainant" and, therefore, is not legitimate.

- (g) The Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name. It is clear that the Disputed Domain Name has been registered for commercial gain by misleading and diverting consumers and/or tarnishing the Complainant's brand and INDEED Marks, and therefore also the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant relies on *The Sports Authority Michigan, Inc. v. Internet Hosting*, NAF Case No. 124516 wherein it was held "*It is neither a bona fide offerings of goods or services, nor an example of a legitimate non-commercial or fair use under Policy 4(c)(i) and (iii) when the holder of a domain name that is confusingly similar to an established mark uses the domain name to earn a profit without approval of the holder of the mark*". Also, in *Orange Brand Services v. Fayaz/ Exuberant Services and Solution Pvt. Ltd.* <orangeinfosolutions.in> INDRP/522, the Learned Panel held that "*Complainant is well-known with its trademark. Due to the strong reputation of the trademarks ORANGE, Internet users will apparently and reasonably expect it an offer of the Complainant or authorized or affiliated enterprises under 'orangeinfosolutions.in.'*".
- (h) The Complainant enjoys exclusive rights in the word 'INDEED' qua its specific services and products. The word 'INDEED' *per se*, when considered along with its descriptive / dictionary meaning (as an adverb) does not indicate in any manner services or goods relating to the employment industry and accordingly the Complainant's registered trademark INDEED in Classes 42, 35 and 09 is an *inherently distinctive* trademark. In fact a general search for the mere word 'INDEED' on the popular search engine Google.com does not throw any result on the generic meaning of the said word but rather directs to websites which either belong to the Complainant or to third-parties providing information on the Complainant's business and services under the INDEED Marks, thereby augmenting the indisputable association between the Complainant and its said Marks. Extracts of the Google search in support of the above submission is enclosed as Annexure 16. The Complainant is therefore protected against all use of its mark INDEED (including by the Respondent herein) that dilutes and tarnishes its rights therein.
- (i) In summary, there is no justification for the Respondent's registration and/or use of the Disputed Domain Name. By virtue of a dishonest adoption and *malafide* intent of the Respondent, as established in the preceding paragraphs of this Complaint, together with its brazen usage of



the Complainant's INDEED Marks, there is no scenario wherein the Respondent can claim to make legitimate non-commercial or fair use of the Disputed Domain Name.

- (j) In the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0"), the consensus view has been adopted that "... a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name.". In this present case, the Complainant has amply established a *prima-facie* case for the absence of rights or legitimate interests in the Disputed Domain Name in favour of the Respondent.

(15) The domain name was registered and is being used in bad faith:

- (a) As per Paragraph 7 of the INDRP, it is evident that registration and use of a domain name is in bad faith when inter alia

(c) by using the domain name, the Registrant 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.

It is respectfully submitted that the Respondent in the present case has clearly adopted the Disputed Domain Name with the intention to create confusion with the INDEED Marks and show false nexus between itself and the Complainant- as elaborated in the paragraphs below.

- (b) The Complainant is vested with worldwide statutory and common law rights in its INDEED Marks since the year 2004. In such circumstances, the Respondent's usage of the Complainant's trade name and mark INDEED in conjunction with the descriptive and non-distinctive term 'GROUPS', is of concern as it is fraught with the likelihood of creating confusion in the minds of public at large. It is highly probable that consumers looking for the Complainant's INDEED branded services may perceive the Disputed Domain Name to be another domain name of the Complainant for providing jobs. This misconception is highly likely to be



amplified when such unwary consumers would receive fraudulent communications from the Respondent which would prominently bear the impugned term 'INDEED' with or without any prefix / suffix - the collective use of which would lull such consumers into a false sense of security, leading to the incorrect assumption that the Respondent's communication and job postings are genuine and originating from the Complainant itself. The Complainant submits that it is exactly this sort of scenario that the Respondent is seeking to create and is in itself evidence of its bad faith and malafide intentions.

- (c) It is further submitted that the Respondent, being in an identical industry and dealing with same or similar services, is bound to have knowledge of the world-renowned repute of the Complainant herein. Hence, it has no cause for adoption of an identical trademark or domain name, except in bad faith and with malafide intention. Moreover, the Disputed Domain Name was registered in July 2020, i.e. post 10 years of filing of trademark applications by the Complainant in India for registration of its INDEED Marks and 16 years of the Complainant actually using its said Marks in commerce. The Respondent, therefore, again cannot escape the liability of knowledge of the Complainant and its business - and by extension, its INDEED Marks - since no level of coincidence can lead to the Respondent adopting a name / trademark identical to the Complainant's much prior adopted, used and registered INDEED Marks. In *Compagnie Générale des Etablissements Michelin v. Terramonte Corp, Domain Manager* (WIPO Case No. D2011-1951), it was held that *"it is clear in this Panel's view that, at the time the disputed domain name (<mchelin.com>) was registered, Respondent had actual knowledge of Complainant's preexisting rights in the MICHELIN trademark. The Panel, therefore, concludes that Complainant has established that Respondent registered the disputed domain name in bad faith"*. In the present case, at the time of registration of the Disputed Domain Name, the Complainant had been known by its business / corporate / trade name INDEED for much over a decade and had already enforced its rights against several infringers. Even so, the Respondent chose to register the Disputed Domain Name so as to misappropriate the Complainant's INDEED Marks in an unabashed and unauthorised manner. Thus, a finding of bad faith registration of the Disputed Domain Name is irrefutable and must follow.

- (d) As submitted in the preceding paragraphs, there can be no doubt that the Respondent was aware of the Complainant's INDEED Marks when it registered the Disputed Domain Name, which clearly suggests *"opportunistic bad faith"* in violation of the Policy. The Complainant relies on *Orange Brand Services Limited v. Anshul Agarwal / Orange*



Electronics Pvt. Ltd. <orangeindia.in> INDRP/579 (“Given the fame of the Complainant’s trademark and domain name, it is not possible to conceive a use of the same by the Respondent, which would not constitute an infringement of the Complainant’s rights in the trademark”). As set forth above, INDEED is a well-known, internationally recognized and renowned mark, registered across several territories worldwide. This suggests that the Respondent must have not only been aware of the Complainant’s INDEED brand but should also have known of the Complainant’s related domain names and reach of its services worldwide, which constitutes strong evidence of bad faith - Marriott International, Inc. v. Mommamed IA, NAF Case No. FA95573.

- (e) In the case of Amazon.com Inc., Amazon Technologies, Inc. v. Giovanni Laporta / Yoyo.Email (WIPO Case No. D2015-0009), while directing the transfer of the domain name <amazonsupport.email> to the Complainant, the Administrative Panel held that:

“A further indication of Respondent’s bad faith under the Policy is the fact that the AMAZON Mark predates Respondent’s registration of the Disputed Domain Name by twenty (20) years.”

In the present case, as aforementioned, adoption of the trademark INDEED by the Complainant precedes registration of the Disputed Domain Name by much over a decade. Therefore, it is clear that the Respondent intended to trade on the reputation of the Complainant and its rights in the INDEED Marks.

- (f) The Respondent appears to be using the Disputed Domain Name for the purpose of misleading and extracting illegal benefits from innocent job seekers by posting fake job vacancies, who will be led to believe the Respondent to be the Complainant or at least affiliated with it. The Respondent’s bad faith intentions due to use of the Disputed Domain Name are thus lent further credence. In Skype Limited v. Sadecehosting.com Internet Hizmetleri San Tic Ltd Sti (WIPO Case No. 1059477) it was observed that “Respondent is using the ... domain name in order to gain access to personal and financial information of Internet users. Such use of the disputed domain name in connection with a phishing scheme qualifies as bad faith registration and use under Policy ¶ 4(a)(iii)”.
- (g) Even if the Respondent were offering actual online career search and recruiting services through the Disputed Domain Name, such use would still support a finding of bad faith use and registration, as these are the same services offered by the Complainant under its famous and registered INDEED Marks. The same was upheld in Kingston Technology Corp. v.



c/o Asiakingston.com (WIPO Case No. FA1464515) where the Panel observed that *"finding use of domain name incorporating Complainant's trademark in connection with the sale of competing products to constitute bad faith"*.

- (h) It is finally submitted that the Disputed Domain Name was registered and is being used in bad faith. If the Respondent is not restrained from using the Disputed Domain Name and the same is not transferred to the Complainant, loss and hardship will be caused to the Complainant.

(16) Remedy Sought:

In light of the preceding, it is respectfully put forth that the Complainant has adequately satisfied the three conditions provided in Paragraph 4 of the INDRP. Therefore, the Complainant requests the arbitrator / panel appointed in these proceedings to issue the necessary directive for the Disputed Domain Name to be transferred to the Complainant.

(17) Other Legal Proceedings:

There are no other legal proceedings that have been commenced, are continuing or have been terminated by the Complainant in connection with or relating to the Disputed Domain Name

RESPONSE BY THE RESPONDENT

- (18) As per AT mail dated 02.07.2021 & 19.07.2021, Respondent was directed to submit their Statement of Defense by 17.07.2021 & 26.07.2021 respectively. Respondent was given sufficient time to submit required documents but Respondent failed to submit their 'Statement of Defense along with all annexure' within mentioned time limit. Respondent was once again directed to submit their Statement of Defense by 26.07.2021, vide AT mail dated 19.07.2021.

It was intimated to all concerning by AT mail dated 31.07.2021 that 'Respondent failed to submit the required/said documents within the time limit mentioned in mail ie 26.07.2021. Therefore the Respondent has lost their right to entertain it. The proceeding of this case is kept closed for award and the matter would be decided ex-parte on the basis of the material on record with this tribunal as per INDRP policy'.



REJOINDER BY THE COMPLAINANT

- (19) Since Respondent failed to file the Statement of Defense , so there is no question of submitting the Rejoinder by the Complainant.

DISCUSSION AND FINDINGS

- (20) After going through the correspondence, this AT comes to the conclusion that the Arbitral Tribunal was properly constituted and appointed as per Clause 5 of the INDRP Rules of Procedure and Respondent has been notified of the complaint of the Complainant. In fact, no parties raised any objection over constitution of this Tribunal.
- (21) Respondent failed to submit the required/said documents (Statement of Defense) within the specified time limit ie 26.07.2021. Therefore the Respondent has lost their right to entertain it. The proceeding of this case was kept closed for award on 31.07.2021 and the matter is to be decided ex-parte on the basis of the material on record with this tribunal as per INDRP policy.
- (22) Under Clause 4, of the .IN Domain Name Dispute Resolutions policy (INDRP), the Complainant must prove each of the following three elements of its case:
- (a) The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
 - (b) The Respondent has no rights or legitimate interest in respect of the domain name; and
 - (c) The Respondent's domain name has been registered or is being used in bad faith.



- (23) **The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:**

Facts & Findings

- (i) On the basis of the submitted facts and referred Awards of various INDRP and WIPO cases by Complainant and due to non submission of Statement of Defense or any other document by Respondent, the Arbitral Tribunal concludes that the Complainant has established 4(a) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

- (24) **The Respondent has no rights or legitimate interest in respect of the domain name:**

Facts & Findings

- (i) On the basis of submitted facts and referred Awards of INDRP and WIPO cases by Complainant and due to non submission of Statement of Defense or any other document by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(b) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

- (25) **The Respondent's domain name has been registered or is being used in bad faith:**

Facts & Findings

- (i) On the basis of submitted facts and referred Awards of INDRP and WIPO cases by Complainant and due to non submission of Statement of Defense or any other document by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(c) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.



ARBITRAL AWARD

Now I, Rajesh Bisaria , Arbitrator, after examining and considering the statements of both the parties and documentary evidence produced before and having applied mind and considering the facts, documents and other evidence with care, do hereby publish award in accordance with Clause 12 & 13 of the INDRP Rules of Procedure and Clause 10 of .IN Domain Name Dispute Resolution Policy (INDRP), as follows:


Arbitral Tribunal Orders that the disputed domain name www. indeedgroups.in be forthwith TRANSFERRED from Respondent to Complainant.

Further AT takes an adverse view on the bad faith registration of impugned domain by the Respondent and to restrict the act for future misuse, fine of Rs 10000/- (Rs Ten thousand only) is being imposed on the Respondent, as per the provision in clause 10 of .IN Domain Name Dispute Resolution Policy (INDRP) to be paid to .IN Registry for putting the administration unnecessary work.

AT has made and signed this Award at Bhopal (India) on 14.08.2021 (Fourteenth Day of August, Two Thousand Twenty One).

Place: Bhopal (India)

Date: 14.08.2021


14/08/2021
(RAJESH BISARIA)
Arbitrator

