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Purchased by	: Sudhir Kumar Sengar
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
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Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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INDRP ARBITRATION
NATIONAL INTERNET EXCHANGE OF INDIA(NIXI)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: SUDHIR KUMAR SENGAR

PUMA SE

Vs

UNGER MICHAEL

ARBITRATION AWARD: DISPUTED DOMAIN NAME< pumashoesindia.in>

Sudhir Kumar Sengar

Statutory Alert:

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1. The Parties

The Complainant in this administrative proceeding is PUMA SE, Puma Way 1, Wuerzburger Strasse 13, 91074 Herzogenaurach, Germany (Email: ulla.sieber@puma.com, Telephone: +49-9132-81-2122). The Complainant is represented by Rahul Sethi, RNA, Technology and IP Attorneys, 401-402, 4th Floor, Sun City Success Tower, Sector-65, Golf Course Extension Road, Gurgaon-122005, Haryana, (Email: rsethi@rnaip.com, Telephone: +91 9810144294).

The Respondent is Unger Michael, Los-Angeles-Platz 55, Braunschweig, Germany 38126 (Telephone: +49.049053242759, E-Mail: tian772min@163.com)

2. Domain Name and Registrar

(i) The disputed domain name is <pumashoesindia.in>.

(ii) The Registrar with whom the domain name is registered is Endurance Digital Domain Technology LLP, Unit No. 501, 5th Floor, IT Building 3, Nesco IT Park Nesco Complex, Western Express Highway, Goregaon(E), Mumbai City, Maharashtra 400063, (Email address: compliance@edtpl.in)

3. Procedural History

The arbitration proceedings is in accordance with the .IN Domain Name Dispute Resolution Policy (the policy) adopted by National Internet Exchange of India ("NIXI") and INDRP Rules of Procedure ("the Rules") which were approved on June 28, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering disputed domain name with a NIXI registrar, the respondent agreed to the resolution of disputes pursuant to the Policy and the Rules.

As per the information received from NIXI, the history of the proceedings is as follows:

On December 29, 2021, I submitted the statement of Acceptance and Declaration of impartiality and independence, as required by NIXI to ensure compliance with Paragraph 6 of Rules. NIXI notified the parties of my appointment as Arbitrator via email on December 29, 2021 and served an electronic copy of the complaint on the respondent. I informed the Parties about commencement of arbitration proceeding on December 29, 2021 and the Respondent was directed to submit a response within 7 (seven) days. The respondent did not reply to the notice within the stipulated time. The Respondent was further given 3 (three) days time through email dated 10.01.2022 to respond to the notice already served through email dated 29.12.2021. The Respondent failed to file any response even after expiry of extended time line. In fact the respondent has not filed any response till date.




4. Grounds for Administrative Proceedings

1. The disputed domain name is identical or confusingly similar to a name, trademark or service in which the Complainant has rights.
2. The respondent has no rights or legitimate interests in respect of the domain name.
3. The registered domain name has registered the domain name in bad faith.

5. Background of the Complainant

The Complainant is a company PUMA SE, headquartered at Puma Way 1, Herzogenaurach, 91074, Germany. The Complainant has submitted that the Complainant's Company, on its own and through its subsidiaries/affiliates world-wide, is engaged in the business of manufacturing and marketing a wide range of products, inter alia, sports shoes, apparel and accessories including but not limited to track suits, T-shirts, shorts, polo shirts, Sports shoes, formal shoes chappals, Flip-flops, Slippers, Sandals, Socks, ladies purse, bags, wallets and other accessories and equipment of the highest quality. The Complainant contends that the Complainant and their subsidiaries and affiliates the world over are one of the world's leaders in the sporting goods industry with sports brands built on a passion for sports and a sporting lifestyle and providing highest value to consumers. Further, the Complainant is also engaged in the manufacturing and marketing of fashion products under the name "PUMA". The Complainant further contends that "the Complainant is one of the world's leading Sports brands designing, developing, selling and marketing footwear, apparel and accessories. For over 65 years, the Complainant has established a history of making fast product designs for the fastest athletes on the planet. Complainant offers performance and sport-inspired lifestyle products in categories such as Football, Running, Training and Fitness, Golf, and Motorsports. It engages in exciting collaborations with renowned design brands such as Alexander McQueen and Mihara Yasuhiro to bring innovative and fast designs to the sports world. The Complainant Group owns the brands PUMA, Cobra Golf, Dobotex and Brandon. The trademark "PUMA" was coined way back in 1948 by Rudolf Dassler and was officially registered on October 1, 1948. Due to its massive popularity since it came into existence in 1948 and the continuous and extensive use, the PUMA word mark, device mark, trademark is synonym with every sport today. The Complainant's PUMA products are available in more than 120 countries worldwide, including India, and employ more than 10,000 people worldwide." The Complainant further contends that "the Complainant, on its own and through its subsidiaries worldwide, is famous for manufacturing one of the most sophisticated sportswear and athletic shoes in the world. The Complainant Company's soccer shoes are known for their durability and ground-breaking designs. The Complainant is the proud sponsor of more than 30 national soccer teams in five



different FIFA confederations. Furthermore, the Complainant has also enjoyed endorsement of some famous soccer celebrities like Pele, Diego Maradona, Johan Cruyff, Enzo Francescoli and Lothar Matthaus. Complainant's track suits and running shoes are simply one of the best in the world. More info on the Complainant's business can be found at the dedicated website www.puma.com. The mark PUMA being the umbrella brand of the Complainant has become a source identifier for the Complainant and its Group of companies. Needless to say, PUMA trademark / trade name is a valuable asset to the Complainant's business given the immeasurable reputation and goodwill amongst the purchasing public." The Complainant has further submitted that the Complainant's consolidated sales for the financial year 2016 were € 3626.7 million. The Complainant submits that due to the global success of its products, they are widely recognized all over the world. Further, due to the maintenance of exacting and constant high standards of quality and effectiveness, the Complainant goods have the distinction of being one of the Complainant's best known and popular products. The Complainant has spent huge sums of money on the advertisement and sales promotion of its products. As an advertisement method, the Complainant sponsors various prominent celebrities, cricketers teams & athletes. The Complainant further contends that "In India, the Complainant is carrying on its business activities under the company name 'Puma Sports India Private Limited'. The registered office of 'Puma Sports India Private Limited' is located at Bangalore and the company was incorporated in 2005. The details of Complainant's extensive business activities in India can be viewed online on its website <http://in.puma.com/>. The Complainant's well known trademark PUMA is registered in a number of countries around the world, including India. The earliest registration for the mark PUMA dates back to the year 1948. The Complainant is the registered proprietor of the PUMA trademarks for various goods/ services. The earliest registration of PUMA mark dates back to the year 1977. Additionally, its mark is registered in India since 1983. These aforesaid trademarks are valid and subsisting and in full legal force, conferring on the Complainant, the exclusive right to its use and to restrain use of any identical or deceptively similar mark(s) by unauthorized persons. The Complainant has further submitted that the Complainant spends huge sum of money on sales and advertisement in India pertaining to sale of PUMA goods which are an indicator of substantial goodwill and reputation earned by it in the PUMA trademarks. The Complainant has further submitted that " the Complainant has been extensively advertising its PUMA branded products, through various printed media including newspapers, magazines and trade journals, leaflets and other promotional literature and the said materials have been extensively distributed all throughout the country for several years now. In fact, the Complainant's marketing campaign for the goods bearing PUMA marks has been immensely popular among people of all age groups and has been widely appreciated. The advertisement and promotional material of the Complainant products under its distinctive



PUMA mark are available everywhere." The Complainant further contends that the Complainant has extensively used the PUMA trademark in India since the year 1982. PUMA brand of the Complainant is ranked at position 5th in the Top 10 shoe brands of India. By virtue of extensive use, the PUMA products are immensely popular in India. The Complainant further submits that PUMA trademarks are being used extensively by them and their affiliates in respect of all its products since 1948. Therefore, PUMA mark is identified and distinguished with the Complainant's goods and no one else. The PUMA mark has been used in India by the Complainant from 80's and with passage of time created a niche in the market and the same is inextricably associated with the Complainant. It is submitted that the trade and consumers recognize the PUMA mark as source identifier of the Complainant's products. Any use of the said distinctive PUMA mark by any other person without the express permission of the Complainant in any manner whatsoever tantamount to misrepresentation and confusion in the eyes of the gullible consumers. The purchasers of the Complainant's products bearing its distinctive PUMA mark include men, women and children of all age groups thereby covering all segments of the society at large. Therefore any use of the said PUMA mark by anyone without the authorization of the Complainant would amount to violation of the Complainant's intellectual property rights in the said mark.

The Complainant has further submitted that with passage of time the Complainant has built up an unparalleled reputation and goodwill in its PUMA mark having used the same openly, continuously and extensively in relation to high quality products in practically all parts of the world including India. By virtue of immense popularity and worldwide presence, the Complainant's PUMA accessories bearing PUMA mark have come to exclusively associated with the Complainant. The degree of such association and familiarity of the aforesaid marks with the Complainant is so immense that any use of the said marks in relation to any goods and services whatsoever by any third party would automatically be looked upon by the consuming public and members of trade as that originating from the Complainant. The Complainant submits that owing to the highly distinctive character, PUMA mark with span of time has become one of the most recognized symbols in the world and in India. The Complainant has further submitted that the Complainant also uses the ubiquitous medium of the Internet to render and advertise its products and services. The Complainant owns the domain name www.puma.com, which is accessible throughout the world. The domain name www.puma.com was registered by the Complainant on September 19th, 1997. For India specifically, the details of Complainant's extensive business activities in India can be viewed online at <http://in.puma.com/>. The Complainant has submitted that " It is worth mentioning that the online searches for the Complainant's name/mark 'PUMA' on popular search engines such as Google, Yahoo, Bing, etc. show only its products among the top-most hits or results. The Complainant has extensive



presence over the social networking websites *inter alia* Facebook and Twitter. It is apparent that the Complainant has widespread presence over the internet through its websites and also through various online public forums, blogs, discussions, reviews, etc. Thus, the public at large identifies the Complainant through its trademark/ trade name 'PUMA' even on the internet."

The Complainant has submitted that " the popularity and the fame of the Complainant's PUMA trademark have also transcended the physical boundaries and have acquired trans-border reputation in India. The reputation and fame of the Complainant trademarks has also extended throughout the territory of India on account of goods bearing the PUMA mark being available in every city in India and the world over and due to the extensive advertisements and other promotional activities by the Complainant for the past several years. The Complainant's rights in the trademark PUMA have been recognized by the Hon'ble Courts in India who have pronounced judgments in favour of Complainant restraining other parties from using the marks in India. That by virtue of long, continuous and extensive use all over the world and promotion of the PUMA mark, the Complainant has earned substantial goodwill and reputation worldwide. The Complainant products under PUMA mark are one of the most well-known and sought after in the world. As a result thereof, the public and the members of the trade have come to associate PUMA trademark with the Complainant to the exclusion of all others. Moreover, factors such as the consistently superior quality, proven efficacy of the product, the strict quality control and the high technical standards applied by the Complainant in the course of their business have also contributed tremendously in building an enduring public trust for the Complainant business and products. The Complainant's trademark PUMA is the well-known mark as envisaged under the provisions of Section 2(1) (zg) and Section 11 of the Trade Marks Act, 1999. In view of the above, the trademark PUMA is entitled to protection against any misappropriation by third parties. Further the Complainant PUMA mark has been recognized as well-known in various jurisdictions across the world. Through extensive sponsorship of athletes and sporting events by the Complainant, PUMA mark has been worn by thousands of prominent athletes and been highly visible at thousands of major sporting events over the last several decades."

The Complainant has submitted that " by virtue of prior international and Indian registrations, actual use and sales in India, immense reputation, spill-over of the said reputation into India, long-standing use, vast publicity and promotion, the trademark PUMA of the Complainant has earned substantial goodwill and reputation and members of the trade and the public associate the said trademarks with the Complainant and no one else. The use of trademark/s, identical with or similar to PUMA mark by any person other than the Complainant will give rise to confusion. In all likelihood, such use will lead to deception amongst the purchasing public and trade that such products and/or services are connected or otherwise related to the Complainant. In India, the Complainant's products bearing PUMA trademarks are also sold



online through various third-party websites such as Amazon India, Flipkart, Jabong, Snapdeal, Myntra, Rediff etc. Further as the internet is accessible across the world including in India, the knowledge and awareness of the Complainant products under the PUMA trademarks is a foregone conclusion and even more so to the relevant trade."

The Complainant has submitted that " the trademark PUMA has been declared as well-known trade mark in India by the Trade Mark Registry and the same was published in Trade Marks Journal No: 1942, 24/02/2020. The Complainant has further relied on the matter titled Puma Vs Uniqlo-TM 128/2018, the Ld. ADJ of Saket District vide its order dated 31.07.2018 wherein observed that the Complainant's marks and logo is well-known.

The Respondent

The respondent is Unger Michael, Los-Angeles-Platz 55, Braunschweig , Germany 38126(Telephone:+49.049053242759, E-Mail:tian772min@163.com). The Respondent has registered the nearly identical disputed domain name <https://www.pumashoesindia.in> on November 25, 2021.

6. Legal Grounds

A. The domain name www.pumashoesindia.in is nearly identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights.

Complainant's Contentions

The Complainant has contended that the Complainant was prior in conceiving the trademark PUMA in the year 1948. Since its adoption, the Complainant has continuously used PUMA mark much prior to November 25, 2021, the registration date for the disputed domain name. The Complainant owns the domain name www.puma.com dating back to the year 1997. The Complainant had obtained trademark registrations for PUMA much prior to the year 2021, the registration date of the Respondent's domain. Each of these registrations remain valid and in full force. The registration of PUMA mark dates back to the year 1977 in India where the disputed domain name stands registered.

Thus, the Complainant has rights in the PUMA mark that predates registration date of the domain name. The Complainant has relied on Uniroyal Engineered Products Vs Nauga Network Services D 2000-0503 (WIPO July 18, 2000) wherein the Panel determines that Complainant has rights in the trademarks " NAUGA ", "NAUGAHYDE", "NAUGALON" and " NAUGAFORM ". Based on the September 9, 1969 date of Complainant's



registration of the trademark "NAUGA", and without prejudice to Complainant's earlier-arising rights in the marks (e.g., "NAUGAHYDE"), the Panel determines that Complainant's rights in the trademark arose prior to Respondent's registration, on October 21, 1998 and January 15, 1999, respectively of the disputed domain names "nauga.net" and "naugacase.com".

The Complainant further contends that " it is immediately obvious in the present case that disputed domain name <https://www.pumashoesindia.in> is nearly identical to the Complainant's PUMA mark, save for the .in generic top level domain which is required for technical reasons and does not serve to distinguish the disputed domain name from the Complainant's trademark." The Complainant has relied on *Robbie Williams v. Howard Taylor*, WIPO Case No. D2002-0588 and *Expedia Inc. and Hotels.com L.P. v. Arabia Horizons Tours LLC* Case No. DAE2014-0005]. The Complainant has submitted that " the Complainant owns several country specific domain names (ccTLDs) constituting PUMA mark namely; www.puma.jp, www.puma.de, www.puma.fr, etc. All these domain names resolve to the official websites of the Complainant in the respective countries namely Japan, Germany and France. The Complainant further submits that it has not licensed or otherwise permitted the Respondent to use the trademark/domain consisting of or incorporating the PUMA trademark."

The Complainant contends that the Complainant has its lawful rights in the mark PUMA by virtue of prior adoption and prior registrations around the world including in India.

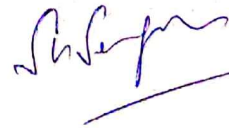
Respondent's Contentions

The respondent has not responded to the notice issued by this panel.

B. The Respondent has no rights or legitimate interests in respect of the Domain Name.

Complainant's Contentions

The Complainant has submitted that the Respondent registered the Domain Name in the year 2021; several decades after the Complainant invested millions of dollars in popularizing and seeking registration of PUMA mark and domain name www.puma.com. Moreover, by the time Respondent registered the disputed domain name, the Complainant had generated hundreds of millions of euros in revenue under the PUMA mark and had already attained the status of well-known/famous mark. Accordingly, it is evident that the Respondent was well aware of Complainant's prior rights in the PUMA mark and domain name www.puma.com at the time of registering the disputed domain name in the year 2021. The Complainant has relied on *Charles Schwab & Co., Inc. v. Josh Decker d/b/a I GOT YOUR TIX*, WIPO Case No. D2005-0179 and



Accord Young Genius Software AB v. MWD, James Vargas, WIPO Case No. D2000-0591, wherein 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.

The Complainant contends that there is no credible legitimate reason for the Respondent to have chosen to adopt the nearly identical domain name consisting of PUMA mark except to cheat gullible consumers who visit the Respondents website. The Respondent's purpose in selecting the disputed domain name was plainly to use fame of the Complainant's PUMA mark to generate web-traffic and to confuse internet users visiting the Respondent's website/domain name <https://www.pumashoesindia.in> when looking for the Complainant and their famous products. In plenty of cases, UDRP panels have found that domain names nearly identical to a Complainant's trademark carry a high risk of implied affiliation.

The Complainant further contends that on information and belief, the Respondent is not commonly known by the name or nickname of the disputed domain name or any name containing Complainant's PUMA mark. The information listed on Whois Search Database for the disputed domain name is Unger Michael with its address located at Los-Angeles-Platz 55, Braunschweig, Germany 38126. The Respondent has not been authorized by the Complainant to register or use the mark/domain name PUMA. The Complainant has relied on SAP Systeme/ SAP India Systems v. Davinder Pal Singh Bhatia, WIPO Case No. D2001-0504, June 8, 2001], wherein the panel finds force in contentions of the Complainant that the Respondent is not, either as an individual, businesses or other organization, commonly known by the name SAP. Secondly, the Complainant has not licensed or otherwise permitted the Respondent to use its trademark SAP or to apply for any domain name incorporating this mark. Thus, the Respondent has no legitimate interests in respect of the disputed domain names <sapmaster.com> and <sapwizard.com>. The Complainant further contends that registration of the disputed domain name by the Respondent is a typical example of "cybersquatting". The Respondent is trading off its goods and services through the website <https://www.pumashoesindia.in> and such use by the Respondent is neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the domain name. The Complainant has submitted that "the aforementioned facts establish a *prima face* case that the Respondent has no right or legitimate interest in the disputed domain name and that pursuant to the Policy, the burden shifts to the Respondent to show it does have a right or legitimate interests." The Complainant has also relied on Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455 and Clerical Medical Investment Group Limited v. Clericalmedical.com (Clerical & Medical Services Agency), WIPO Case No. D2000-1228.



Respondent's Contentions

The respondent has not responded to the notice issued by this panel.

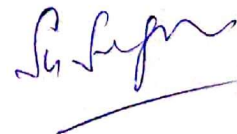
C. The Domain Name was registered or is being used in bad faith

Complainant's Contentions

The Complainant contends that in order to prove bad faith under Paragraph 4(iii) of .IN Domain Name Dispute Resolution Policy (INDRP), one or more of following circumstances, can be established:

- i) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or
- ii) the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or
- iii) 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.

The Complainant contends that the evidence submitted by the Complainant overwhelmingly supports the conclusion that Respondent registered and is using the disputed domain name in bad faith. The fame and prior use of the Complainant's PUMA mark make it extremely unlikely that the Respondent created the nearly identical disputed domain name independently or that it just mere co-incidence. The Complainant has further contended that the Complainant has been continuously using the PUMA brand since 1948 and is presently the registered proprietor of the trademark 'PUMA' across several countries in the world. The earliest trademark registration for the PUMA mark in India dates back to 1977 which is the same country where the Respondent has registered the disputed domain name with .IN Registry. The Complainant



had registered the domain name www.puma.com in the year 1997 which is several years before Respondent's registration of the disputed domain name www.pumashoesindia.in. The Respondent's domain name www.pumashoesindia.in shows the products of the Complainant without Complainant's authorization.

The Complainant contends that the Respondent could have adopted any other domain name instead of adopting the domain name containing Complainant's PUMA mark in identity. The abovementioned facts clearly show that the disputed domain name was registered and is being used in bad faith. Therefore, it is construed that Respondent was aware of Complainant's PUMA mark at the time of securing registration for the disputed domain name. It is clear that the Registrant has registered the disputed domain name in order to prevent the Complainant from reflecting the PUMA trademark in a corresponding domain name. Further, it is submitted that the Complainant is in all its legal rights to file the INDRP complaint against the disputed domain name. The Complainant has relied on *Tom Cruise v. Network Operations Center / Alberta Hot Rods*, WIPO Case No. D2006-0560, wherein it was observed by Three Panelists that "...the Panel considers that it would be relevant to its decision if there was some firm indication, express or tacit, that Complainant had consented to Respondent's use of its trademark in the disputed domain name (cf., *2001 White Castle Way, Inc. v. Glyn O. Jacobs*, WIPO Case No. D2004-0001). In this proceeding, there is no indication of any correspondence between Complainant and/or any representative of Complainant, on one side, with Respondent, on the other, or similar evidence, to suggest or imply that Complainant may have approved of or condoned Respondent's use. Without some substantial evidence to indicate that Complainant approved of or condoned Respondent's use of his mark in the disputed domain name, the Panel is not prepared to import a bar against his cause of action."

The Complainant further contends that despite prior knowledge, the Respondent has registered the disputed domain name which is nearly identical to the Complainant's PUMA mark and is intentionally using the same to divert internet-users to the said website with an intend to cheat them. Such conduct amounts to clear evidence of malafide intention and bad-faith registration and use. In so doing, the Respondent has intentionally attempted to attract for commercial gain the Internet users to the website, by intentionally misleading them and creating a likelihood of confusion with the Complainants' trademark as to the source, sponsorship, affiliation, or endorsement of the website. The Complainant has also relied on *SAP AG v. Peifang Huang* [WIPO Case No. D2014-0928, July 28, 2014], wherein the Panel finds that the Respondent more likely than not was aware of the Complainant and had the Complainant's Trademark in mind when registering the disputed domain name. The evidence demonstrates that the disputed domain name has been registered and used in order to attract Internet users to the Website for



commercial gain, by creating a likelihood of confusion with the Trademark. This falls squarely within the example of bad faith registration and use under paragraph 4(b)(iv) of the Policy.”

The Complainant has further submitted that the Respondent’s choice of nearly identical disputed domain name is not a co-incidence and is definitely directed to illegally encash upon goodwill and reputation of the Complainant and cheat the internet users who visit the Respondents website thinking it is that of the Complainants. Accordingly, the disputed domain name was registered and has been used in bad faith.

Respondent Contentions

The Respondent has not responded to the notice issued by this panel.

7. Discussion and findings

The Complainant is a company PUMA SE , headquartered in Germany , on its own and through its subsidiaries / affiliates world-wide , is in the business of manufacturing and marketing a wide range of products such as sports shoes, apparel and accessories, track suits, T-shirts, shorts, polo shirts, formal shoes chappals, Flip-flops, Slippers, Sandals, Socks, ladies purse, bags, wallets and other accessories. The Complainant is also engaged in the manufacturing and marketing of fashion products under the name “PUMA”. The Complainant Group owns the brands PUMA, Cobra Golf, Dobotex and Brandon. The Complainant spends substantial amount on sales and advertising in India to promote its goods through different channels and on internet besides social media platforms. The Complainant is also operating its business in India under ‘Puma Sports India Private Limited’ since 2005. The Complainant’s products are also available in India for sale through Amazon, Flipkart, Snapdeal and other third party platforms.

The trademark “PUMA” is registered in many countries of world including India years before registration of disputed domain by the Respondent in 2021. The mark is used by the Complainant since 1948 while this mark is registered in India since 1977. The trade mark comes under the category of well known mark on the basis of documents submitted before this panel. These marks are valid and constitute invaluable intellectual property which need to be protected against misuse by unauthorized persons. The domain <puma.com> was registered by the Complainant in 1997 years before registration of disputed domain <pumashoesindia.in> in 2021 by the Respondent. The disputed domain name <pumashoesindia.in> contains the Complainant’s mark ‘PUMA’ in full and is almost identical to mark of the Complainant. The top level domain “.in” is irrelevant and does little to make it different. The Complainant has not licensed , authorized or given consent to the Respondent to use/utilize the Complainant’s registered and well-known trademark in any manner. The Complainant hasn’t authorized the Respondent to register the disputed domain name. The nearly identical disputed domain is likely to be taken as business associates of the Complainant by ordinary internet users. The respondent has failed to rebut



the contentions of the Complainant as he has preferred not to respond to the notice issued by this panel. The purpose of respondent appears to profit from the reputation of the Complainant by registering a nearly identical mark/domain . The disputed domain is likely to attract internet traffic intended to the Complainant's domain. The registration of disputed domain name chosen by the Respondents shows his intent of using nearly identical mark of the Complainant to divert an ordinary internet user who may consider disputed domain name to be Indian business associate of the Complainant. The Respondent failed to produce any evidence of bonafide or legitimate use of disputed domain as he has preferred not respond to notice issued by this panel

Respondent's Default

The INDRP Rules of Procedure require that Arbitrator must ensure that each party is given fair opportunity to present its case. Rule 8(b) reads as follows;

"In all cases, the arbitrator shall at all times treat the parties with equality and provide each one of them with a fair opportunity to present their case."

Rule 12 empowers arbitrator to proceed with an ex parte decision in case any party does not comply within the time limits or fails to reply against the complaint. Rule 12 reads as follows:

"In the event any party breaches the provisions of INDRP rules and /or the directions of the Arbitrator, the matter can be decided ex parte by the Arbitrator and such arbitral award shall be binding in accordance with the law."

The respondent was given notice of administrative proceedings in accordance with Rules. The panel finds that the Respondent has been given fair opportunity to present his case. The Rules paragraph 12(a) provides that the Arbitrator shall decide the complaint on the basis of the Complainant's contention and documents submitted in accordance with Rules and any other law which Arbitrator deems fit to be applicable. In the circumstances, the Arbitrator's decision is based upon the Complainant's assertions, evidence and inferences as the respondent has not replied.

The domain name www.pumashoesindia.in is nearly identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights.

The Complainant has been able to prove that it has trademark rights and other rights in marks 'PUMA' by submitting substantial documents. The mark comes under category of well known trademark .The mark is widely used by the Complainant in different advertising modes and has a strong presence in social media platforms. The disputed domain contains name which is nearly identical and similar to mark 'PUMA' as the disputed domain contains Complainant's



mark completely. Addition of top level domain (CCTLD) extension '.in' is insignificant and does little to make it different. There can't be coincidence that the respondent has chosen domain name confusingly similar to the marks of the Complainant. The top level domain <puma.com> was registered by the Complainant in 1997 years before registration of disputed domain by the respondent on 25.11.2021. The respondent has failed to reply to the notice issued by this panel to rebut the contentions of the Complainant.

Bases on the forgoing analysis, I am of the opinion that the disputed domain name is nearly identical and confusingly similar to the complainant's mark.

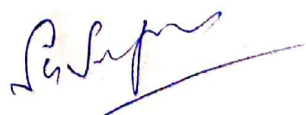
The Respondent has no rights or legitimate interests in respect of the Domain Name.

The Complainant has been able to prove by submitting evidences that it has legitimate interest in trademark PUMA. The Respondent is neither a licensee nor authorized by the Complainant, to use Complainant's mark. The Respondent is not known by the mark and can't have legitimate interest in the disputed domain. The Respondent should have come forward with evidence to show his legitimate interest by rebutting the contention of the Complainant. The Respondent failed to submit his response to justify legitimate non commercial use of disputed domain name. The Respondent has also failed to respond to the contentions of the Complainant. This panel is of the view that mere registration of domain name can't establish rights in disputed domain. According to the Policy that "once the Complainant makes a prima facie showing that the registrant does not have rights or legitimate interests in the domain name, the burden shifts to the registrant to rebut it by providing evidence of its rights or legitimate interests in the domain name". The burden of proof to establish any legitimate interest falls on the respondent. The Respondent could have invoked any of the circumstances set out in paragraph 6 of the Policy, in order to demonstrate rights or legitimate interests in the Disputed Domain Name but the Respondent has not filed any response to justify the legitimate interests in the disputed domain name to rebut the contentions of the Complainant.

Therefore, in light of complaint and accompanying documents, I am therefore of the opinion that the Respondent has no rights or legitimate interest in the disputed domain name.

The Domain Name was registered or is being used in bad faith

This can't be a coincidence that the Respondent registered disputed domain name fully incorporating well known mark of the Complainant. The Complainant has been using the mark for several years when the Respondent registered the disputed domain name in Nov, 2021. The panel finds that the Respondent has used the well known mark of the Complainant in disputed domain name giving impression that this site is Indian subsidiary of PUMA SE. The sole purpose of the respondent is to create confusion to an ordinary internet user. The



respondent is using disputed domain to profit from the popularity of the Complainant's mark. The intent of the Respondent to profit from the reputation of the Complainant's mark is definitely a bad faith registration use. The Respondent must have done dilly diligence to ensure that domain name registered does not infringe upon someone other's rights. The panel also takes notice of the fact that the Respondent has preferred not reply to the notice issued in this arbitration proceedings.

In view of the above, In view of the above, I am of the opinion that registration of disputed domain name is bad faith.

Decision

Based on the of contentions of the complainant , the attached documents , cited decisions and in view of the above read with all the facts of the present case, the Complainant's contentions are tenable. The test of prudence demands fairness of actions by the Respondent. The Respondent has failed to file any response to rebut the Complainant's contentions. In view of the forgoing discussion, I am of the opinion that the disputed domain name is nearly identical/confusingly similar to the Complainant's marks/domain. The Respondent does not have rights or legitimate interest in the disputed domain name and disputed domain name was registered in bad faith.

In accordance with the Policy and Rules I direct that the Disputed Domain name be transferred to the Complainant , with a request to NIXI to monitor the transfer.

The award is being passed within statutory deadline of 60 days from the date of commencement of arbitration proceedings.

No order to costs.

January 17, 2022


Sudhir Kumar Sengar 17/1/22

Sole Arbitrator