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ARBITRATION AWARD

Before the Sole Arbitrator, Dr. Karnika Seth

IN INDRP Case No.1546

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.IN REGISTRY
(NATIONAL INTERNET EXCHANGE OF INDIA)
.IN Domain Name Dispute Resolution Policy (INDRP)

Disputed Domain Name: www.ryder.co.in

Dated: 15 JULY 2022

IN THE MATTER OF:

Ryder System, Inc.,
11690 N.W. 105th Street, Miami, Florida – 33178,
United States of America Complainant

Vs.

Ryder India,
Chandigarh – 134102, India Respondent

1. Parties

- 1.1. The Complainant in the arbitration proceeding is Ryder System, Inc., having address at 11690 N.W. 105th Street, Miami, Florida – 33178, United States of America. The Complainant's authorised representative is Sujata Chaudhri IP attorneys.
- 1.2. The Respondent in this administrative proceeding as per the 'Whois' record is Ryder India, Chandigarh-134102, India (as per **Annexure 14** of the complaint). Registrant has registered the disputed domain name with GoDaddy.com LLC.

2. **The Dispute-** The domain name in dispute is RYDER.CO.IN registered by the Respondent on 11th Decemeber 2018. According to

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the .IN 'Whois' search, the Registrar of the disputed domain name is GoDaddy LLC.

3. Important Dates

S. No	Particulars	Dates (All Communication done in electronic mode)
1.	Date of Appointment as Arbitrator.	31 May, 2022
2.	Soft Copy of complaint and annexures were received from NIXI through email.	31 May, 2022
3.	Date on which notice was issued to the Respondent	24 June, 2022
4.	Date on which Complainant filed amended complaint & proof of completed service of complaint on Respondent	7 June, 2022
5.	Date on which Award passed	15 July, 2022

4. Procedural History

- 4.1 This is mandatory arbitration proceeding in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP) adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28th June, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. The updated rules are available on <https://www.registry.in/INDRP%20Rules%20of%20Procedure>. By registering the disputed domain name accredited Registrar of NIXI,

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the Respondent agreed to the resolution of the dispute pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

- 4.2 In accordance with the Rules 2(a) and 4(a) of INDRP Rules, NIXI formally notified the Respondent of the complaint and appointed Dr. Karnika Seth as a sole arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996 and the rules framed thereunder. The Arbitrator submitted the statement of Acceptance and Declaration of impartiality and independence, as required by NIXI
- 4.3 The complaint was filed in accordance with the requirements of the .IN Domain Name Dispute Resolution.
- 4.4 The Arbitrator issued notice to the Respondent on 24 June, 2022 at the email address nptunepackers030@gmail.com calling upon the Respondent to submit his reply to the complaint within fifteen (15) days of receipt of the Arbitrator's email. The Complainant also filed amended complaint and annexures and electronically served respondent on 7 June, 2022.
- 4.5 Despite notice, the Respondent failed to file any reply. Therefore, in accordance with the Rule 12 of INDRP Rules, the Arbitration proceedings were conducted ex-parte and the Award is passed which is binding on both parties herein.

5. Factual Background

- 5.1 The Complainant, Ryder System, Inc., was founded by Jim Ryder in the year 1933. (The complainant has filed **Annexure-2** to support his claim). The Complainant, Ryder system, Inc was incorporated under the laws of States of Florida. The Company is in the logistics and transportation business that provides supply chain, transportation, and commercial fleet management solutions, including full-service

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leasing, rental, and maintenance, used vehicle sales, professional drivers, transportation services, freight brokerage, warehousing and distribution, e-commerce fulfillment, and delivery services. Globally the business operation of complainant is also held in Canada, Germany, Mexico, Singapore, the United Kingdom and the United States, and its international subsidiaries and related companies include Ryder System Holdings (UK) Limited, Ryder de Mexico S.A. de C.V., Ryder Deutschland GmbH, Ryder Singapore Pte Ltd. (The Complainant has filed **Annexure-5** to support his claim).

5.2 The Complainant has been using RYDER trade mark continuously and extensively for use in connection with transportation and logistics services. The Complainant continues to use the mark RYDER and marks that incorporate RYDER as trademarks in relation to its logistics and transportation services. The Complainant owns trademark by virtue of its long use and through promoting and advertising its services provided under RYDER Marks in various publications as well as through social media platforms. The trademark RYDER is associated with Complainant and has earned significant goodwill and recognition. (The Complainant has filed **Annexure 8** to support his claim) as described in para (X) of the complaint. RYDER mark is not only the Complainant's trademark but also its corporate name and the corporate name of its subsidiary/affiliate companies. The Complainant first used RYDER as a trademark in the year 1935.

5.3 The Respondent in this arbitration proceeding as per the 'Whois' record is Ryder India. The email Id of the Respondent nptunepackers030@gmail.com is (as per **Annexure 14** of the complaint). The Respondent registered the disputed domain name with GoDaddy.com LLC having email address

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nptunepackers030@gmail.com. However, as per the Complainant, it has neither granted any authorisation to the Respondent register the disputed domain name nor has any association with the Respondent.

6. Parties Contention

6.1 Complainant's Submissions

- 6.1.1. The Complainant has been using its RYDER marks extensively and continuously for its logistics and transportation, not only in India but across various other countries since 1935. The Complainant has established its reputation across various other countries and in India, the word "RYDER" has been exclusively associated with the Complainant and no one else.
- 6.1.2. The Complainant has registered the domain name RYDER.COM in the year 1995. This domain name connects to an active website prominently displaying the Complainant's RYDER Marks. (The Complainant has filed **Annexure 6** to support his claim) as described in **para (VIII)** of the complaint. Complainant has 175 registrations for RYDER Marks in 56 countries/jurisdictions around the world, including India, USA, Australia, the European Union and Singapore. (The Complainant has filed **Annexure 11** to support his claim) as described in **para (XII)** of the complaint.
- 6.1.3. The Complainant also owns valid and subsisting registrations in India and has filed application to register the mark RYDER under class 12, including Registration Nos. 1237969 and 735739, and Application No. 607506. The Complainant's earliest registration for the RYDER Semi-Circle and Arrow Device mark in India dates back to the year 1996. (The Complainant has filed **Annexure 12** to support his claim) as described in **para (XIII)** of the complaint. The Complainant has also received various awards including the "Third

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Party Logistics Company” award and has been in the list of 500 most important companies in Mexico for five (5) consecutive years. (The complainant has filed **Annexure-10** to support his claim) as described in para (XI) of the complaint.

6.1.4. The Complainant states that as per the website of Goods and Services Tax council, the Respondent’s associate entity, Ryders movers & packers was registered on December 11 2018, with GST Identification No. 06HCTPS425LIZO and the GST identification No. of the Respondent was cancelled by Goods and services Tax council on July 9,2020. (The Complainant has filed Annexure 18 to support his claim) as described in para XIX of the complaint. Also, address in whois of the Respondent is incomplete and on the disputed domain name aswell (Annexure 19 t the complaint).

6.1.5. The Complainant states that it first learnt of the Respondent in or around February 2022. At that time, the Respondent was using the mark RYDER as part of the domain name “www.ryder.co.in”. The Respondent was extensively using, and continues to use, the Complainant’s RYDER EVER BETTER Device mark, for which the Complainant owns a registration, on the disputed domain name. (The Complainant has filed **Annexure -17** to support his claim) as described in para XVIII of the complaint.

6.1.6. The Complainant states that disputed domain name connects to an active website on which the Respondent provides information about its services. A screenshot of the home page of the website to which the disputed domain name connects is also filed on record. (The Complainant has filed **Annexure-15** to support his claim). The Complainant notes that an entity named Ryder Movers India Private Limited claims to operate the website. However, as per the online records of the Ministry of Corporate Affairs, there is no record of

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any such company being incorporated. (The Complainant has filed **Annexure-16** to support his claim) as described in para XVII of the complaint.

- 6.1.7. The disputed domain name is identical to and is clear imitation of “RYDER” trademark and the Respondent has used it with an intention to pass it off as its own.
- 6.1.8. The Respondent has no legitimate interest in the domain name or the mark except to mislead consumers and thereby infringe the “RYDER” trademarks and deceive consumer as to affiliation, connection or association of the dispute domain name with the Complainant, which is incorrect, illegal and injures the Complainant’s interests.
- 6.1.9. Further, the Complainant has never granted any authorization, license or any rights to the Respondent to use the trademark. However, to make unfair commercial gain and to tarnish the trademark of the Complainant, the Respondent registered the disputed domain name www.ryder.co.in using the trademark “RYDER” in its entirety. The Respondent has not shown its registration and use of disputed domain name in connection with any bona fide offering of goods and services.

6.2 Respondent’s Defence

- 6.2.1 Despite the service of notice by email, the Respondent failed to reply to the notice within the stipulated time.
- 6.2.2 The INDRP Rules of Procedure require under Rule 13(b) that the arbitrator must ensure that each party is given a fair opportunity to present the case. Rule 13(b) reads as follows:

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"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."

6.2.3 Further the INDRP Rules of Procedure empowers the Arbitrator to proceed with arbitration proceedings ex-parte and decide the arbitration in case any party does not comply with the stipulated time limit to file its response. Rule 12 reads as follows:

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

6.2.4 In present arbitration, despite due service, the Respondent has failed to file any reply to the Complaint and has not sought any further time to answer the Complainant's assertions, contentions or evidences in any manner. The Arbitrator thus finds that the Respondent has been given a fair chance to present its case. Since the Respondent has failed to reply to Notice to submit its response, Arbitration has been conducted ex-parte in accordance with Rule 12 of the INDRP rules and decided on merits ex-parte.

7. Discussions and Finding

- 7.1 The .IN Domain Name Dispute Resolution Policy in para 4 requires Complainant to establish the following three requisite conditions: -
- a) The disputed domain name is identical or confusingly similar to the trademark in which Complainant has right
 - b) The Respondent has no rights or legitimate interest in the domain name and
 - c) The Respondent's domain name has been registered or is being used in bad faith.

7.2 The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights (Paragraph 4(a))

The Complainant submitted that it owns trademark registrations using the word "RYDER" in India (application no. 1237969 and 735739) and has filed documents of its registered trademark to prove its right in the trademark "RYDER" (as per **Annexure 12** of the complaint). The Complainant submitted that RYDER is a trademark well recognized amongst the consumers and has immense goodwill on internet as well. Thus, the trademark has popularity and has been continuously associated with Complainant and is extensively used with regard to its logistics and transport business.

The Arbitrator finds that the disputed domain name www.ryder.co.in is clearly identical and deceptively similar to Complainant's trademark in which the Complainant has exclusive trademark rights and the Complainant has submitted documentary evidence to prove its rights and ownership in RYDER mark. A cursory glance at the disputed domain name <ryder.co.in> makes it obvious that the Respondent has exactly incorporated the essential elements of the Complainant's RYDER mark and thus the disputed domain name is identical/ deceptively similar to the Complainant's mark.

As per WIPO Synopsis 3.0, while each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to the mark for the purposes of UDRP standing. (*Wework companies, Inc. V. Michael Chiriac*

various Concepts Inc., WIPO Case No. D2016-1817, Compagine Generale des Establishments Michelin v. Pacharapatr W., WIPO Case No. D2016-2465, Busybody Inc. v Fitness Outlet Inc. D 2000-0127 (WIPO April 22, 2000).

The disputed domain name consists of "RYDER", the Complainant's trademark in entirety, followed by ccTLD "co.in" which is likely to deceive and confuse consumers. It is well recognized that incorporating a trademark in its entirety, is sufficient to establish that the domain name is identical or confusingly similar to the Complainant's registered mark. (*LEGO Juris A/S v. Robert Martin*, INDRP/125(2010); *Viacom International Inc. v. MTV ALBUMS-Mega Top Video Albums Peter Miadshi*, WIPO case No. D2002-0196 (April 16, 2002); *Wal Mart Stores Inc. v. Kuchora Kal*, WIPO case no. D2006-0033 (March 10, 2006). The Complainant has relied on *Accenture Global Services Private Limited v. Sachin Pandey*, INDRP/828 (November 28, 2016).

As the Respondent's disputed domain name incorporates entire mark of Complainant's registered trademark RYDER, the Arbitrator finds that the Respondent's domain name is identical or confusingly similar to Complainant's registered trademark and is likely to deceive the customers.

7.3 The Registrant has no rights or legitimate interest in respect of the disputed domain name (Para 4(b))

Under para 6 of the INDRP policy, a Respondent can prove rights or legitimate interest in the domain name. The Complainant has filed sufficient evidence to prove disputed domain name is identical to

'RYDER' trademark, in which the Complainant enjoys substantial reputation and goodwill including registration of trademark in India under class 12 (annexed as **Annexure 12** of the complaint).

Despite service of notice to file its reply, the Respondent failed to file its reply to the averments and claims made in the Complaint. Further, the Respondent has failed to prove any rights or legitimate interests in the disputed domain name/trademark 'RYDER.' Thus, Respondent has failed to establish legitimate interest and/or rights in the disputed domain name. Complainant has also submitted that it has not authorized nor licensed Respondent to use its RYDER mark and Respondent has failed to rebut the same. The Complainant submits that the Respondent has registered the disputed domain name with a view to engage in unfair commercial use of the mark RYDER with the sole aim to make illegal monetary benefits from unauthorised use of the goodwill and reputation of the Complainant's mark RYDER. The Complainant has relied on *Google Inc. U.S.A. v. Vaibhav Jain*, INDRP/132 (April 3, 2010), *Bloomberg Finance L.P. v Bloomberg Realty (India) Private Limited* INDRP/364 (February 20, 2014), *General Electric Company v. La Porte Holding Inc.* WIPO Case No D20050076 (March 30, 2005), *Velcro Industries BVBA v. Monali Mohanty, Velcro electricals*, WIPO Case No. D2018-0635 (WIPO, June 22, 2018), *Zurich American Insurance Company v. Administrator, Domain*, WIPO Case No. D20070481 (April 11, 2011).

Complainant contends that Respondent has registered the domain name only to take unfair advantage of Complainant's global reputation and goodwill. Further, the Complainant submitted that the

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Respondent does not have any rights or legitimate interest in the disputed domain name and it intends to make unjust and illicit commercial profits. The Arbitrator is of the view that unlicensed and unauthorized use of domain name incorporating complainant's trademark proves that the Respondent has no legitimate rights nor interest in the disputed domain name pursuant to ICANN Policy 4(b).

The Disputed Domain Name currently points to a website that offers identical services as the Complainant and that the public is likely to be confused into thinking that the disputed Domain Name has a connection with the Complainant and that there is a likelihood of confusion as to source, sponsorship, affiliation, or endorsement.

It is the Respondent's responsibility to determine whether the Respondent's domain name registration is likely to infringe or violate someone else's rights. The Respondent has failed to discharge this burden as well. Thus, for the aforesaid reasons, the Arbitrator finds that the Respondent has no rights and/or legitimate interests in the disputed domain name. (*Nobelstiftelsen (The Nobel Foundation) v. Ousainou Jeng (WIPO Case No. D2011-1385)*).

Thus, for the aforesaid reasons, the Arbitrator finds that the Respondent has no rights and/or legitimate interests in the disputed domain name.

7.4 The Registrant's domain name has been registered or is being used in bad faith (Para 4(c))

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For the purpose of Para 4 (c) of .IN Policy, under paragraph 7 of the policy, the Complainant is required to establish that the domain name was registered or is being used in bad faith.

The Complainant submitted that 'RYDER' trademark has acquired considerable amount of goodwill with respect to transport and logistics services. The Complainant has secured registration of the mark "RYDER" in class 12 (annexed as **Annexure 12** with the Complaint). The Respondent has produced no evidence of authorization from Complainant or justification for registering the disputed domain name. The Complainant also submits that it adopted its mark much prior to that of Respondent and that the Respondent has intentionally adopted disputed domain name www.ryder.co.in despite prior knowledge to make unfair gains which amounts to bad faith registration. The Arbitrator in the present case finds bad faith in the registration and use of the disputed domain name. (Ref. *Virgin Enterprises Limited v. Syed Hussain*, WIPO Case No. D2012-2395 and *Carige Vita Nuova S.P.A. v. Vita Nuova Public Organization, Domain Management / Whois Privacy Services by Domain Protect LLC*, WIPO Case No. D2010-1912, *Burberry Limited v. Ruo Chang*, WIPO Case No. D2010-1304).

The Complainant has filed evidence to show bad faith registration by filing screen shot of the web page of disputed domain showing its unfair use by Respondent. This is evident from **Annexure 15** of the complaint. Moreover, disputed domain name was registered only on 7-8-2018 whereas complainant's trademark RYDER is being used since 1935 and was registered in India since 1996. Respondent

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ought to have discharged burden of checking if such domain registration would infringe mark of any entity.

WIPO Overview 3.0 notes in Section 3.14 “*panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith*”. The same principle is relied on in *Adobe Inc. v. Amin Mohammad Salehi, Uranos*, case no. DIR2020-0006, June 30, 2020.

Despite notice, Respondent failed to submit its response and evidence to claim bonafide registration of disputed domain name in respect of its offering of goods/services. Such registration and use is likely to mislead the consumers of an affiliation with Complainant which amounts to bad faith registration under .IN policy.

Thus, Arbitrator finds that Respondent’s disputed domain name is likely to mislead the consumers by creating a likelihood of confusion with the Complainant’s name or mark. (*Yusuf A. Alghanism & sons WLL v Anees Salah Salahmeh* (WIPO case no. D2018-1231). It is a settled principle that registration of a domain name with the intention to create confusion in the mind of internet users and attract internet traffic based on the goodwill associated with the trademark is considered bad faith registration (*PepsiCo Ins. Vs. Wang Shaung*, INDRP case no.400, December 13, 2012).

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For the aforesaid reasons, the Arbitrator in the present case finds bad faith in the registration and use of the disputed domain name (Ref. *Virgin Enterprises Limited v. Syed Hussain*, WIPO Case no. D2012-2395).

For the aforesaid reasons, the Arbitrator finds the third ground is also established by the Complainant under the .IN Policy.

8. DECISION

On the basis of the abovesaid findings the Sole Arbitrator finds that:

- a) The Complainant has successfully established three grounds required under the policy to succeed in these proceedings.
- b) Respondent has failed to rebut averments, contentions and submissions of the Complainant

The Arbitrator directs the .IN Registry of NIXI to transfer the domain name www.ryder.co.in to the Complainant.

The Award is passed on this 15 JULY 2022

Place: Noida



Dr. Karnika Seth

Sole Arbitrator