



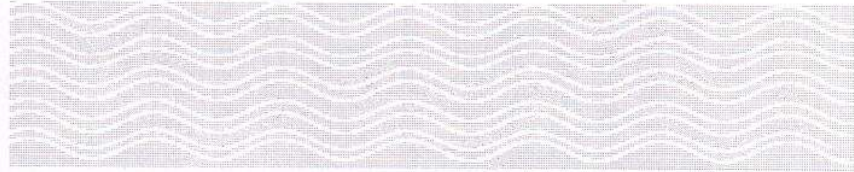
सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No.	: IN-DL31769121243677T
Certificate Issued Date	: 01-Oct-2021 04:04 PM
Account Reference	: IMPACC (IV)/ dl915703/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL91570359136866873420T
Purchased by	: R K KASHYAP
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: R K KASHYAP
Second Party	: Not Applicable
Stamp Duty Paid By	: R K KASHYAP
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line.....

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

HAVELLS INDIA LIMITED

V/s

RAJ LOHMOD

*Pluse Adw*

#### 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 Havells India Limited and QRG enterprises Limited, both having its office at 904, 9<sup>th</sup> Floor, Surya Kiran Building, K.G. Marg, Connaught Place, New Delhi-110001, by authorized representative Rodney D. Ryder / Ravi Goyal, Scriboard, Advocates and Legal Consultants, Level-2, Elegance, Mathura Road, Jasola, New Delhi-110025. E-mail:- [rodney@scriboard.com](mailto:rodney@scriboard.com) / [ravi@scriboard.com](mailto:ravi@scriboard.com).

The Respondent is Raj Lohmod, Flat No-12, Block C-6, Sector-23 B, Dwarka, Delhi-110077, Mobile No- 93115-32828, E-mail [lgsalarypay@gmail.com](mailto:lgsalarypay@gmail.com).

### 2. THE DOMAIN NAME AND REGISTRAR:

This Arbitration pertains to a dispute regarding the Domain name [www.havellsindia.co.in](http://www.havellsindia.co.in).

The disputed Domain name is [www.havellsindia.co.in](http://www.havellsindia.co.in).

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

**Registrar Name: GoDaddy.com, LLC**

**IANA ID : 146**

**ASSIGNED NAME SERVERS: ns46.domaincontrol.com/  
ns45.domaincontrol.com**

**ROID : D8D4FAB0730C442D3B7579CE276D01481-IN**

**Date of creation: 08-02-2021**

**Date of Expiry : 08-02-2022**

**Registrant Client ID : CR464954120**

**Registrant ROID: CAEB2C60AB992411ABF4495E86C74D816-IN**

**Registrant Create Date:08-02-2021**

**Email: [lgsalarypay@gmail.com](mailto:lgsalarypay@gmail.com)**

*Pradeep Azh*



Phone: (+91) 9311532828

INTERNATIONAL POSTAL NAME: Raj Lohmod

3. PROCEDURAL HISTORY

- (a) The Complainant has filed a complaint on 05-08-2021 with the NATIONAL INTERNET EXCHANGE OF INDIA. The Complainant made the registrar verification in connection with the Domain name at issue. The annexures received with the complaint are **Annexure-A to M**. The exchange verified the complaint, satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the 'Policy') and the Rules framed thereunder.
- (b) The NIXI has appointed Sh. R.K. Kashyap, Advocate as the Sole Arbitrator in this matter vide letter dated 24-08-2021. The Arbitrator finds that he has been properly appointed. The Arbitrator has submitted his Statement of acceptance and Declaration of Impartiality and Independence as required by the Exchange.
- (c) The Arbitrator, as per the INDRP Policy and the Rules, has duly issued the notice on 27.08.2021 and directed the complainant to serve the Respondent with a copy of the Complaint alongwith annexures on the given e-mail as well as on physical address. In the Notice, it has also been mentioned that the respondent to file the reply/response within 15 days from the receipt of notice. The direction of the arbitrator to serve the respondent has duly been complied with and the complainant sent the notice through mail as well as through courier dated 31.08.2021, the tracking details has also been sent, AWB Number- V91810932, wherein mentioned **"RECIEVER REFUSED DELIVERY"**. The respondent is duly served through electronic mode and having complete knowledge about the proceedings before the arbitrator, as a same is clearly reflected from the tracking report, as such the respondent is deemed served, in this regard refer the mail dated 01/09/2021 and 02/09/2021, despite

*Raj Lohmod*



knowledge, the respondent has not file any response till date. Hence, the respondent proceeded ex-parte.

**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 is one of the fastest growing fast moving electrical goods company and is major power equipment manufacturer with a strong global footprint. The detail in this regard is provided in **Annexure-B**.

Havells clocked a gross turnover of Rs.10,427.92/- Crores in the year 2020-2021. Havells enjoys enviable market dominance across a wide spectrum of products, including industrial and domestic circuit protection devices, cables and wires, motors, fans, modular switches, home appliances, water heaters, power capacitors, CFLs etc, consecutively listed as one of the super fifty companies by Forbes India in the year 2015-2016. It was also listed 125<sup>th</sup> among 1200 of India's most trusted brands.

The complainant company has spent huge amount on promotion and advertisement of his services and products under the trade service name "**Havells**". The entire details of expenditure in this head is provided in "**Annexure-C**". The entire details of its trademark registration are duly provided in "**Annexure-D**". The said domain name was registered by the complainant in the year 1997. The complainants and its subsidiaries own more than 25 different domain names out of which each and everyone comprises of mark "**Havells**". The complete information is duly provided in **Annexure-F**. The brand Havells has huge social media presence, also published book titled Havells, the entire history is being provided in **Annexure-H**. The mark "**Havells**" is a coined word, is extremely distinctive and unique, adopted by the complainant's predecessors in title by late Haveli Ram Gandhi in the year 1942. Havells has been a

*Plumb's Adv.*



regular recipient of awards and accolades, the detail is available in **Annexure-J.**

- b) The present complaint has been filed by the Complainant against the Respondent who is the current registrant of the domain name “**www.havellsindia.co.in**”. The respondent despite knowledge has not filed any response. Hence, the award is ex-parte.
- c.) The Respondent's disputed domain name is being used in bad faith. The Complainant is continuously using the trade mark “Havells” since 1942. Whereas on the other hand the respondent registered the domain name only on 08/02/2021. It is inconceivable that the respondent who is an Indian and resides in India, was not aware of the popularity of the well known mark “Havells” at the time of registration of the impugned domain name. It is obvious that the respondent registered the domain name with a view to mislead consumers into believing that the impugned domain name is associated with the complainant company. 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. 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 “**Havells**” in several jurisdictions.

*Prashant*



### **DOMAIN NAMES AND COMPLAINANT:**

The Complainant using the trademarks "Havells" since 1942 and registered the same in the year 1997 and having respected name in the industry since decades and have a huge gross turnover. The entire details of its trademark are available in "**Annexure-D**", 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 08.02.2021 (The entire detail provided in "**Annexure-A**", Whereas, on other hand the complainant is using the aforesaid trademark since 1942 and registered in the year 1997. The complainant is the prior user, adopter and owner of the domain and using the same since 1942 and whereas the respondent has got registered his trademark only on 08.02.2021, much later than the complainant.

### **B: RESPONDENT :**

The Respondent knowingly not filed any response, any evidence or argument indicating his relation with the disputed domain name **www.havellsindia.co.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;

*Prudhvi*



- (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 "**www.havellsindia.co.in**" was Registered by the Respondent on **08.02.2021**. The registration of the said disputed Domain name is due to expire on 08.02.2022.

- i. The Complainant submits that they hold registered trademarks for the term "Havells" (the details are available in the complaint and **Annex-D** 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 Complainant's goods and services. As further there are various articles to support Complainant's recognition in the Indian market, refer **Annexure-F** in this regard.
- ii. The domain name, <www.havellsindia.co.in>, incorporates the term "Havells" and "**www.havellsindia.co.in**" verbatim. The mere glance at the disputed domain name gives rise to confusion as to its origin, as the domain name used by the respondent is identical to the well known trademark of the complainant. The utmost malafide intention of the respondent is evident from the fact that the respondent has suffixed the word "India" after the complainant's well known trademark "Havells". The complainant relied upon the decision in INDRP Case no-1060, titled as Havells India Ltd v/s Adarsh Kumar (refer **Annexure-K**).

*Pluse*  
*Adv*



iii. The mark Havells was adopted in the year 1942 and has been in extensive, continuous and uninterrupted use since then. The mark Havells is prominently displayed and has become the focus of the complainants entire business and is extremely popular and is well known across the world. The complainant relied upon the following decisions:-

\*D2000-0927

\*D2000-0441

\*D2000-0848

\*D2001-1201

\*D2010-0006

\*D2016-1775

\*INDRP/392

The Hon'ble Supreme Court of India has recently held that the Domain name has become a business identifier. A Domain name helps identity the subject of trade or Service that an entity seeks to provide to its potential customers. Further that, there is a strong likelihood that a web browser looking for "**www.havellsindia.co.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

*Amundi*  
*Adv.*



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 “www.havellsindia.co.in” is phonetically, visually and conceptually identical or confusingly/deceptively similar to the Trademark of the Complainant “Avanti”.

(ii). **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:

- 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 “Havells” mark and domain names **www.havellsindia.co.in**. Moreover, by the time Respondent registered the disputed domain name, the Complainant had popularized the mark “Havells”. Accordingly, it is evident in the google search, refer “**Annexure-M**”, that the Respondent was well aware of Complainant's prior rights in “Havells” mark and domain name www.havellsindia.co.in 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 <www.havellsindia.co.in. >, based on the statutory

*Pradeep*  
*prv*



protection of the "Havells" and "Havellsindia" term by way of trademarks in India. The Complainant also relies on the recognition acquired by the Complainant since 1942, which pre-dates the date when the Respondent registered the domain name on 8<sup>th</sup> February 2021. To the best of the Complainant's knowledge, the Respondent does not own any recognized rights to the term "Havells" and "Havellsindia", by way of trademarks, or any other protected right. Accord Young Genius Software AB v. MWD, James Vargas, WIPO Case No. D2000-0591, 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. It is highly improbable that the respondent has any rights or legitimate interest in the impugned domain name. The respondent whose name is Raj Lohmod is not commonly known by the disputed domain name nor does the respondent actually engage in any business or commerce under the name "Havells", has no active business in the name of "Havells". He is neither a licensee nor ever been authorized by the complainant to use its trademark or register the disputed domain name. The complainant have no relationship with the respondent. The complainant relied upon the following decisions :-

\*D2016-1775

\*INDRP/1060

*P. S. Rao*  
*P. S. Rao*



\*D2000-0003

\*D2003-0849

\*D2016-1264

\*INDRP/024

\*INDRP/632

\*INDRP/633

- 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 "Havells" 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:-

*Pravir*  
Adv.



- i. Considering the popularity of the Complainant's brand and the fact that the Complainant also has registered trademarks containing the words "Havells" 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 "Havells"/"Havellsindia" trademarks on public databases and a simple Google search of the term 'Havellsindia' shows results exclusively of the Complainant's.
- 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, placed at "**Annexure-K**".
- iii. The disputed Domain name is used in bad faith by the respondent with a view to mislead consumers into believing that the impugned domain name is associated with the complainants. The complainant in this regard relied upon the following decisions :-
  - \*D2000-0028
  - \*D2005-0524
  - \*D2001-0026
  - \*INDRP/947

*Prady  
Adv.*



\*INDRP/215

\*INDRP/250

The Respondent has registered the disputed domain name with a view to extract huge sums of money from the complainant. The respondent is not operating any website on the disputed domain name. On the other hand the complainants trademark is well known and has strong reputation across the world. No plausible actual or contemplated use of the disputed domain name by the respondent could be legitimate. The respondent may be engaging in other similar cybersquatting and fraudulent activities. Hence, the Respondent has no rights in trademark law or any legitimate interest in respect of the disputed domain name [www.havellsindia.co.in](http://www.havellsindia.co.in)

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

*Prashant Adv.*



with the Complaint suggests opportunistic bad faith as stated **INDRP Case No 934** between **Mozilla Foundation and Mozilla Corporation V/s 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 "Havells" 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.

*Pls. Rev.*



6. **DECISION**

In light of the foregoing findings, namely, that the Domain name is confusingly/deceptively similar to Complainant's well-known brand "Havells", 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 "**www.havellsindia.co.in**" be transferred to the Complainant.

This award is passed at New Delhi on this 08<sup>th</sup> day of October, 2021.

*R. K. Kashyap*  
08/10/2021

**R. K. KASHYAP**  
**SOLE ARBITRATOR**