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Sl. No. 2292 Date. 15/12/2021

to V. Gopinath S/A. V. K. Chenu

For whom - self -

BA 014224

B. ARUN KUMAR
LICENCED STAMP VENDOR

L.No.03-13-002/2000, R.L.No.03-013-008/2000
#27-249, Vepagunta, Visakhapatnam-4

Cell : 9393174422

THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)
IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

Dr. Vedula Gopinath, Sole Arbitrator

Arbitration Award No. INDRP/1475, dated January 5, 2022

In the matter of Arbitration Between :

Champagne De Telemont

1 Avenue de Champagne,

51480 DAMERY, France AND

Dingcorp

A3, JiaZhaoYe, JiangBei,

Huicheng District, HuiZhou

GuangDong, China 516000 US

(Respondent)



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Dr. VEDULA GOPINATH
SOLE ARIBITRATOR

II. THE PARTIES :

Complainant's Authorised representative in this administrative proceedings is:

NAMESHIELD

79 rue Desjardins 49100 Angers

France

email legal@nameshield.net

B. Respondent has not authorised any legal representative.

Details of Respondent as per WHOS record given below (details per annexure I of the Complaint.

DingDing
Dingcorp(Please contact us via email,
and our email is
chromebooks@hotmail.com)
A3, JiaZhaoYe, JiangBei, Huicheng
District, HuiZhou
GuangDong, China




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II. DISPUTED DOMAIN NAME & REGISTRY:

a) The disputed domain name <champagne-telmont.in> was registered on November 3rd, 2021 and resolves to a parking page with commercial links (Annex 5).

b) The Registry is the National Internet Exchange of India (henceforth referred to as NIXI).

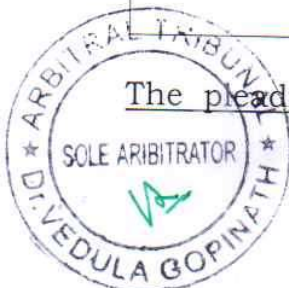
c) The Sponsoring Registrar of the Impugned Domain name details are

Dynadot LLC

III. PROCEDURAL HISTORY / BACK GROUND :

24-12-2021	The .1N REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator from its panel as per paragraph 5 of INDRP Rules of Procedure.
25-12-2021	Consent of the Sole Arbitrator along with declaration was given to the .1N REGISTRY according to the INDRP Rules of Procedure.
24-12-2021	.1N REGISTRY sent an email to all the concerned intimating the appointment of arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexure was sent to Respondent.
26-12-2021	Notice of Arbitration was sent to all concern by the Sole .
27-12-2021	Notice was sent by Arbitrator to the Respondent by-mail directing him to file his response within 7 days, marking a copy of the same to the Complainant's representative and .1N Registry.

The pleadings are communicated through Electronic mail



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IV. COMPLAINANT'S DETAILS

CHAMPAGNE DE TELMONT was founded in 1912 by Henri Lhôpital in the village of Damery, near Epernay (FRANCE). The company is rich in ancestral know-how: four generations of winegrowers bequeathed their strong commitment to their terroir and their grapes to their successors, as well as the art of mastering each stage of wine making. The business unit enables the terroir to express itself through its champagne, employing its know-how of the various facets of nature. French family-owned spirits group, Rémy Cointreau, becomes majority shareholder of Telmont in 2020. (details given as per Annex 2 of complaint)).

V. COMPLAINANT'S CONTENTIONS :

A) The Complainant is the owner of trademarks "TELMONT" :

- TELMONT, International trademark n° 1621867, registered on September 08th 2021 in class 33;
- TELMONT, International trademark n° 1592167, registered on March 02st 2021 in class 33;
- JT J DE TELMONT, French trademark n° 1545377, registered on April 20th 1988 in class 33;

(details of certificates given as per Annexure 3 of the Complaint)

B) The Complainant owns and communicates on the Internet through various websites worldwide. The main one is www.champagne-telmont.com registered on July 4th, 2005 (as per Annex 4 of complaint).

C) The Complainant states that the disputed domain name <champagne-telmont.in> is confusingly similar to its trademark TELMONT ®. The association of the generic term "Champagne" refers to the activities of the Complainant.

D) The Complainant contends that the addition of the ccTLD ".IN" is not sufficient to escape the finding that the domain is confusingly similar to its trademark and does not change the overall impression of the designation as being connected to the trademark of the Complainant.




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E) The Complainant contends that the disputed domain name <champagne-telmont.in> is confusingly similar to the trademarks of the Complainant.

F) The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the trademark, or apply for registration of the dispute

G) Further, the Complainant contends that the Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public and therefore is not making a legitimate, fair or bona fide use of the domain name.


G) The association of the generic term "Champagne" to the Complainant's trademark proves that the Respondent had actual knowledge of the Complainant's prior rights at the time of the registration of the disputed domain name. Thus, given the distinctiveness of the Complainant's trademarks and reputation, it is inconceivable that the Respondent could have registered the disputed domain name <champagne-telmont.in> without actual knowledge of Complainant's rights in the trademark, which evidences bad faith.

B. RESPONDENS CONTENTIONS.

The Respondent in-spite of Notices didn't submit any response.

The Respondent appears to be preferring not replying to the notices and also do not have a valid counter argument.




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VI DISCUSSION AND FINDINGs / REASONING:

(I) .IN Domain Name Dispute Resolution Policy (INDRP).

The Arbitral Tribunal after examination of the matter in details arrived the following conclusion of Complainant's Compliance of INDRP Policy. In order to obtain the transfer of the Disputed Domain Name, Complainant should, accordingly, prove all the following three elements to paragraph 4 of the Policy.

- (i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) The Disputed Domain Name has been registered and is being used in bad faith.

Further pursuant to paragraph 6 & 7 of INDRP Policy, the Respondent have no legitimate interest and the same have been used in bad faith.

The Complainant has proved the aforesaid aspects to the satisfaction of the Arbitral Tribunal.

- (II)** It has been contended that Respondent is only using the Disputed Domain Name in a way of create a likelihood of confusion in the minds of the public as to the source of the products and services offered on its website, and thus to misleadingly attract users to its website at Complainant's detriment and to benefit from the complainant's trademark's goodwill.




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- III) There also have been few cases decided against the Respondent at various fora cited by complainant.
- (IV) In case of failure of default of Respondent in sending response or reply to the complaint, the Arbitrator is empowered to announce the judgment as he thinks proper and appropriate as per applicable laws.
- (V) The allegations levelled by Complainant against Respondent appears to have been proved basing on the evidential value of the documents submitted by complainant.

VII. In view of the foregoing discussion, the Arbitral Tribunal arrives at a Logical conclusion of accepting the prayer of the Complainant.

VIII. DECISION: For all the foregoing reasons, in accordance with paragraph 10 of the .INDRP, the Arbitral Tribunal orders that the Respondent shall cease to use the mark **TELEMONT** and also the disputed Domain Name **<champagne-telmont.in>**. be transferred to the Complainant. There is no order as to costs.

National Internet Exchange of India (NIXI) are advised to take ancillary and incidental action required for transfer of the disputed domain name in favour of the Complainant.

Visakhapatnam

Dated 5th Jan.2022




Dr. Vedula Gopinath

Sole Arbitrator

Dr. Vedula Gopinath
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Advocate(High Court) & Corporate Advisor
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