



सत्यमेव जयते

# INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

## e-Stamp

Certificate No.	: IN-DL98394387829721T
Certificate Issued Date	: 16-Jul-2021 01:10 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ DWARKA/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1794775965240465T
Purchased by	: KAMAL DAVE
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: KAMAL DAVE
Second Party	: Not Applicable
Stamp Duty Paid By	: KAMAL DAVE
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



In the matter of the Arbitration Act 1996 as Amended by

Arbitration & Conciliation (Amendment) Act, 2015;

and

INDRP Rules of Procedure;

and

.IN Domain Name Dispute Resolution Policy (INDRP)

and

In the matter of an arbitration between



### 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.



In the matter of an arbitration between

Accenture Global Services Limited  
3 Grand Canal Plaza,  
Upper Grand Canal Street, Dublin 4,  
Ireland

...Complainant

AND

Cloven & Works Private Limited  
C/o Vipul Goyal/ Deepa Goyal,  
Opposite India Overseas Bank, Near Durga Chowk,  
Kanherwala, Banyawala Dehradun,  
Uttarakhand - 248001 India

...Respondent

in respect of Disputed Domain Name(s):

[www.myaccenture.in]

**INDRP Case No: 1545**

FINAL AWARD

1. THE PARTIES AND THEIR REPRESENTATIVES

A. Claimant :

Accenture Global Services Limited  
3 Grand Canal Plaza,  
Upper Grand Canal Street, Dublin 4,  
Ireland





Authorised Representative

Vikrant Rana

S.S Rana & Co., Advocates

Registered Office Address:

317, Lawyers Chambers,

High Court of Delhi, New Delhi — 110003, India

E-mail: inf@ssrana.com

B. Respondent

Cloven & Works Private Limited

C/o Vipul Goyal/ Deepa Goyal,

Opposite India Overseas Bank, Near Durga Chowk,

Kanherwala, Banyawala Dehradun,

Uttarakhand - 248001 India

E-mail: vipulgoyal006@gmail.com

2. THE DOMAIN NAMES AND REGISTRAR

- A. The accredited registrar of the disputed Impugned Domain [www.myaccenture.in] is GoDaddy.com, LLC. The details of the Registrar, are as follows:

Corporate Headquarters :

2150 E Warner Rd Tempe, AZ,

85284-3401 United States

3. THE ARBITRAL TRIBUNAL – APPOINTMENT

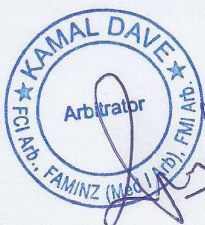
- A. As per the records, on 31<sup>st</sup> May 2022 NIXI sent intimation to the Arbitrator & the parties including the Respondent regarding the appointment of arbitrator to decide the dispute in respect of domain [www.myaccenture.in].





- B. As per the records, I, the undersigned (i.e. Kamal Dave) was appointed as arbitrator by NIXI, in accordance with INDRP Rules of Procedure and .In domain name dispute resolution policy (INDRP), vide appointment order dated 31<sup>st</sup> May 2022 and I submitted declaration of impartiality and independence at all times with NIXI.
- C. The .IN Domain Name Dispute Resolution Policy (INDRP) & Rules of Procedure of INDRP mandates appointment of arbitrator by NIXI, Accordingly clause 5 (b) of INDRP Rules of Procedure provides for it, which reads, "*The .IN Registry shall appoint, an Arbitrator from the .IN Registry's list and shall forward the Complaint along with supporting documents to such Arbitrator*".
- D. There is no document/ correspondence on record to show that the Respondent replied to the intimation of arbitration dispute regarding the domain [www.myaccenture.in].
4. PROCEDURAL HISTORY :

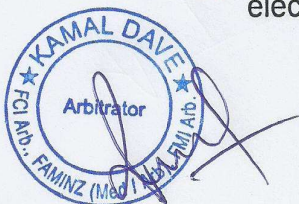
- A. After my appointment as arbitrator by NIXI & intimation to me on 31<sup>st</sup> May 2022; On 01<sup>st</sup> June 2022, the arbitral tribunal communicated the parties through email at their respective registered email addresses, whereby it was directed through Procedural Order No 1 that the mode of communication shall be electronic only except as otherwise specifically stated/ directed. Further the tribunal directed the parties (viz. complainant & respondent) through the procedural order no 1 to file their respective pleadings- viz. to file the scanned copy of complaint on oath through an affidavit 03<sup>rd</sup> June 2022; And to file physical copy of complaint on oath through an affidavit along-with documents through courier on or before 07<sup>th</sup> June 2022; the tribunal directed the complainant to file the original & physical copy of delivery report of the email (electronic mail),





courier along-with the affidavit of service duly sworn-in before a NOTARY to this effect, on or before 10<sup>th</sup> June 2022; Further the tribunal directed respondent to file their reply on affidavit duly sworn-in before a NOTARY after receipt of complaint along-with aforementioned documents on or before 20<sup>th</sup> June 2022 and serve the copy thereof to the complainant; And it was optional for the complainant to file any rejoinder on or before 26<sup>th</sup> June 2022 and serve the copy thereof to the respondent; And it was optional for the respondent to file their reply in response to the rejoinder on or before 27<sup>th</sup> June 2022 and serve the copy thereof to the complainant; And it was further optional for the parties to file their evidence by way of affidavit in support of their claim/ reply which shall be duly sworn-in before a NOTARY to that effect; and thereafter submit the electronic/ scan image and physical copy same before myself on or before 30<sup>th</sup> June 2022 and shall serve the copy thereof to the other party ; And the parties were at liberty to file their written arguments before myself along-with evidence by way of affidavit i.e. on or before 30<sup>th</sup> June 2022 and serve the copy thereof to the other party.

- B. The complainant through AR has sent scanned copy of documents with email dated 22<sup>nd</sup> March 2021. All aforementioned documents have been taken on record.
- C. The AR of the complainant, pursuant to directions the Counsel for the Complainant submitted Affidavit in support of the complaint duly sworn-in by the Counsel for the Complainant and attested by Notary and thus PO1 was duly complied.
- D. The complainant through AR has filed documents regarding service of copy of complaint along-with documents/ annexures, affidavit, through electronically as well as courier. The electronic delivery and copy of





courier receipt and tracking report of courier service has been placed on record by the complainant through AR.

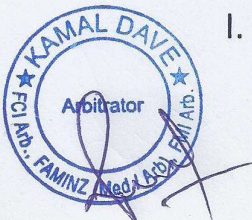
- E. The respondent has neither replied to the intimation by NIXI sent on 31<sup>st</sup> May 2022; Nor to the notice sent on 01<sup>st</sup> June 2022 along-with procedural order 1. The complainant through AR has taken steps to serve the respondent through email as well as courier on 02<sup>nd</sup> June 2022 but the respondent has not replied to notice nor even filed their reply. Therefore I am satisfied that the complainant the complainant has taken adequate steps for serving the respondent and thereby complied with the directions. The respondent has been duly served as mandated by clause 2 of INDRP Rules of Procedure and service on respondent is completed as per the clause.
- F. The respondent has chosen to abstain and not participate in the arbitration proceedings. Hence as per clause 12 of INDRP Rules of Procedure, which mandates that where parties are in default i.e. who willfully abstains from the proceedings may be proceeded *ex-parte*. Accordingly, the tribunal concluded that proceedings against the respondent to continue *ex-parte*.
- G. The complainant cannot take benefit from the non-presence of the other party and his claim must stand on merits.

5. PLEADINGS :

- A. The complainant has filed its complaint supported by Affidavit in support of the complaint duly sworn-in by the Counsel for the Complainant and attested by Notary on oath stating/ contending facts & grounds of the case:

FACTUAL BACKGROUND:

- I. That the Complainant through their complaint stated :





- Complainant is an international business that provides a broad range of services and solutions in strategy, consulting, digital, technology and operations under the name ACCENTURE and is the owner of the ACCENTURE trademark and company name, and marks fully incorporating the ACCENTURE trademark (collectively the "ACCENTURE Marks").
- Complainant has an interest in the ACCENTURE Marks and, upon information and belief, Complainant has been and will continue to be damaged by Respondent's bad faith registration and use of the domain name <SMYACCENTURE.IN>.
- Complainant began using the mark ACCENTURE in connection with various services, including management consulting, technology services and outsourcing services, on January 1, 2001. Reliance is placed on previous decisions of this Panel finding that Complainant has rights in the mark ACCENTURE in Accenture Global Services Limited v. Sachin Pandey (INDRP/828), Accenture Global Services Limited v. Mr. Upendra Singh (INDRP/829), Accenture Global Services Limited v. Accenture Accenture (INDRP/998), Accenture Global Services Limited v. Vishal Singh (INDRP/999), Accenture Global Services Limited v. Tech Narayana Software Pvt. Ltd (INDRP/1250), Accenture Global Services Limited v. Lokesh Kumar (INDRP/1270) कोव ecenture Global Services Limited v. Axcenture Inc. (NDRP/1394).
- Since January 2001, Complainant has extensively used and continues to use the mark ACCENTURE in connection with various services and specialties, including management consulting and business process services, which comprises various aspects of business operations such as project management, supply chain and logistics services, digital innovation, as well as technology services and outsourcing services, to name only a few. Today, Complainant has offices and operations in more than 200 cities in 50 countries.
- To protect its trademark rights in the ACCENTURE Marks and to put others on notice of those rights, on October 6, 2000, Complainant filed a United States trademark application (Application Serial No. 76/154,620) for the mark ACCENTURE, covering computer software, pamphlets, business consulting services, financial services, computer installation services, educational services and computer consulting services, among many other goods and services. This application matured to registration (Reg. No. 3,091,811) on May 16, 2006. Besides this, Complainant owns registrations and/or pending applications for the mark ACCENTURE, and variations thereof, in many other countries including, but not limited to, Australia, Bangladesh, Canada, China, European Union, Hong Kong, Japan, Korea, Malaysia, New Zealand, Saudi Arabia, Singapore, Thailand, Turkey, UAE and U.K. Complainant owns more than 1,000 trade mark registrations in more than 140 countries for its various ACCENTURE Marks. A representative





sampling of Complainant's registrations for the ACCENTURE Marks in foreign jurisdictions is attached herewith and marked as Annexure C-2 (colly). These registrations are valid and subsisting, and serve as prima facie evidence of Complainant's ownership and validity of the ACCENTURE Marks. Furthermore, some of these registrations are incontestable and are conclusive evidence of Complainant's exclusive right to use the ACCENTURE Marks in connection with the stated goods and services.

- With specific reference to India (where Respondent is situated), Complainant owns registrations for the ACCENTURE Marks, and variations thereof, in a wide variety of goods and services in various classes in India.
- The aforesaid trade mark registrations are valid and subsisting. By virtue of such registrations, Complainant has the exclusive statutory right to use these trade marks in India for the goods and services in respect of which they are registered. A representative sampling of the aforesaid registration certificates are attached herewith and marked collectively as Annexure C-3 (colly)
- Complainant has developed substantial goodwill in its ACCENTURE name and mark, as well as its official domain names ACCENTURE.COM and ACCENTURE.NET that were registered by Complainant on August 30, 2000 and October 09, 2000 respectively. These domains predate the creation date of the impugned domain <MYACCENTURE.IN> by more than two decades. Copies of the WHOIS records for Complainant's domains ACCENTURE.COM and ACCENTURE.NET are attached herewith and marked as Annexure C-4 (colly). At these websites, Internet users can find detailed information about the management consulting, technology services, outsourcing and myriad other services offered by Complainant and its global offices in connection with the ACCENTURE Marks. The Complainant's website demonstrating use of its ACCENTURE Marks may be accessed here (<https://www.accenture.com/in-en>).
- As Complainant's business expanded globally, it began operating websites that use Country Code Top-Level Domain Names that are specific to individual countries. Complainant has registered many top-level country specific domain names. In India, Complainant owns the top-level Indian domain names ACCENTURE.CO.IN (registered in 2004), ACCENTUREIN (registered in 2005) and ACCENTURE.NET.IN (registered in 2012). Copies of WHOIS results for these domain names are attached herewith and marked collectively as Annexure C-5 (colly). Complainant also uses various sub-domains for their internal management, such as maintaining an independent portal hosted at the sub-domain <MYID.ACCENTURE.COM> for the exclusive use and access of its employees to their internal resources. The landing page of the portal is accessible to the public





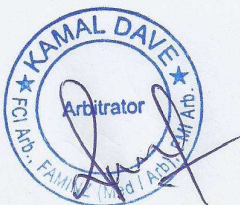
and searchable over third party search engines such as Google. Complainant prominently claims copyright over the content of the said portal.

- Complainant's Indian predecessor company was incorporated under the Companies Act, 1956, on July 05, 1999, On December 05, 2000, the name of this predecessor company became ACCENTURE SERVICES PYT. LID. A copy of the incorporation certificate of Complainant is attached herewith and marked as Annexure C-6. Complainant has offices located in major cities of India such as Mumbai, New Delhi, Noida, Gurgaon, Bangalore, Chennai, Pune, Hyderabad and Kolkata. Relevant web page showing the locations of Complainant's offices in India may be accessed here (<https://www.accenture.com/in-en/about/locations/office-details?loc=India>).
- The annual worldwide revenue generated under the ACCENTURE Marks totals many billions of U.S. Dollars.
- The ACCENTURE Marks have been advertised in connection With various forms of media and have been written about in the press.
- A representative sampling of Complainant's global advertisements and press clippings featuring the ACCENTURE Marks is attached herewith and marked as Annexure C-7.
- Reputable brand consulting companies in the industry have recognized the ACCENTURE mark as a leading global brand. The ACCENTURE mark has been recognized in Interbrand's Best Global Brands Report since 2002, when it ranked 53rd. The ACCENTURE mark ranked 32<sup>nd</sup> in the 2021 Interbrand's Best Global Brands Report, its second highest ranking ever in the report. The report may be accessed here (<https://interbrand.com/best-brands/>).
- The ACCENTURE mark has been recognized by Kantar Millward Brown, a leading market research and brand valuation company, in its annual BrandZ — Top 100 Brand Rankings since 2006 when it was ranked 58th. In 2021, the ACCENTURE brand ranked 27th. A true and correct copy of selected pages of Kantar Millward Brown's 2021 BrandZ ~ Top 100 Brand Ranking is attached herewith and marked as Annexure C-8.
- Complainant has been recognized for its business services and brand recognition. For the past 19 years, it has been listed in the Fortune Global 500, which ranks the world's largest companies. Complainant also has appeared in various other top rankings by Fortune, including No. 1 on Fortune's Most Powerful Women (2020) — a list that has included Complainant's global CEO for five consecutive years.
- Complainant has received numerous awards in respect of its business, products and services provided under the ACCENTURE Marks.





- Complainant supports numerous social development projects worldwide in connection with the ACCENTURE Marks including, but not limited to, its SKILLS TO SUCCEED initiative, which has equipped more than 3 million people around the world with the skills to find a job or build a business. Information regarding Complainant's SKILLS TO SUCCEED initiative may be accessed here (<https://s2sacademy.org/about-academy/>).
- Millions of sports fans encounter the ACCENTURE Marks, as Complainant has served as the Official Technology Partner for the RBS 6 Nations Rugby Championship since 2012. Moreover, Complainant was a global umbrella sponsor of the World Golf ~ Championships and the title sponsor of the series' season-opening event, the Accenture Match Play Championship. Information regarding Complainant's involvement in the RBS 6 Nations Rugby Championship is attached herewith and marked as Annexure C-9.
- Complainant also has collaborated with various groups on cultural initiatives across the world. For example, it collaborated with the Louvre Museum to develop new technological programs designed to support the Louvre's initiatives to spread culture, enhance its image and reach new segments of the public. Complainant is also an official connections partner of the Cannes Lions Festival, and in 2017, Complainant introduced innovative wearable technologies allowing delegates to exchange business information by simply bumping wrists. Information regarding Complainant's collaboration with the Louvre Museum and Cannes Lions may be accessed here. (<https://www.accenture.com/us-en/about/events/cannes-lions>)
- The growth of Complainant and all of its achievements over twenty years has attracted tremendous positive attention in the news media around the world including in India (where Respondent is situated). Many news articles have been written and news stories broadcasted about Complainant over the past few years in India, adding widespread awareness about Complainant and its products and services among the trade as well as present and potential consumers. Complainant has been the subject matter of media coverage and public comment and has been featured in leading newspapers and magazines in India dating back to 2001. Details of the press coverage that Complainant has received in India is attached herewith and marked as Annexure C-10 (colly.).
- Complainant has extensively placed its advertisements at major airports in India in the cities of Mumbai, New Delhi, Chennai, Bangalore and Hyderabad. Copies of some of the advertisements are attached herewith and marked collectively as Annexure C-11 (colly.).
- It is a matter of common knowledge that, in these days of extensive use of the global communications network, the reputation of a trade mark is not limited by geographical or political





boundaries as communications, people and reputations travel around the world crossing such boundaries as if they did not exist. As such, Internet users worldwide, including those in India, are exposed to and aware of the reputation and goodwill of such trademarks. Complainant's ACCENTURE Marks are no different in 'this regard. Indeed, the goodwill and reputation enjoyed by the ACCENTURE Marks accrued to Complainant by diverse means such as electronic and print media publicity, advertisements on television and in leading international dailies, magazines and journals, which enjoy circulation and readership in India and through its offices located in major cities of India such as Mumbai, New Delhi, Noida, Gurgaon, Bangalore, Chennai, Pune, Hyderabad and Kolkata.

- As a result of the above-described extensive use and promotion, the ACCENTURE Marks have become distinctive and famous globally and have enjoyed such distinctiveness and repute since long prior to the date on which Respondent registered the impugned domain name.
- In view of Complainant's prominent presence on the web across the world under its trade mark and trading style and variations thereof, advertisements and articles featuring the ACCENTURE Marks in print as well as in electronic media, prestigious awards and recognitions conferred on it, steady growth in revenue, Complainant's trade mark and trading style, the ACCENTURE Marks and variations thereof have become well-known and famous. Further, Complainant's ACCENTURE Marks have been derived from its corporate name and are therefore also eligible for protection in accordance with Article 8 of the Paris Convention in this regard.
- Complainant considers the trademarks ACCENTURE and variations thereof as well as various domain names owned by Complainant consisting of the ACCENTURE Marks as valuable intellectual property right and makes every effort to protect them. Protection of Complainant's trademarks extends beyond registration activities to enforcement actions, which range from filing domain complaints (including before the instant forum) and opposing trade mark applications for same/ similar marks, to sending cease and desist letters to infringers of identical/ similar marks, all over the world and the commencement of legal action; in a court of law, if necessary. Details of few of the Successful actions taken by Complainant under the INDRP for recovery of domains incorporating Complainant's mark ACCENTURE are as under:
- In view of Complainant's proprietary rights in its trade mark ACCENTURE, its domain names and company name, both under common law and statutory protection, Complainant has the exclusive right to use the said marks / domain names and no one can be permitted to use the same or any other deceptively similar trade mark / trade name/ trading style / domain name in any manner whatsoever without the permission, licence or consent of Complainant.





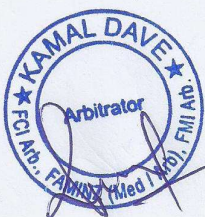
- The mark ACCENTURE, by virtue of extensive use and publicity over the past decade in connection with high-quality services, substantial global revenue and valuable trademark registrations, has acquired significant goodwill and reputation. Consequently, the mark ACCENTURE and its variants are exclusively associated with Complainant, and no one else.
- As a result of the above-described extensive use and promotion, Complainant's mark ACCENTURE has become distinctive and well-known and has enjoyed distinctiveness, goodwill and reputation long prior to the date on which Respondent registered the domain name.

DISPUTED DOMAIN NAME

- It was recently brought to Complainant's attention that a domain name, namely <MYACCENTURE.IN>, was registered on October 23, 2021 by the Respondent. An Internet search as recent as on March 22, 2022 revealed that a parked page is currently being hosted on the said domain and several pay-per-click links advertising various services, including services overlapping with those offered by the Complainant, are being reflected on the said page.

CORRESPONDENCE WITH RESPONDENT

- As the said domain name is phonetically, visually, conceptually, deceptively and confusingly similar to Complainant's registered trade mark ACCENTURE, Complainant first reached out to Respondent vide email on February 15, 2022 inter alia putting them to notice of Complainant's rights in the mark ACCENTURE and further apprising them of the objectionable nature of use of the name/ mark MYACCENTURE and the domain name <MYACCENTURE.IN> by them. Thereafter, a reply dated February 28, 2022 was received from Respondent's counsel wherein he inter alia attempted to draw differences between the marks ACCENTURE and MYACCENTURE on account of the mere addition of the prefix "MY™", and further expressed his client's desire to reject Complainant's proposal to execute an undertaking inter alia stating to cease all use of the name/mark ACCENTURE in respect of Respondent's business and also voluntarily transfer the impugned domain MYACCENTURE.IN to the Complainant under written confirmation. The Respondent's counsel further stated that their client had intended to begin use of the impugned domain name <MYACCENTURE.IN> in respect of their business services relating to, inter alia, software development, multimedia presentations for companies and maintenance of Websites towards the end of the year 2021 despite the Complainant's just and legitimate concerns against it, and in the face of the Complainant's evidently superior rights to the name/mark ACCENTURE.
- Copies of the aforementioned letters dated February 15, 2022 and February 28, 2022 are annexed herewith and marked as Annexure C-12 (colly.).





II. The complainant along-with its complaint filed documents as annexures. And

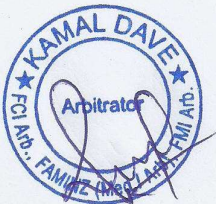
III.

IV. the Complainant humbly submits that the following are the grounds for this Complaint:

**B. GROUNDS**

I. The complainant contended under the head, *"The Impugned Domain is identical or confusingly similar to trade mark of the Complainant in which the Complainant has the statutory and /or common law rights:*

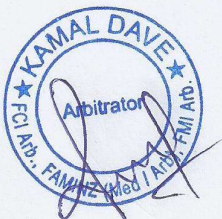
- *Complainant is the registered proprietor of the trademark ACCENTURE in many countries around the world, including in India, and has been continuously and exclusively using the same in relation to its business for many years. As stated in the aforesaid paragraphs, Complainant adopted the mark ACCENTURE in 2000, i.e. almost 21 years prior to the date on which Respondent registered the domain <MYACCENTURE.IN>. By virtue of long standing use and registration, Complainant's trademark ACCENTURE qualifies to be a well-known mark and is liable to be protected.*
- *The impugned domain name <MYACCENTURE.IN> is comprised of the MYACCENTURE name and mark which incorporates the Complainant's registered trademark ACCENTURE in toto and is therefore phonetically, visually, deceptively and confusingly similar/identical to the Complainant's registered trademark ACCENTURE. The only difference between the two marks is the addition of the possessive prefix "MY" to the coined term "ACCENTURE" that has no dictionary meaning, which results in*





the phonetically, visually, deceptively and confusingly similar/identical name MYACCENTURE. Therefore, the domain name <MYACCENTURE.IN> is phonetically, visually, deceptively and confusingly similar/identical to Complainant's company name, trade name and registered trademarks, as well as domain names incorporating ACCENTURE. The use of the descriptive word "MY" in the domain name does nothing to distinguish it from our Respondent's trade name and trade mark, or to prevent the public from associating it With the Respondent. Reliance is placed on KPMG International Cooperative v. Whois Privacy Services, Provided by Domain Protect LLC/Dmitriy Selivanov (Case No. D2017-0988) wherein it was held that the mere addition of the prefix "my" to the Complainant's well-known trade name/trademark KPMG by the Respondent in respect of the disputed domain name, had likely been made to create a false impression of connection between the Respondent and Complainant. Similarly, the mere addition of the prefix "my" to the domain at issue, forming <MYACCENTURE.IN>, is likely to cause confusion and that the Respondent or their business has some connection, affiliation or association with the Complainant, when it is not so.

- It is further submitted that a Google search for the name and mark "MYACCENTURE" reveals search results referring to and depicting information about Complainant's business under its registered trademark "ACCENTURE" instead. In fact, not a single search result is related to the Respondent or its purported business. Moreover, it is pertinent to note that not only does the disputed domain name <MYACCENTURE.IN> constitute of the





Complainant's mark ACCENTURE in toto, but it is also confusingly similar to the address of the Complainant's internal employee portal <MYID.ACCENTURE.COM>. Relevant extract of the search results is shown.

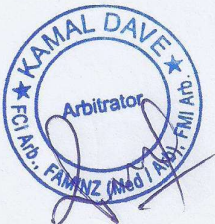
- In this regard, reliance is placed on previous decisions in favour of the Complainant Accenture Global Services Limited v. Domain Privacy, Above.com (Domain Privacy Case No. D2021-0481), Accenture Global Services Limited v. Milen Radumilo (Case No. D2016-1219), Accenture Global Services Limited v. Registration Private/ Domains by Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico (Case No. D2019-2579), and Accenture Global Services Limited v. Registration Private, Domains by Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico (Case No. D2021-3387) wherein the Panels had upheld the validity of the Complainant's rights in its internal employee portal <MYID.ACCENTURE.COM> and had decided that the disputed, confusingly similar domain names involved in each of the aforementioned matters, be transferred to the Complainant.
- Reliance is placed on previous decisions of this Panel in favour of the Complainant in Accenture Global Services Limited v. Sachin Pandey (INDRP/828), Accenture Global Services Limited v. Mr. Upendra Singh (INDRP/829), Accenture Global Services Limited v. Accenture Accenture (INDRP/998) and Accenture Global Services Limited v. Vishal Singh (INDRP/999) and more recently in Accenture Global Services Limited v. Axcenture inc. (INDRP/1394) wherein the Panel found that Complainant has rights in the name/mark ACCENTURE and the impugned domains incorporating





ACCENTURE or variations thereof were transferred to Complainant.

- Given that the impugned domain name <MYACCENTURE.IN> incorporates the Complainant's mark ACCENTURE in toto and the mere addition of the possessive prefix "MY" to Complainant's trademark "ACCENTURE" does nothing to differentiate the impugned domain name <MYACCENTURE.IN> from the Complainant's registered trademark "ACCENTURE", the same is bound to cause confusion and deception in the minds of the public that Respondent has some connection, association or affiliation with Complainant, when it is not so. Further, a generic TLD/ccTLD such as ".in" is a standard registration requirement and therefore cannot be said to distinguish Respondent's domain name <MYACCENTURE.IN> from Complainant's registered trademark ACCENTURE. Reliance is placed on Equifax Inc, v. Nikhlesh Kunwar INDRP/1038.
- The evident identity between Respondent's domain name and Complainant's marks, domain names and company name incorporating ACCENTURE is likely to mislead, confuse and deceive Complainant's customers as well as the general lay public as to the source, sponsorship, affiliation or endorsement of Respondent's domain name. As evidenced in the preceding paragraphs, Complainant's rights over the marks ACCENTURE predate Respondent's registration of the impugned domain <MYACCENTURE.IN> by more than two decades, which, as per the WHOIS records, was only registered/created on October 23, 2021.





- Therefore, the conditions under the INDRP Paragraph 4(i) stand suitably established.
- II. The complainant contended under the head, "The Respondent has no fair or legitimate interests in the Impugned Domain"
- It is submitted that Respondent has no rights or legitimate interests in the domain name <MYACCENTURE.IN>. Complainant has not authorized, licensed or otherwise allowed Respondent to make any use of its registered trade mark and trade name ACCENTURE and/or its phonetic equivalents/variations, and Respondent does not have any affiliation or connection with Complainant or with Complainant's services under the name/mark ACCENTURE. Additionally, given that the Respondent has been incorporated as a company under the name Cloven & Works Private Limited, it does not, prima facie, appear to have any reason, to use the Complainants well-known trade name/trading style and registered trademark "ACCENTURE", which was a unique term coined by the Complainant having no dictionary meaning. Therefore, the same constitutes prima facie proof in favour of Complainant under Paragraph 4(ii) — that Respondent does not have any rights or legitimate interests in the domain name. This has been held by a prior WIPO panel in CareerBuilder, LLC v. Stephen Baker, (WIPO Case No. D2005-0251). Further, Respondent cannot assert that it is using the domain name in connection with a bona fide offering of goods and services in accordance with Paragraph 7(i) of the .IN Policy, as it is not operating any website from the impugned domain.





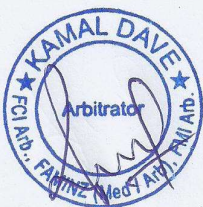
- *The Respondent cannot assert that it has made or that it is currently making any legitimate non-commercial or fair use of the domain name, in accordance with Paragraph 7 of the .IN Policy and the same is also corroborated by the fact that no website is currently operational from the said domain and in facta parked page featuring several pay-per-click (PPC) links advertising various services, including those overlapping with the Complainant, are currently featuring on the impugned domain. In view thereof, it is clear that the Respondent is not making any legitimate or fair use of the impugned domain name so as to fall within the ambit of Paragraph 7 (iii) of the INDRP. Further, any use of the domain name <MYACCENTURE. IN> in the future by Respondent is likely to create a false association and affiliation with the Complainant and its well-known trade mark as well as corporate name ACCENTURE. Therefore, it is submitted that Respondent has no rights or legitimate interests in respect of the impugned domain name and is incapable of making a legitimate non-commercial or fair use of the domain name in accordance with Paragraph 7 of the .IN Policy.*
- *Further, the Respondent cannot assert that it has made or that it is currently making any legitimate non-commercial or fair use of the domain name, in accordance with Paragraph 7 of the .IN Policy. In this regard, despite having been apprised of the Complainant's prior rights and nature of business, by virtue of the cease and desist letter dated February 15, 2022, we may mention that the Respondent evidently continues to hold the impugned domain <MYACCENTURE.IN>, in contravention of Complainants just and*





*legitimate concerns as expressed vide the aforesaid letter, and despite not making any bona fide use of the disputed domain name.*

- In view thereof, it is clear that Respondent is not making any legitimate or fair use of the impugned domain name 50 as to fall within the ambit of Paragraph 7 (iii) of the INDRP. Therefore, it is submitted that Respondent has no rights or legitimate interests in respect of the impugned domain name and is incapable of making a legitimate, non-commercial or fair use of the domain name in accordance with Paragraph 7 of the .IN Policy.*
- Respondent herein has registered the disputed domain <MYACCENTURE.IN> approximately 21 years after the adoption of the ACCENTURE trade mark by Complainant. Under the circumstances of this case Respondent's use of the disputed domain name is not "bona fide" within the meaning of Paragraph 7 (iii) of the .IN Policy since there is no apparent legitimate justification for Respondent's registration of the <MYACCENTURE.IN> domain name, that is visually, phonetically, conceptually, deceptively and confusingly similar/ identical to Complainant's trade name/ mark, nor was any proof of bona fide adoption provided vide their reply to Complainant's letter on February 28, 2022.*
- Further, the continued ownership of the disputed domain <MYACCENTURE.IN> by Respondent, despite not having any legitimate or fair reason to do so, prevents Complainant from reflecting its trademark in the subject domain name. In Motorola, Inc. vs NewGate Internet, Inc. (WIPO Case D2000-0079), it was*



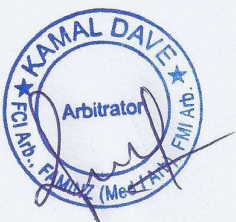


held that use of the trademarks not only creates a likelihood of confusion with Complainants' marks as to the source, sponsorship, affiliation or endorsement of its web site, but also results in dilution of the marks.

- For the reasons stated in the foregoing paragraphs, it is not possible to conceive of any plausible use of the domain name <MYACCENTURE.IN> by Respondent that would not be illegitimate, as it would inevitably create a false association and affiliation with Complainant and its well-known trade mark ACCENTURE. Therefore, it is submitted that Respondent has no rights or legitimate interests in respect of the impugned domain name.

III. The complainant contended under the head, "The Impugned Domain was registered in Bad Faith"

- As per paragraph 6(iii) of the INDRP Policy, it is stipulated that a "bad faith" registration and use of a domain name can be established given that the Respondent's trade name is prima facie Cloven & Works Private Limited, and there is foreseeably no bona fide reason for the opposite party to use/incorporate the Complainant's registered trademark ACCENTURE in respect of the impugned domain name <MYACCENTURE.IN> other than to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation or endorsement of Respondent's website or location, or of a product or service on Respondent's website or location.





- *In consideration of Complainant's reputation in India where Complainant has extensive business operations (as demonstrated in the preceding paragraphs) as well as its reputation worldwide, and the ubiquitous presence of Complainant's mark ACCENTURE on the Internet, Respondent must have been aware of Complainant's trademarks long prior to registering the domain name. In fact, considering that the disputed domain name as registered by Respondent not only incorporates Complainant's trade name/trademark ACCENTURE in toto, but is also deceptively similar to the Complainant's 'internal employee portal sub-domain <MYID.ACCENTURE.COM>, the circumstances point to the Respondent having had sufficient prior knowledge of Complainant's trademarks and their use thereof in order to intentionally attempt to adopt a domain name so as to ride on the reputation of the Complainant's world-famous trademark and trade name. In view of the aforesaid, it is submitted that Respondent had constructive notice of Complainant's mark ACCENTURE. Complainant relies on the decisions passed by previous Panels under the WIPO in the matters of Caesars World, Inc. v. Forum LLC (WIPO Case No. D2005-0517), HUGO BOSS Trade Mark Management GmbH & Co. KG, HUGO BOSS AG v. Dzianis Zakharenka, (WIPO Case No. D2015-0640) in this regard. Reliance is also placed on a prior decision of this Panel in Accenture Global Services Limited v. Sachin Pandey (INDRP/S28) in favour of Complainant wherein it was established that:*

- *"Based on prior adoption use and various trademark and domain name registrations for the mark ACCENTURE and*

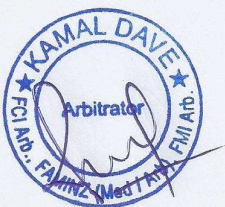




*its formatted marks, it is believed that Respondent is well aware of the Complainant's business, its products and services, its reputation and rights in the trademark ACCENTURE on worldwide basis."*

- *Further, the fact that the mark ACCENTURE is a coined word that has no dictionary meaning further aggravates Respondent's bad faith, in as much as, Respondent is using the visually, phonetically and confusingly similar/identical name/mark with respect to the impugned domain name <MYACCENTURE.IN>. There can be no other plausible explanation as to how Respondent arrived at the impugned domain name <MYACCENTURE.IN> which incorporates so nearly an identical version of Complainant's mark ACCENTURE. In light of the continuous and exclusive use of the mark ACCENTURE by Complainant over the past two decades, this mark can have no meaning other than as an identifier of Complainant and their businesses. Reliance is placed on a prior decision of this Panel in M/s Merck KGaA v Zeng Wei INDRP/323 wherein it was stated that:*

- *..."The choice of the domain name does not appear to be a mere coincidence, but a deliberate use of a well-recognized mark... such registration of a domain name, based on awareness of a trademark is indicative of bad faith registration."...*
- *Hence, Respondent had no reason to adopt a confusingly similar name/ combination with respect to the impugned domain name except to create a deliberate and false impression in the minds of consumers that Respondent is somehow associated with or*





*endorsed by Complainant, with the sole intention to ride on the massive goodwill and reputation associated with Complainant and to unjustly enrich from the same.*

- It is further pertinent to note that the Respondent had also been made duly aware of Complainant's intellectual property rights vide cease and desist letter dated February 15, 2022 and has been called upon to transfer the impugned domain <MYACCENTURE.IN> to the Complainant. However, the Respondent's continued holding of the registration for the impugned domain name <MYACCENTURE.IN> despite having been made well aware of the Complainant's statutory rights in this regard makes it evident that the Respondent has no real intention of complying with the Complainant's just and fair requisitions, by ceasing use and surrendering the subject domain. Such conduct clearly evidences Respondents mala fide intention to unjustly and unfairly register the domain <MYACCENTURE.IN> in direct contravention of the provisions of Paragraph 4(iii) of the INDRP. Reliance is placed on a prior decision of this Panel in India Parenting Private Limited v. Raj Kumar Jalan (INDRP/020) wherein it was stated that:*

- ...The Respondent's registration and use of the Domain Name is a clear case of cyber-squatting, whose intention is to take advantage of the Complainant's substantial reputation and its prominent presence on the Internet in order to confuse the public to the detriment of the Complainant"...*





- *In view of the above, Complainant has established that the mark ACCENTURE is distinctive and well known, and it is inconceivable that Respondent did not have prior knowledge of Complainant's aforesaid mark at the time of registering the disputed domain name. Owing to the fame attached to Complainant's mark ACCENTURE, which is a result of extensive use and promotion in relation to its world-renowned services, and the fact that Complainant's services are available all over the world, including in India (wherein Respondent resides), it is implausible for Respondent to have registered the domain name for any reason other than to trade off the reputation and goodwill of Complainant's mark ACCENTURE.*
- IV. *The complainant thus submitted that it is a fit case where Respondent/Registrant's domain name <MYACCENTURE.IN> is liable to be cancelled or the domain name registration to be transferred to Complainant.*
- V. *The complainant sought remedies : It is, therefore, most humbly prayed that the learned Arbitrator may be pleased to order cancellation of Respondent's domain name <MYACCENTURE.IN> and/or transfer the same to Complainant and costs of the proceedings be awarded in favor of Complainant and against Respondent.*
- C. *The respondent has abstained from the arbitration proceedings and has been proceeded ex-parte as per clause 12 of INDRP Rules of Procedure.*
- D. *From the complaint following issues have been framed :*





6. The Issues :

- A. Whether the Impugned Domain [www.myaccenture.in] is identical or confusingly similar to trade mark of the Complainant in which the Complainant has the statutory and /or common law rights?
- B. Whether the Respondent has no rights or legitimate interests in respect of the impugned domain name [www.myaccenture.in] ?
- C. Whether the impugned domain name [www.myaccenture.in] is being used in bad faith?
- D. Relief – *REMEDIES REQUESTED :*
- E. *It is, therefore, most humbly prayed that the learned Arbitrator may be pleased to order cancellation of Respondent's domain name <MYACCENTURE.IN> and/or transfer the same to Complainant and costs of the proceedings be awarded in favor of Complainant and against Respondent.*

7. Analysis of the issues on Merit

- A. Whether the Impugned Domain [www.myaccenture.in] is identical or confusingly similar to trade mark of the Complainant in which the Complainant has the statutory and /or common law rights?
  - I. I have perused the complaint, affidavit of the counsel of the complainant & documents/ Annexures placed on record. From the submissions made in complaint and perusal of Annexures, it is apparent that the complainant has obtained Trademark certificates from Intellectual Property Office in India & other countries worldwide which are specifically placed at Annexure 'C-2'.





- III. I have perused the submissions of the complainant I am satisfied respondent have adapted the trademark "ACCENTURE" by adding/ prefixing the word "MY" to the word "ACCENTURE" and thus making it "MYACCENTURE" in violation of complainant's exclusive right to use the trademark "ACCENTURE".
  - IV. The respondent has abstained from the arbitral proceedings despite service to contradict the submissions of the complainant.
  - V. In view of the submissions and the judgments cited, I conclude that the domain name [www.myaccenture.in] is identical and confusingly similar to the trademark "ACCENTURE" over which the Complainant has rights and thus has contravened the Paragraph 4(a) of INDRP Policy.
- B. Whether the Respondent has no rights or legitimate interests in respect of the impugned domain name [www.myaccenture.in] ?
- I. I have perused the complaint, affidavit & documents/ Annexures placed on record and their submissions.
  - II. I am satisfied that respondent who has not been authorized by the complainant thus are violating rights or legitimate interests of the complainant who have exclusive right to use the trademark "ACCENTURE".
  - III. The respondent has abstained from the arbitral proceedings despite service to contradict the submissions of the complainant.
  - IV. After analyzing the submissions & details made herein-before, the documents placed on record and the judgments cited, I conclude that the respondent has no claims, rights or legitimate interests to use the trademark "ACCENTURE" in respect of carrying out business from the disputed domain name [www.myaccenture.in]. I am satisfied and





the respondent has no claims, rights or legitimate interests to use the trademark "ACCENTURE" in respect of carrying out business from the disputed domain name [www.myaccenture.in]. I am satisfied and conclude that the respondent has acted in contravention of paragraph 4(b) of INDRP Policy.

C. Whether the impugned domain name [www.myaccenture.in] is being used in bad faith?

I. I have perused the complaint, affidavit & documents/ Annexures placed on record.

II. And after perusing Annexures on placed record, submissions made and the judgments cited, it is apparent that the complainant company is bonafide owner of trademark "ACCENTURE" and is carrying out business activities.

III. I am satisfied with the submission, *"...it is stipulated that a "bad faith" registration and use of a domain name can be established given that the Respondent's trade name is prima facie Cloven & Works Private Limited, and there is foreseeably no bona fide reason for the opposite party to use/incorporate the Complainant's registered trademark ACCENTURE in respect of the impugned domain name <MYACCENTURE.IN> other than to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation or endorsement of Respondent's website or location, or of a product or service on Respondent's website or location..."*.

IV. I am satisfied that respondent have registered domain name using the trademark "ACCENTURE" contravening the exclusive rights of

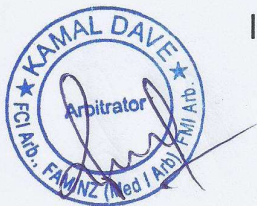




- IV. The respondent has abstained from the arbitral proceedings despite service to contradict the submissions of the complainant.
- V. After analyzing the submissions & details made herein-before and the documents placed on record, I conclude that the the domain name [www.myaccenture.in] is registered and being used in bad faith by the respondent. I further conclude that the respondent has acted in contravention of paragraph 4(c) of INDRP Policy.

D. Remedies Requested – *REMEDIES REQUESTED : It is, therefore, most humbly prayed that the learned Arbitrator may be pleased to order cancellation of Respondent's domain name <MYACCENTURE.IN> and/or transfer the same to Complainant and costs of the proceedings be awarded in favor of Complainant and against Respondent. In furtherance to the facts and grounds submitted in the Complaint, the Complainant humbly prays and seeks the transfer of the impugned domain [www.galanz.in] in and to the name of the Complainant along with any costs as may be deemed fit.*

- I. Analysis of the issue (D) Relief – Regarding the prayer for relief as prayed, I have perused the complaint, affidavit & Annexures placed on record and after analyzing them in details herein-before and in view of the submissions and the judgments cited, I conclude that the respondent has acted in contravention of paragraph 4 of INDRP Policy in entirety. I thus conclude the issue i.e. Relief to be settled in favour of the complainant and accordingly I allow the prayer of the complainant to transfer the ownership of domain name [www.myaccenture.in] in favour of the complainant.
- II. Regarding the prayer for relief as to award of cost, I conclude that the parties to bear their own costs.





8. AWARD

A. I AWARD AND DIRECT, that the ownership of domain name [www.myaccenture.in] be transferred in the name of the complainant.

This is my final award made and published by me on this 31<sup>st</sup> day of July 2022, at New Delhi, the seat of arbitration.

Kamal Dave

Sole Arbitrator

**KAMAL DAVE**  
Arbitrator  
FCI Arb., FAMINZ (Med / Arb), FMI Arb., BA  
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