

मध्य प्रदेश MADHYA PRADESH

BN 709802

BEFORE THE ARBITRATOR RAJESH BISARIA  
UNDER THE  
.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)  
[NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)]

**ARBITRAL AWARD**

**Date-28.07.2022**

Disputed Domain Name: [www.matrixprofessionnel.in](http://www.matrixprofessionnel.in)  
**INDRP Case no -1548**

**THE PARTIES**

(1)

The **Complainant** is L'Oréal , 14 rue Royale , 75008 Paris, France

The **Respondent** is Domain Administrator, 4 AkanbiDanmole Street off Ribadu Road, Ikoyi 101233, Lagos, Nigeria

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*[Signature]*



## **THE DOMAIN NAME AND REGISTRAR**

(2)

(a) This dispute concerns the domain name bearing DOMAIN ID - D2D7AAD42E49D4E9EB588BFFA4AB0E941-IN and is identified as <http://www.matrixprofessionnel.in>

(b) The disputed domain name: <http://www.matrixprofessionnel.in> is registered with GoDaddy.com, LLC, 2155 E GoDaddy Way, 85284 Tempe, Arizona, United States, Telephone-+1.4805058800 and E mail -legal@godaddy.com, registered on 22.07.2021 and expiration date- 22.07.2022

## **PROCEDURAL HISTORY**

(3)

The NIXI appointed RAJESH BISARIA as Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of procedure	31.05.2022
Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per paragraph 4(c) of INDRP Rules of Procedure, marking a copy of the same to Complainant's authorized representative and NIXI.	01.06.2022
Due date of submission of Statement of Claim by Complainant (instructed by mail dated 01.06.2022)	07.06.2022
Complainant's response by submitting their Statement of Claim. Soft copy(PDF) Soft copy(Non PDF) Hard copy	07.06.2022 07.07.2022 09.06.2022
Due date of submission of Statement of Defense by Respondent (instructed by mail dated 01.06.2022)	23.06.2022





Again due date of submission of Statement of Defense by Respondent (instructed by mail dated 25.06.2022)	01.07.2022
Respondent's response by submitting their Statement of Defense against the due date of submission as 23.06.2022 & 01.07.2022	Not submitted
Complainant's response by submitting their Rejoinder. (Statement of Defense not submitted by Respondent)	Not required
Complainant's response by submitting proof of delivery of complaint along with all annexures to Respondent - Soft copies vide their mail dated 27.06.2022, delivered on 27.06.2022 Vide their mail dated 29.06.2022 intimated that the Hard Copies were sent by Aramex courier, vide Tracking No. 31669955520 dated 11.06.2022 which was delivered to Respondent on 18.06.2022 at 11.08 AM (as per the tracking record submitted with the same mail.)	27.06.2022  18.06.2022 11.08 Hrs
Communicated by AT mail dated 03.07.2022 that the 'Respondent failed to submit the required documents within the time limit mentioned in mail dated 01.06.2022 & 25.06.2022 ie 23.06..2022 & 01.07.2022 respectively , therefore the Respondent lost their right to entertain it. The proceeding of this case was kept closed for award and the matter would be decided ex-parte on the basis of the material on record with this tribunal as per INDRP policy'.	03.07.2022
The language of the proceedings.	English



## **FACTUAL BACKGROUND**

### **(4) The Complainant :**

The **Complainant** is L'Oréal , 14 rue Royale , 75008 Paris, France,

Telephone: + 33 (0) 1 44 70 07 04

Fax: + 33 (0) 1 40 06 99 64

E-mail: contact@dreyfus.fr

### **Authorized Representative of the Complainant:**

Address: Dreyfus & associés  
78, avenue Raymond Poincaré  
75116 Paris  
France

Telephone: + 33 (0) 1 44 70 07 04

Fax: + 33 (0) 1 40 06 99 64

E-mail: contact@dreyfus.fr

### **Preferred Mode of Communication:**

Electronic-only material

Method: Email

Address: contact@dreyfus.fr

Contact: Dreyfus & associés

### **Material including hardcopy (where applicable)**

Method: Post

Address: 78, avenue Raymond Poincaré  
75116 Paris, France

Fax: + 33 (0) 1 40 06 99 64

Contact: Dreyfus & associés





**(5) The Respondent:**

Domain Administrator  
Address: 4 AkanbiDanmole Street off Ribadu Road  
Ikoyi 101233  
Lagos , Nigeria  
Telephone: (+234).7060647844  
E-mail: sugarcane@mm.st

**(6) Complainant's Activities:**

- (a) Complainant, L'Oréal, is a French industrial group specialized in the field of cosmetics and beauty and is the first cosmetics group worldwide.
- (b) Created in 1909 by a French chemist by the same name, L'Oréal is today one of the world's largest groups in the cosmetics business. It has a portfolio of 36 brands, employs 86,000 employees, and is present in 150 countries and submitted annexure 3.
- (c) L'Oréal is richly endowed with a portfolio of international brands that is unique in the world and that covers all the lines of cosmetics: hair care, colouring, skin care, make-up and perfume. Complainant's brands, are managed within the group by divisions that each have expertise in their own distribution channel. This organization is one of L'Oréal's major strengths. It makes it possible to respond to every consumer's expectations according to their habits and lifestyle but also to adapt to local distribution conditions, anywhere in the world and submitted annexure 3.
- (d) MATRIX, a leading professional hair care and hair color company in the United States, is part of L'Oreal USA's Professional Products Division. It is well known around the world, including India whose products are promoted on the official website <https://www.matrixprofessional.in/> and submitted annexure 3.
- (e) Matrix was founded in 1980 by the American husband and wife hairdressing team, Arnie and Sydel Miller. Before he founded Matrix,



Mr. Miller was a hairdresser for over 20 years. He formed a firm, Ardell, to market the product to retailers and to beauty salons. Ardell eventually created and sold a hair color product and submitted annexure 3.

- (f) In the late 1970s, Mr. Miller saw that the retail market was shrinking and decided to sell Ardell in 1980 in order to concentrate on building Matrix, which would market its products only to professional hair care buyers.
- (g) The Millers wanted to provide hairdressers with a comprehensive range of products that would help them grow their businesses and provide the means to take full advantage of their talent and creativity.
- (h) Now, over two decades later, the Millers' original ideas still stand strong, and Matrix is committed to the development of the salon professional, offering a wide range of hair care, hair color and texturizing products including: Biolage, Oil Wonders, Total Results, COLORINSIDER, SOCOLOR, Color Sync, Gloss Sync, Logics, LightMaster, V-Light, Vavoom, COLORGRAPHICS, Opti.Collection, Opti.Effects, Opti.Smooth and Style Wave and submitted annexure 3.

**(7) Complainant's Trade Marks And Domain Names :**

- (a) Complainant and its trademark MATRIX enjoys a worldwide reputation. Complainant owns numerous MATRIX trademark registrations around the world, as well as in India.
- (b) Complainant is in particular the owner of the following trademark registrations and submitted annexure 4 :
  - Indian trademark MATRIX n° 534128 dated July 26, 1990, duly renewed and covering goods in class 3;
  - Indian trademark MATRIXWAVE SENSATION n° 2232311 dated November 11, 2011, duly renewed and covering goods in class 3;
  - International trademark MATRIX no. 776942 dated February 20, 2002, duly renewed, designating inter alia Australia, China, Singapore, Tajikistan, covering goods in class 3.



(c) In addition, Complainant operates (directly or through its US subsidiary), among others, the following domain names reflecting its trademark in order to promote its services and submitted annexure 5:

- <matrix.com>registered on April 13, 1990;
- <matrixprofessional.in> registered on March 24, 2016;
- <matrixprofessional.com>registered on June 29, 2012.

(d) The disputed domain name<matrixprofessionnel.in> is virtually identical or at least confusingly similar to Complainant's prior trademarks MATRIX and the official domain name <matrixprofessional.in>.

**(8) Respondent's Identity and activities :**

(a) Respondent failed to submit any document, so his identity is not clear.

(b) Received mail from -sugarcane@mm.st on Sat, 25 Jun at 3:38 PM, with following message-

*Our office is closed for a short time while we are on holiday. We will get back to you as soon as we can but there could be a delay. Please be patient with us.*

(c) Received mail from -sugarcane@mm.st on Sun, 3 Jul at 8:47 PM, with following message-

*Our office is closed for a short time while we are on holiday. We will get back to you as soon as we can but there could be a delay. Please be patient with us.*

(d) Received mail from -sugarcane@mm.st on Sat, 9 Jul at 5:13 PM, with following message-





*Our office is closed for a short time while we are on holiday. We will get back to you as soon as we can but there could be a delay. Please be patient with us.*

### **SUBMISSIONS BY COMPLAINANT**

- (9) Complainant submitted Domain name complaint with pages 1 to 19 and annexure from 1 to 7.

As per the INDRP Rules of Procedure, Clause 4(a) –

*The (maximum) word limit shall be 5000 words for all pleadings individually (excluding annexure). Annexure shall not be more than 100 pages in total. Parties shall observe this rule strictly subject to Arbitrator's discretion.*

The Complainant submitted pleadings of less than 5000 words and annexures within 100 pages. The application is submitted as per the INDRP Rules and Procedures.

### **THE CONTENTIONS OF THE COMPLAINANT**

- (10) **The domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights:**

- (a) The domain name <matrixprofessionnel.in> reproduces Complainant's trademark MATRIX in its entirety. In many decisions, Panels considered that the incorporation of a trademark in its entirety may be sufficient to establish that a domain name is identical or confusingly similar to Complainant's registered trademark (WIPO Case No. D2013-0150 *Swarovski Aktiengesellschaft v. meixudong*; INDRP Case No. INDRP/887



<colgate.in> decided on May 26, 2017, INDRP Case No. INDRP/741  
<goodyear.in> decide on February 8, 2016).

- (b) In many decisions, it is well established that "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 that mark" (WIPO Case No. D2011-1627, *L'Oréal, Lancôme Parfums et Beauté & Cie v. Jack Yang*, WIPO Case No. D2010-1059, *Rapidshare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin* and WIPO Case No. D2000-0113, *The Stanley Works and Stanley Logistics, Inc. v. Camp Creek Co., Inc.*). See section 1.7 of the WIPO Jurisprudential Overview 3.0.
- (i) Likewise, the disputed domain name <matrixprofessionnel.in> is almost identical to Complainant's domain name <matrixprofessional.in> differing only in two letters, which makes potential typing error by Internet users more likely to happen, and as result diverting the traffic from Complainant's site to the Respondent's. This difference does not significantly affect the appearance or pronunciation of the domain name. This practice is commonly referred to as "typosquatting" and creates virtually identical and/or confusingly similar marks to the Complainant's trademark (WIPO Case No. D2011-0692, *Mapfre S.A. y Fundación Mapfre v. Josep Sitjar*; WIPO Case No. D2009-1050, *Compagnie Gervais Danone of Paris v. Jose Gregorio Hernandez Quintero*) and submitted annexure 1 and 5.
- (c) As indicated in the section 1.9 of the WIPO Jurisprudential Overview 3.0: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark. Panels will normally find that employing a misspelling in this way signals an intention



on the part of the respondent (typically corroborated by infringing website content) to confuse users seeking or expecting the complainant.” (WIPO Case No. D2008-1302, *Express Scripts, Inc. v. Whois Privacy Protection Service, Inc. / Domaindeals, Domain Administrator*, WIPO Case No. D2013-0368, *Sanofi v. Domains By Proxy, LLC / domain admin*, WIPO Case No. D2015-2333, *Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd.*).

(d) Furthermore, the structure of the disputed domain name <matrixprofessionnel.in> is confusingly similar to the MATRIX trademark in that it reproduces entirely Complainant’s trademark associated with the generic term “professionnel” and the mere addition of the extension “.in”, which does not mitigate any possible confusion. On the contrary, it rather contributes to the likelihood by leading consumers into believing the disputed domain name will direct them to an official website offering Complainant’s products intended for the Indian market. It is also important to note here that the addition of the misspelled term “professional” also strongly reminds consumers of Complainant’s trademark “L’OREAL PROFESSIONAL”.

(e) The disputed domain name <matrixprofessionnel.in> has been registered in the TLD “.in”. The presence of the suffix “.in” is not to be taken into account when assessing the likelihood of confusion between Complainant’s trademark and the disputed domain name. Indeed, it is well established in domain name cases that the suffix to indicate the top level of the domain name, such as “.in” or “.co.in”, has to be disregarded for the purpose of determining whether the domain name is identical or confusingly similar to Complainant’s trademark (INDRP Dispute Decision n°L-2/1/R1 <Pepsico.in> decided on April 24, 2006; INDRP Dispute Decision n°L-2/1/R4 <Mothercare.in> decided on April 27, 2008 ; INDRP Dispute Decision n°L-2/9/R4 <sensex.in> decided on August 17, 2008).





- (f) Complainant uses the trademark MATRIX in connection with a wide variety of products and services around the world and submitted annexure 3 & 4. Consequently, the public has learnt to perceive the goods and services offered under these trademarks as being those of Complainant. Therefore, the public would reasonably assume that the disputed domain name belongs to Complainant or is at least, related to Complainant.
- (g) Accordingly, with the registration of the disputed domain name, Respondent created a likelihood of confusion with Complainant's trademarks. It is likely that this domain name could mislead Internet users into thinking that this is, in some ways, associated with Complainant and thus may heighten the risk of confusion.
- (h) For all of the above-mentioned reasons, it clearly appears that the disputed domain name is identical to the trademark MATRIX in which the Complainant has rights, and therefore the condition of Paragraph 4(i) of the .IN Policy is fulfilled.

**(11) The Respondent has no rights or legitimate interests in respect of the domain name:**

- (a) Respondent is neither affiliated with Complainant in any way nor has he been authorised or licensed by Complainant to use and register its trademarks, or to seek registration of any domain name incorporating the previously mentioned trademark. In addition, Respondent is not known by the name of MATRIX.
- (b) In previous WIPO decisions, Panels found that in absence of any license or permission from the Complainant to use such widely known trademarks, no actual or contemplated bona fide or legitimate use of the domain name could reasonably be claimed (WIPO Case No. D2013-0188, GroupeAuchan v. Gan Yu; WIPO Case No. D2010-0138, LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master).



- (c) Respondent has no prior rights or legitimate interests in the disputed domain name. The registration of the MATRIX trademarks preceded the registration of the disputed domain name for years and submitted annexure 1 & 4.
- (d) Moreover, the domain name in dispute is virtually identical to the Complainant's MATRIX trademark and the official domain name <matrixprofessional.in> so Respondent cannot reasonably pretend it was intending to develop a legitimate activity through the disputed domain name. In the present case, the composition of the domain name constitutes clear evidence that the Respondent wishes to give an overall impression that the disputed domain name is related to Complainant and misleadingly divert consumers for fraud or commercial gain, therefore, such composition cannot constitute fair use, further demonstrating a lack of legitimate interests regarding said domain name.
- (e) Besides, Respondent did not demonstrate use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Indeed, the disputed domain name resolves to a parking page displaying commercial links relating to cosmetic products directly targeting Complainant's field of activity and submitted annexure 1. Consequently, Respondent fails to show that the non-commercial intention or the fair use of the disputed domain name. It is most likely to be believed that Respondent has no legitimate interest or rights in the disputed domain name.
- (f) Likewise, the domain name in dispute directs Internet users to a parking page with pay-per-clicks which are likely to generate revenues. Hence, as a matter of fact, it cannot be inferred that Respondent is making a legitimate non-commercial or fair use of disputed domain name (WIPO Case No. D2009-1529, Société nationale des télécommunications: Tunisie Telecom v. IsmaelLeviste, INDRP Case No. INDRP/167 <lazard.in> decided on November 30, 2010,).



- (g) Respondent has never been given the authorization from Complainant for developing such website that will lead Internet users into wrongly believing it is endorsed by Complainant. Such circumstances, and the diversion of Internet traffic to an illicit website in order to generate revenues, do not represent a use in connection with a bona fide offering of goods and services. Respondent is thus not accurately disclosing its relationship with the trademark by falsely suggesting it is the trademark owner and its website is an official website, which is contrary to the Policy (WIPO Case No. D2001-0903, Oki Data Americas, Inc. v. ASD, Inc).
- (h) Furthermore, and email server has been configured on the disputed domain name <matrixprofessionnel.in> and thus, there might be a risk that Respondent is engaged in a phishing scheme (Annex 1). So, the disputed domain name is not used in any type of legitimate business or services.
- (i) Additionally, Respondent never answered to Complainant's letter despite Complainant's reminders and best efforts (ANNEX 6). Panels have repeatedly stated that when Respondents do not avail themselves of their rights to respond to Complainant, it can be assumed that Respondents have no rights or legitimate interest in the disputed domain name (WIPO Case No. D2010-1017, AREVA v. St James Robyn; WIPO Case No. D2003-0269, Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim).
- (j) Finally, given Complainant's goodwill and renown worldwide, and the nature of the disputed domain name, which is confusingly similar to Complainant's trademark and virtually identical to the official domain name, it is not possible to conceive a plausible circumstance in which Respondent could legitimately use the disputed domain name, as it would invariably result in misleading diversion and taking unfair advantage of Complainant's rights.
- (k) For all of the above-cited reasons, it is undoubtedly established that Respondent has no rights or legitimate interests in respect to





the domain name in dispute under Paragraph 4(a)(ii) of the Policy.

**(12) The domain name was registered and is being used in bad faith :**

- (a) It is implausible that Respondent was unaware of Complainant when he registered the disputed domain name. Bad faith can be found where respondent "knew or should have known" of Complainant's trademark rights and, nevertheless registered a domain name in which he had no rights or legitimate interests (WIPO Case No. D2009-0320, Research In Motion Limited v. Privacy Locked LLC/Nat Collicot; WIPO Case No. D2009-0113, The Gap, Inc. v. Deng Youqian).
- (b) Firstly, Complainant is well-known throughout the world, including Africa and India and submitted annexures 3 & 4. Secondly, the disputed domain name reproduces entirely Complainant's trademark MATRIX and associates it with the generic term "professionnel" (ANNEX 1). Therefore, it is impossible that Respondent was not aware of Complainant's trademarks and activities at the time of the registration of the disputed domain name. Even more so, considering the fact that the disputed domain name is virtually identical to Complainant's official domain name <matrixprofessional.in> differing only in two letters, which makes potential typing error by Internet users more likely to happen, and as result diverting the traffic from Complainant's site to the Respondent's. This difference does not significantly affect the appearance or pronunciation of the domain name. This practice is commonly referred to as "typo squatting" and creates virtually identical and/or confusingly similar marks to the Complainant's trademark (WIPO Case No. D2011-0692, Mapfre S.A. y Fundación Mapfre v. Josep Sitjar; WIPO Case No. D2009-1050, Compagnie Gervais Danone of Paris v. Jose Gregorio Hernandez Quintero) and submitted annexures 1 & 5.
- (c) Bad faith has already been found where a domain name is so obviously connected with a well-known trademark that its very use by someone with no connection to the trademark suggests opportunistic bad faith (WIPO Case No. D2010-0494, LEGO Juris A/S v. Reiner Stotte, WIPO Case No. D2006-0303 Sanofi-Aventis v. Nevis Domains LLC). Thus, given



the reputation of the MATRIX trademarks, registration in bad faith can be inferred.

- (d) Moreover, a quick MATRIX trademark search would have revealed to Respondent the existence of Complainant and its trademarks. Respondent's failure to do so is a contributory factor to its bad faith (WIPO Case No. D2008-0226, Lancôme Parfums et Beauté & Cie, L'Oréal v. 10 Selling).
- (e) Supposing that Respondent was not aware of the possibility of searching trademarks online before registering a domain name, a simple search via Google or any other search engine using the keyword "MATRIX PROFESSIONAL" demonstrates that all first results relate to Complainant's field of activities or news (a) and submitted annexure 3.
- (f) In this day and age of the Internet and advancement in information technology, the reputation of brands and trademarks transcends national borders. Taking into account the worldwide reputation of Complainant and its trade marks, it is hard to believe that Respondent was unaware of the existence of Complainant and its trademarks at the time of registration of the disputed domain name.
- (g) It has been held in previous cases that knowledge of a corresponding trademark at the time of registration of the domain name suggests bad faith (WIPO Case No. D2000-0270, Document Technologies, Inc. v. International Electronic Communications Inc., WIPO Case No. D2006-0464, Caixa D'Estalvis I Pensions de Barcelona ("La Caixa") v. Eric Adam).
- (h) Previous Panels have established that knowledge of Complainant's intellectual property rights, including trademark, at the time of registration of a disputed domain name proves bad faith registration (WIPO Case No. D2008-0287, Alstom v. Domain Investments LLC; WIPO Case No. D2007-0077, NBC Universal Inc. v. Szk.com).
- (i) Previous Panels have considered that in the absence of any license or permission from Complainant to use such widely known trademarks, no actual or contemplated bona fide or legitimate use of the domain name could reasonably be claimed (WIPO Case No. D2000-0055, Guerlain S.A. v. Peikang; WIPO Case No. D2008-0281, Alstom, Bouygues v. Webmaster).



- (j) It can be presumed that many Internet users attempting to visit Complainant's website may have ended up on the site of Respondent. As the disputed domain name is confusingly similar to Complainant's trademarks, previous Panels have ruled that "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from Complainant's site to Respondent's site" (WIPO Case No. D2012-1765, MasterCard International Incorporated ("MasterCard") v. Wavepass AS; WIPO Case No. D2006-1095, Edmunds.com, Inc. v. Triple E Holdings Limited).
- (k) As previously indicated, there is little doubt in this case that, at all times, Respondent was not aware that MATRIX enjoyed a substantial reputation worldwide. In light of this knowledge, Respondent used the disputed domain name <matrixprofessionnel.in> to direct Internet users and generate more traffic to a parking page displaying commercial links targeting Complainant's field of activity, that are likely to generate revenues and submitted annexure 1. Respondent is thus intentionally attempted to attract Internet users to the its website for commercial gain by creating likelihood of confusion with the Complainant's mark and official domain name as to the affiliation or endorsement of either the Respondent or its website.
- (l) The Respondent's use of a domain name that is confusingly similar to the trademark MATRIX may also prevent Internet users from accessing Complainant's official website by confusing prospective users and submitted annexure 1.
- (m) Respondent is taking undue advantage of Complainant's trademark to generate profits. The use of a well-known trademark to attract Internet users to a website for commercial gains constitutes a use in bad faith pursuant to the policy (WIPO Case No. D2007-0956, F Hoffmann-La Roche AG v. Anna Valdieri, WIPO Case No. D2009-1231 L'Oréal SA v. LV Kefeng, and WIPO Case No. D2007-1736, Alstom v. FM Laughna).
- (n) The clear inference to be drawn from the Respondent's activities is that its intention to abusively benefit from Complainant's reputation and particularly from the latter's trademark MATRIX to obtain commercial gains.
- (o) Besides, given Complainant's goodwill and renown worldwide, and the nature of the disputed domain name, which is confusingly similar to





Complainant's trademark and its official domain name, it is not possible to conceive a plausible circumstance in which Respondent could legitimately use the disputed domain name, as it would invariably result in misleading diversion and taking unfair advantage of Complainant's rights.

- (p) Moreover, an email server has been configured on the disputed domain name and thus, there might be a risk that Respondent is engaged in a phishing scheme and submitted annexure 1 . Therefore, the use of an email address with the disputed domain name presents a significant risk where Respondent could aim at stealing valuable information such as credit cards from Complainant's clients or employees. Such risk has been recognized by prior Panel (WIPO Case No. D2017-1225, Accor SA v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Yogesh Bhardwaj).
- (q) Therefore, it is more likely than not, that Respondent's primary motive in registering and using the disputed domain name was to capitalize on or otherwise take advantage of Complainant's trademark rights, through the creation of initial interest of confusion.
- (r) Finally, we would like to emphasize the fact that the initial Respondent, Sugarcane Internet Nigeria Limited, most likely to be the current owner of the disputed domain name, is a well-known cyber-squatter that has been the subject of a number of UDRP proceedings. Find below a few examples of the proceedings that have been instituted against the Respondent:
- WIPO Case No. D2020-0991, CSC Brands LP v. Domain Admin, Privacy Protect, LLC / YabaniEze, Sugarcane Internet Nigeria Limited
  - WIPO Case No. D2020-1779, Sanofi v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / YabaniEze, Sugarcane Internet Nigeria Limited
  - WIPO Case No. DCO2021-0014, Anda, Inc v. YabaniEze
  - WIPO Case No. DCO2020-0045, Barrett Steel Limited v. Privacy Protect, LLC (PrivacyProtect.org) / YabaniEze, Sugarcane Internet Nigeria Limited
- (s) Furthermore, Complainant has filed multiple complaints against 10 additional domain names typo squatting its official domain name and presenting similar circumstances in which they were registered and



used as the present disputed domain name, including their structure, registrant, direction and presence of email servers, proving Respondent has registered and used the disputed domain names in bad faith as it is not plausible it was not aware of the Complainant's trademark MATRIX.

(t) Therefore, it can be deduced that Respondent registered the domain name to prevent Complainant from using its trademarks in the disputed domain name. According to former panel, this type of conduct constitutes evidence of Respondent's bad faith (WIPO Case No. D2009-0242, L'oreal v. Chenxiansheng).

(u) Consequently, in view of the above, it is established that Respondent both registered and uses the domain name <matrixprofessionnel.in> in bad faith in accordance with Paragraph 6 of the Policy.

**(13) Other Legal Proceedings:**

The Complainant is hereby filing this Complaint in relation to the Disputed Domain Name (i.e.) www.dailyshopify.in and confirms that no other proceedings have been initiated or are pending between the parties to this Complaint.

**(14) Remedy Sought:**

In accordance with Paragraph 11 of the Policy, the Complainant requests the Arbitrator appointed in this administrative proceeding to transfer the Disputed Domain Name to the Complainant.

**RESPONSE BY THE RESPONDENT**

(15) Respondent failed to submit the required documents (Statement of Defense) within the time limit mentioned in mail dated 01.06.2022 and 25.06.2022 i.e. 23.06.2022 & 01.07.2022 respectively, therefore the Respondent lost their right to entertain it and It was also informed to all concerning vide AT mail dated 03.07.2022 that the proceeding of this case is kept closed for award and the



matter would be decided ex-parte on the basis of the material on record with this tribunal as per INDRP policy .

### **REJOINDER BY THE COMPLAINANT**

- (16) Since Respondent failed to file the Statement of Defense , so there is no question of submitting the Rejoinder by the Complainant.

### **DISCUSSION AND FINDINGS**

- (17) After going through the correspondence, this AT comes to the conclusion that the Arbitral Tribunal was properly constituted and appointed as per Clause 5 of the INDRP Rules of Procedure and Respondent has been notified of the complaint of the Complainant.
- (18) Respondent was given enough opportunity to submit Reply of Complaint (Statement of Defense) by 23.06.2022 & 01.07.2022. But Respondent failed to submit the same within said time limit , therefore the Respondent had lost their right to entertain it. The proceeding of this case was kept closed for award on 03.07.2022 and the matter is be decided ex-parte on the basis of the material on record with this Tribunal as per INDRP policy.
- (19) Under Clause 4, of the .IN Domain Name Dispute Resolutions policy (INDRP), the Complainant has filed a complaint to .IN Registry on the following premises:
- (a) the Registrant's domain name is identical or confusingly similar to a Name , Trademark or Service Mark in which the Complainant has rights; and
  - (b) the Registrant's has no rights or legitimate interest in respect of the domain name; and
  - (c) The Registrant's domain name has been registered or is being used either in bad faith or for illegal/unlawful purpose





- (20) **The Registrant's domain name is identical or confusingly similar to a Name , Trademark or Service Mark in which the Complainant has rights:**

**Facts & Findings**

On the basis of the referred Awards of WIPO & INDRP cases , other above mentioned facts by Complainant and due to non submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established 4(a) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

- (22) **The Registrant's has no rights or legitimate interest in respect of the domain name:**

**Facts & Findings**

On the basis of the referred Awards of WIPO & INDRP cases , other above mentioned facts by Complainant and due to non submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(b) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

- (23) **The Registrant's domain name has been registered or is being used either in bad faith or for illegal/unlawful purpose:**

**Facts & Findings**

On the basis of the referred Awards of WIPO cases, other above mentioned facts by Complainant and due to non submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(c) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.



## **(24) ARBITRAL AWARD**

I, **Rajesh Bisaria**, Arbitrator, after examining and considering the pleadings and documentary evidence produced before and having applied mind and considering the facts, documents and other evidence with care, do hereby publish award in accordance with Clause 5,17 and 18 of the INDRP Rules of Procedure and Clause 11 of .IN Domain Name Dispute Resolution Policy (INDRP), as follows:

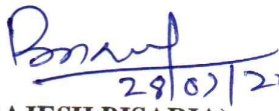
*Arbitral Tribunal orders that the disputed domain name  
www.matrixprofessionnel.in be forthwith TRANSFERRED from  
Respondent to Complainant.*

*Further AT takes an adverse view on the bad faith registration of impugned domain by the Respondent and to restrict the act for future misuse, fine of Rs 10000/- (Rs Ten thousand only) is being imposed on the Respondent, as per the provision in clause 11 of .IN Domain Name Dispute Resolution Policy (INDRP) to be paid to .IN Registry for putting the administration unnecessary work.*

AT has made and signed this Award at Bhopal (India) on 28.07.2022 (Twenty Eighth Day of July, Two Thousand Twenty Two).

**Place: Bhopal (India)**

**Date: 28.07.2022**

  
28/07/2022  
**(RAJESH BISARIA)**  
Arbitrator

