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BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME DISPUTE RESOLUTION POLICY

INDRP ARBITRATION

THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]

INDRP CASE NO: 1552

ARBITRAL TRIBUNAL CONSISTING OF SOLE ARBITRATOR

SRIDHARAN RAJAN RAMKUMAR ADVOCATE,

DELHI HIGH COURT

COMPLAINT UNDER .IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

IN THE MATTER OF:

L'Oreal,
14 rue Royale.
75008 Paris
France ...Complainant

Versus

Domain Administrator
4 Akanbi Danmole Street off Ribadu Road
Ikoyi 101233
Lagos, Nigeria ...Respondent

ARBITRATION AWARD

I. THE PARTIES:

1. COMPLAINANT

The Complainant in this administrative proceeding is L'Oréal, a French industrial group specialized in the field of cosmetics, having its registered office at 14 rue Royale, 75009 Paris, France, which has filed the present complaint under rules framed under the INDRP.

The Complainant's authorized representative / counsel in this administrative proceeding is:

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

2. RESPONDENT

In the original complaint, it was stated that the Respondent's details are no longer available, but Respondent until recently identified as Sugarcane Internet Nigeria Limited. The copies of the printout of the database searches conducted on July 29, 2021 and April 20, 2022 were provided as **Annex-1**. The Complainant was, as a result, provided details about the Respondent / Registrant of the Disputed Domain Name from NIXI vide email dated May 31, 2022. A copy of the complete WHOIS details of the Respondent/Registrant as provided by NIXI was annexed with the amended Complaint and marked as **Annex-1.**

The Respondent's contact details are:

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

The Respondent did not engage any counsel / advocate in the present administrative proceeding and neither did the Respondent file any reply to the instant domain complaint. Hence, this Complaint has been proceeded *ex-parte*.

II. THE DOMAIN NAME AND REGISTRAR:

The Disputed Domain Name is: www.matrixprofeesional.in

The Disputed Domain Name is registered with IN Registry.

The accredited Registrar of the Disputed Domain Name is GoDaddy.com.

The Registrar's contact information is as under:
GoDaddy.com, LLC
2155 E GoDaddy Way
85284 Tempe Arizona
United States
Ph: +1.4805058800
Dynadot Staff
Email: legal@godaddy.com;

A screen capture of the website being hosted at the disputed domain name was annexed with the Complaint and marked as **Annex-1**.

III. PROCEDURAL HISTORY:

May 12, 2022	Date of Complaint
May 31, 2022	Sole Arbitrator appointed to adjudicate the dispute
June 01, 2022	Arbitral proceedings were commenced by sending notice to Respondent through email as per Paragraph 4(c) of INDRP Rules of Procedure, marking copy of the same to Complainant's authorized representative and to the .IN Registry to file response to the Complaint within 15 days of receipt of the same.
June 16, 2022	Pleadings completed as Respondent failed and neglected to file its response to the domain complaint within 15 days' time period which commenced on June 01, 2022.

Hence this award is proceeded with on basis of the available pleadings and documents only.

IV. JURISDICTIONAL BASIS FOR THE ARBITRATION PROCEEDING

It was submitted that this dispute is properly within the scope of the Policy and the Arbitrator has jurisdiction to decide the dispute. It was submitted that the registration agreement, pursuant to which the domain name that is the subject of this Complaint is registered, incorporates the Policy. It was submitted that the domain name in dispute has been registered since July 18, 2021. The details of domain name Registrar and a copy of the Domain Registration Agreement were annexed with the amended Complaint and marked as **Annex-2.** It was submitted that according, the registrant has agreed to be bound by the .IN Domain Name Dispute Resolution Policy.

V. FACTUAL AND LEGAL BACKGROUND:

It was submitted that the Complainant, L'Oréal, is a French industrial group specialized in the field of cosmetics and beauty and is the first cosmetics group worldwide. The Complainant submitted that it was created in 1909 by a French chemist by the same name, L'Oréal, and is today one of the world's largest groups in the cosmetics business. It was submitted that the Complainant has a portfolio of 36 brands, employs 86,000 employees, and is present in 150 countries. Documents pertaining to and evidencing the Complainant's portfolio and its worldwide presence were annexed with the amended Complaint and marked as **Annex-3**.

It was submitted that the Complainant 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. It was submitted that the Complainant's brands, are managed within the group by divisions that each have expertise in their own distribution channel. It was submitted that this organization is one of L'Oréal's major strengths. It was submitted that it is this organization of the Complainant which makes it possible to respond to every consumer's expectation according to their habits and lifestyle but also to adapt to local distribution conditions, anywhere in the world. Documents in support of such of Complainant's assertions were attached with the Complaint and marked as **Annex-3**.

The Complainant submitted that MATRIX, a leading professional haircare and hair color company in the United States, is part of the L'Oreal USA's Professional Products Division of the Complainant. It was submitted that MATRIX is well known around the world, including India whose products are promoted on the official website https://www.matrixprofessional.in/. Copy of relevant extract from the said website https://www.matrixprofessional.in/ were annexed with the complaint and marked as **Annex-3**.

It was submitted that Matrix was founded in 1980 by the American husband and wife hairdressing team, Arnie and Sydell Miller. It was submitted that before he founded Matrix, Mr. Miller was a hairdresser for over 20 years. It was submitted that Mr. Miller formed a firm, Ardell, to market the product to retailers and to beauty salons. It was submitted that this firm Ardell eventually created and sold a hair color product. It was submitted that 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 haircare buyers. It was submitted that Millers, through their brand Matrix, 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.

Thereafter, the Complainant submitted, that over two decades later, the Millers' original ideas still stands strong, and Matrix is committed to the development of the salon professional, offering a wide range of haircare, haircolor 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. Images of the Complainant's products from the said website were annexed with the Complaint and marked as **Annex-3**.

It was submitted that the Complainant's attention was drawn by the registration of the disputed domain name <**MATRIXPROFEESIONAL.IN**> which entirely reproduces the Complainant's trademark MATRIX and associate it with the misspelt generic term "profeesional" which does not prevent any likelihood of confusion. It was submitted that this term "professonal" along with the extension ".in" increases the likelihood of confusion since it targets directly Complainant's field of activity. It was submitted that Internet users

may be led into believing that the domain name is endorsed by Complainant or that it will direct them to an official website displaying Complainant's products intended for the Indian market.

It was submitted that the disputed domain name redirects Internet users towards a parking page displaying sponsored links related to hair products, directly targeting Complainant's field of activity. Copy of screen captures from the said website hosted at the disputed domain name were filed with the Complaint and marked as **Annex-1**.

It was submitted that having performed the initial research, the Complainant established that the registrant of the disputed domain name was Sugarcane Internet Nigeria Limited, a well-known cybersquatter **(Annex-1)** whose details were later on redacted for privacy. It was submitted that even though the registrant's information is currently not available, the registration date and time of the domain name remains unaltered, leading to a conclusion the Respondent is still the same entity as it was on the Whois search performed on July 29, 2021.

It was submitted that additionally, the following email server is configured on the disputed domain name <MATRIXPROFEESIONAL.IN>: mail.mailerhost.net 34.212.133.129, increasing in that way the risk of potential phishing activities. Copy of document in support of the said assertion of the Complainant was annexed with the Complaint and marked as **Annex-1**.

It was further submitted that before starting the present proceeding, Complainant made some efforts to resolve this matter amicably. It was submitted that having performed the preliminary research, Complainant sent a cease-and-desist letter to Respondent on July 30, 2021, asserting its trademark rights and asking the Respondent to cease the use of the domain name <matrixprofeesional.in>, as well as to proceed with the transfer of the disputed domain name to Complainant free of charge. It was submitted that considering that Respondent's details are masked under the privacy service, the letter was sent to the attention of the owner of the domain name through the registrar, along with the online form available. It was submitted that having sent several reminders, the only response received by the Complainant was the Registrar's automated message denying further assistance with claims regarding the wording of a registered domain name and advising to further pursue a

UDRP dispute. Respondent failed to provide any response. Copies of the cease-and-desist letters and reminders sent by the Complainant to the Respondent and the Complainant's communication with the Registrar were filed with the Complaint and collectively marked as **Annex-6**.

It was submitted that considering the lack of responsiveness from both the registrar and Respondent, Complainant has exhausted all means available to resolve this matter.

It was submitted that as no amicable settlement could be found, Complainant had no other choice but to initiate an INDRP procedure against Respondent in order to obtain the transfer of the disputed domain name and to eradicate any additional risk of illegal and infringing use of the disputed domain name.

The Complainant relied upon the following grounds in support of the Complaint and its claim that the disputed domain name has been adopted in *malafide* manner:

1. **The domain name is identical or confusingly similar to a trademark in which the Complainant has rights;**

   (Policy, para 44 (i); Rules, para 3(b)(vi)(1))

   (i) It was submitted that the Complainant and its MATRIX trademarks enjoy a worldwide reputation. It was submitted that the Complainant owns numerous MATRIX trademark registrations around the world, as well as in India. The Complainant provided a list of a few of its trademark registrations under the mark MATRIX, whose details are as under:

S. no.	Trademark	Application no.	Class	Date of Application	Status
1.	MATRIX (word)	534128	3	26/07/1990	Registered
2.	MATRIX WAVE SENSATION (word)	2232311	3	11/11/2011	Registered

That the Complainant also cited its international trademark in support of the Complaint for the word mark MATRIX with registration no. 776942 dated 20/02/2002 designating inter alia Australia, China, Singapore, Tajikistan and covering goods in Class 3.

(ii) It was submitted that the Complainant operates (directly or through its US subsidiary) the following domain names reflecting its trademarks in order to promote its goods / services:

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

(iii) It was submitted that the disputed domain name <matrixprofeesional.in> is virtually identical or at least confusingly similar to Complainant's prior trademarks MATRIX and the official domain name <matrixprofessional.in>.

(iv) It was submitted that the disputed domain name <matrixprofeesional.in> reproduces Complainant's trademark MATRIX in its entirety. It was submitted that in many decisions, INDRP as well as UDRP Panels have considered in the past 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. Reliance was sought to be placed on WIPO Case No. D2013-0150 titled *Swarovski Aktiengesellschaft v. Mei Xudong*; INDRP Case No. INDRP/887 for the domain name *<colgate.in>* decided on May 26, 2017, and the INDRP Case No. INDRP/741 for the domain name *<goodyear.in>* decided on February 8, 2016).

(v) It was submitted that in many decisions, it was 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.

(vi) Likewise, the Complainant submitted, that the disputed domain name <matrixprofeesional.in> is almost identical to Complainant's domain name <matrixprofessional.in> differing only in one letter, 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. It was submitted that the difference does not significantly affect the appearance or pronunciation of the domain name. It was submitted that this practice is commonly referred to as "typosquatting" and creates virtually identical and/or confusingly similar marks to the Complainant's trademark. In support of the assertions in this paragraph, the Complainant relied upon the following cases: 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*).

(vii) The Complainant further submitted that 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." The Complainant relied upon the following cases in support of its averments in this paragraph: 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*, and WIPO Case No. D2015-2333, *Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd.*

(viii) It was submitted that the structure of the disputed domain name **<matrixprofeesional.in>** is confusingly similar to the MATRIX trademark in that it reproduces entirely Complainant's trademark associated with the

misspelled generic term "profeesional" and the mere addition of the extension ".in", which does not mitigate any possible confusion. It was submitted that 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 was submitted that the addition of the misspelled term "professional" also strongly reminds consumers of Complainant's trademark "L'OREAL PROFESSIONAL".

(ix) It was submitted that the disputed domain name <matrixprofeesional.in> has been registered in the TLD ".in". It was submitted that 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. It was submitted that it was 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. The Complainant cited 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 in support of its submissions under this paragraph.

(x) It was submitted that the Complainant uses the trademark MATRIX in connection with a wide variety of products and services around the world, as evidenced from the documents annexed by the Complainant along with Complaint and marked as **Annexes 3 and 4**. It was submitted that consequently, the public has learnt to perceive the goods and services offered under these trademarks as being those of Complainant. It was submitted that the public would reasonably assume that the disputed domain name belongs to Complainant or is at least, related to Complainant.

(xi) It was submitted that accordingly, with the registration of the disputed domain name, the Respondent created a likelihood of confusion with Complainant's trademarks. It was submitted that 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.

(xii) It was submitted that for all of the above-mentioned reasons, it was clear 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.

2. **Respondent has no rights or legitimate interests in respect of the domain name;**

(Policy, paras. 4 (ii) and 7; Rules, para. 3(b)(vi)(2))

(i) It was submitted that the 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. It was submitted that the Respondent is also not known by the name of MATRIX.

(ii) It was submitted that 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 *bonafide* or legitimate use of the domain name could reasonably be claimed. The following cases were cited by the Complainant in support of the above assertions: WIPO Case No. D2013-0188, *Groupe Auchan 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*.

(iii) It was submitted that the Respondent has no prior rights or legitimate interests in the disputed domain name. It was submitted that the registration of the MATRIX trademarks preceded the registration of the disputed domain name for years, as would be evident from the **Annexes 1 and 4** annexed along with the Complainant.

(iv) It was submitted that the domain name in dispute is virtually identical to the Complainant's MATRIX trademark and the official domain name

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<**MATRIXPROFESSIONAL.IN**> so Respondent cannot reasonably pretend it was intending to develop a legitimate activity through the disputed domain name. It was submitted that 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.

(v) It was submitted that the 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. It was submitted that the disputed domain name resolves to a parking page displaying commercial links relating to cosmetic products directly targeting Complainant's field of activity. Screen-captures from the website being hosted at the disputed domain name were annexed with the Complaint and marked as **Annex-1**. It was submitted that the Respondent has failed to show that the non-commercial intention or the fair use of the disputed domain name. It was submitted that it is most likely to be believed that Respondent has no legitimate interest or rights in the disputed domain name.

(vi) It was also submitted that the domain name in dispute directs Internet users to a parking page with pay-per-clicks which are likely to generate revenues. It was submitted that as a matter of fact, it cannot be inferred that the Respondent is making a legitimate non-commercial or fair use of disputed domain name. The Complainant relied upon WIPO Case No. D2009-1529, *Société nationale des télécommunications: Tunisie Telecom v. Ismael Leviste,* INDRP Case No. INDRP/167 <*lazard.in*> decided on November 30, 2010.

(vii) It was submitted that the 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. It was submitted that such circumstances described above, 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. It was submitted that the 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. In this regard, the Complainant relied upon WIPO Case No. D2001-0903, *Oki Data Americas, Inc. v. ASD, Inc.*

(viii) It was submitted that an email server has also been configured on the disputed domain name **<MATRIXPROFEESIONAL.IN>** and thus, there might be a risk that Respondent is engaged in a phishing scheme. It was submitted that the disputed domain name is not used in any type of legitimate business or services.

(ix) It was submitted that additionally, Respondent never answered to Complainant's letter which was attached with the Complaint and marked as **Annex-6** despite Complainant's reminders and best efforts. It was submitted that 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. In this regard, the following cases were relied upon by the Complainant WIPO Case No. D2010-1017, *AREVA v. St James Robyn*; WIPO Case No. D2003-0269, *Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*.

(x) It was submitted that 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 was not possible to conceive a plausible circumstance in which the Respondent could legitimately use the disputed domain name, as it would invariably result in misleading diversion and taking unfair advantage of Complainant's rights.

(xi) It was submitted that for all of the above-cited reasons, it was undoubtedly established that Respondent has no rights or legitimate interests in respect of the domain name in dispute under Paragraph 4(a)(ii) of the Policy.

3. **<u>The domain name has been registered or is being used in bad faith.</u>**

(Policy, paras. 4 (iii) and 6; Rules, para. 3(b)(vi)(3))

(i) It is was submitted that it was implausible that the Respondent was unaware of the Complainant when he registered the disputed domain name. It was submitted that 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. The following cases were cited by the Complainant in support of this ground: 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*.

(ii) It was submitted that firstly, the Complainant is well-known throughout the world, including Africa and India, as was evident from **Annexes 3 and 4**. Secondly, the Complainant submitted that the disputed domain name reproduces entirely Complainant's trademark MATRIX and associates it with the misspelled generic term "profeesional", which could be seen from the screen-capture of the website at the disputed domain name which was filed with the Complaint and marked as **Annex-1**. It was submitted that therefore, it was impossible that the Respondent was not aware of Complainant's trademarks and activities at the time of the registration of the disputed domain name. It was submitted that this was even more so evident considering the fact that the disputed domain name is virtually identical to Complainant's official domain name <matrixprofessional.in> differing only in one letter, 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. It was submitted that this difference does not significantly affect the appearance or pronunciation of the domain name. It was submitted that this practice is commonly referred to as "typosquatting" and creates virtually identical and/or confusingly similar marks to the Complainant's trademark. The COmplaianant cited the following cases in support viz. 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*.

(iii) It was submitted that 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.

The Complainant relied upon the cases viz. WIPO Case No. D2010-0494, *LEGO Juris A/S v. Reiner Stotte*, WIPO Case No. D2006-0303 *Sanofi-Aventis v. Nevis Domains LLC*. It was submitted that thus, given the reputation of the MATRIX trademarks, registration in bad faith can be inferred.

(iv) It was submitted that moreover, a quick MATRIX trademark search would have revealed to Respondent the existence of Complainant and its trademarks. It was submitted that the Respondent's failure to do so is a contributory factor to its bad faith. In this regard, the Complainant cited WIPO Case No. D2008-0226, *Lancôme Parfums et Beauté & Cie, L'Oréal v. 10 Selling*.

(v) It was submitted that 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" would demonstrate that all first results relate to Complainant's field of activities or news. Screen-captures of the Google search of the keyword "matrix professional" were attached with the Complaint and marked as **Annex-7**.

(vi) It was submitted that in this day and age of the Internet and advancement in information technology, the reputation of brands and trademarks transcends national borders. It was submitted that taking into account the worldwide reputation of Complainant and its trademarks, 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.

(vii) It was submitted that 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. In this regard, the Complainant relied upon the following cases: 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*.

(viii) The Complainant submitted that 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. Reliance in this regard was placed on WIPO Case No. D2008-0287, *Alstom v. Domain Investments LLC*; WIPO Case No. D2007-0077, *NBC Universal Inc. v. Szk.com*.

(ix) It was submitted that 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 *bonafide* or legitimate use of the domain name could reasonably be claimed. The Complainant in this regard relied upon the cases WIPO Case No. D2000-0055, *Guerlain S.A. v. Peikang*; WIPO Case No. D2008-0281, *Alstom, Bouygues v. Webmaster*.

(x) It was submitted that can be presumed that many Internet users attempting to visit Complainant's website may have ended up on the site of Respondent. It was submitted that 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*". The Complainant relied upon 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*.

(xi) The Complainant submitted that as previously indicated, there was little doubt in this case that, at all times, the Respondent was not aware that MATRIX enjoyed a substantial reputation worldwide. It was submitted that in light of this knowledge, the Respondent used the disputed domain name **<MATRIXPROFEESIONAL.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. It was submitted that the 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.

(xii) It was submitted that the Respondent's use of a domain name that is confusingly similar to the trademark MATRIX may also prevent Internet users from accessing the Complainant's official website by confusing prospective users.

(xiii) It was submitted that the Respondent is taking undue advantage of Complainant's trademark to generate profits. It was submitted that 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. The Complainant relied upon the cases viz. 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*.

(xiv) It was submitted that 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.

(xv) It was submitted that given the 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.

(xvi) It was also submitted that 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. It was submitted that 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. It was submitted that such risk has been recognised by prior Panels in the cases 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.

(xvii) It was submitted that it is more likely than not that Respondent's primary motive in registering and using the disputed domain name was to capitalise on or otherwise take advantage of Complainant's trademark rights, through the creation of initial interest of confusion.

(xviii) The Complainant finally emphasizes on 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. The Complainant cited a few examples of the proceedings that have been instituted against Sugarcane Internet Nigeria Limited:

a. WIPO Case No. D2020-0991, CSC Brands LP v. Domain Admin, Privacy Protect, LLC / Yabani Eze, Sugarcane Internet Nigeria Limited
b. WIPO Case No. D2020-1779, Sanofi v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Yabani Eze, Sugarcane Internet Nigeria Limited
c. WIPO Case No. DCO2021-0014, Anda, Inc v. Yabani Eze
d. WIPO Case No. DCO2020-0045, Barrett Steel Limited v. Privacy Protect, LLC (PrivacyProtect.org) / Yabani Eze, Sugarcane Internet Nigeria Limited

(xix) It was submitted that the Complainant has filed multiple complaints against 10 additional domain names which were typosquatting 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 that the 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.

(xx) It was submitted that it can be deduced that Respondent registered the disputed domain name to prevent Complainant from using its trademarks in the disputed domain name. It was submitted that according to former panel, this type of conduct constitutes evidence of Respondent's bad faith, in terms of the decision in WIPO Case No. D2009-0242, *L'oreal v. Chenxiansheng*.

(xxi) The Complainant lastly submitted that consequently, in view of the above, it was established that the Respondent both registered and uses the domain name **<matrixprofeesional.in>** in bad faith in accordance with Paragraph 6 of the Policy.

V. PARTIES CONTENTIONS:

1. COMPLAINANT

a. The disputed domain name is virtually identical or at least confusingly similar to the Complainant's prior used and prior registered MATRIX trademarks and the official domain name WWW.MATRIXPROFESSIONAL.IN.

b. The disputed domain name reproduces the Complainant's trademark MATRIX trademark in its entirety.

c. The disputed domain name differs www.matrixprofeesional.in from the Complainant's domain name www.matrixprofessional.in by only one letter.

d. The Respondent / Registrant of the disputed domain name has committed typosquatting by virtue of obtaining registration over the disputed domain name.

e. The structure of the disputed domain name is confusingly similar to the MATRIX trademark as it entirely reproduces the Complainant's trademark with the mere addition of misspelt generic term "professional".

f. The public has learnt to perceive the goods and services offered under the MATRIX trademarks of the Complainant as being those of the Complainant and the public would reasonably assume that the disputed domain name belongs to the Complainant, or is at least, related to the Complainant.

g. The Respondent has no rights or legitimate interests in respect of the domain name

h. The Respondent / Registrant is neither affiliated with the Complainant nor has he been authorized or licensed by the Complainant to use and register its trademarks

or seek registration of any domain name incorporating the previously mentioned trademark.

i. The Respondent is not known by the name of MATRIX.

j. The registration of MATRIX trademarks of the Complainant preceded the registration of the disputed domain name for years.

k. The composition of the disputed domain name constitutes clear evidence that the Respondent wishes to give an overall impression that the disputed domain name is related to the Complainant.

l. The Respondent is not making a legitimate non-commercial or fair use of the disputed domain name as it directs Internet users to a parking page with pay-per-clicks which are likely to generate revenues.

m. There is possibility that the Respondent is engaged in a phishing scheme discernible from the fact that an email server has been configured on the disputed domain name.

n. It is not possible to conceive a plausible circumstance in which Respondent could legitimately use the disputed domain name.

o. The usage of the disputed domain name would invariably result in misleading diversion and taking unfair advantage of the Complainant's rights.

p. The Respondent registered the disputed domain name in bad faith as he was or should have been aware of the Complainant's rights in the MATRIX trademarks as the Complainant is well-known in Africa and India.

q. That in the absence of any license or permission from the Complainant to use its widely-known MATRIX trademarks, no actual or contemplated bona fide or legitimate use of the disputed domain name can reasonably claimed by the Registrant.

r. The Respondent's use of the disputed domain name that is confusingly similar to the trademark MATRIX can prevent Internet users from accessing Complainant's official website by confusing prospective users.

s. The Respondent is taking undue advantage of Complainant's trademark to generate profits.

2. RESPONDENT

The Respondent did not file its reply to contest the claims of the Complainant and thus this award is based on pleadings and documents filed by the Complainant only.

VI. DISCUSSION AND FINDINGS:

The INDRP (.IN Domain Name Dispute Resolution Policy), adopted by NIXI, provides that a domain name owner must transfer its domain name registration to a complainant/trademark owner if:

i. The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
ii. The Registrant has no rights or legitimate interests in respect of the domain name; and
iii. The Registrant's domain name has been registered or is being used in bad faith.

I have gone through the pleadings i.e., the Complaint filed by Complainant. I have also gone through documents filed by the Complainant with the Complaint. After giving due consideration to pleadings, documents, facts and legally settled principles, I hold that in the present case all three requirements for transfer of the disputed domain name have been met. I further hold that the disputed domain name of the Respondent is visually, phonetically, structurally and conceptually deceptively similar to the trademark and domain name of the Complainant over which the Complainant, who is prior adopter, prior user and registered proprietor of the 'MATRIX' trademarks as well as the domain names with the word MATRIX and MATRIX PROFESSIONAL, thus having absolute and sole rights. Consequently, I hold that the Respondent does not have any rights or legitimate interest over the Disputed Domain Name www.matrixprofeesional.in and hence the same needs to be transferred to the Complainant. I hold that the trade mark MATRIX and the domain name www.matrixprofessional.in is solely and exclusively associated and recognized with the Complainant. I hold that due to such exclusive association of the MATRIX trademarks and the Complainant's official domain name www.matrixprofessional.in with the Complainant, the Complainant alone has the rights to utilize the combination of words MATRIX PROFESSIONAL as a domain name with the .IN Registry and any misspelt version of the words MATRIX PROFESSIONAL does not entitle any third party to obtain registration over the domain name which so nearly resembles the Complainant's domain name www.matrixprofessional.com as to give rise to a possibility of confusion or deception. I hold that the Respondent is not entitled to register the disputed domain name

as the Respondent has failed to establish any right over the MATRIX PROFEESIONAL word as well as the disputed domain name www.matrixprofeesional.in. I hold that the disputed domain name, although differing from the Complainant's prior domain name www.matrixprofessional.com by a single letter, is not sufficient to differentiate it from the Complainant's MATRIX trademarks or the Complainant's prior domain name.

I note that although the Complainant has two trademark registrations for the word "MATRIX" and "MATRIX WAVE SENSATION" in India, and a Madrid division trademark for the word "MATRIX" designating many countries, the Complainant lacks registration over the exact expression / word combination "MATRIX PROFESSIONAL" used by the Registrant in the disputed domain name. However, I also note that despite that being the case, the Complainant does have registrations over the domain names www.matrix.com, www.matrixprofessional.in and www.matrixprofessional.com where the Complainant hosts its official websites which have been registered since 13/04/1990, 24/03/2016 and 29/06/2012 respectively. I note that the absence of trademark registration over the word combination MATRIX PROFESSIONAL does not cause any prejudice to the Complainant in respect of his action against the disputed domain name as the Complainant has acquired substantial rights in the same by virtue of its prior registered and long-used official domain names www.matrix.com, www.matrixprofessional.in and www.matrixprofessional.com. I hold that the Complainant alone has the right to use the word combination MATRIX PROFESSIONAL as a part of a domain name / website. I hold that the disputed domain name being <matrixprofeesional.in> differs from the Complainant's domain <matrixprofessional.in> by only a single letter which makes it identical to the Complainant's domain name. Hence, the present case satisfies all the requirements for the transfer of the disputed domain name to the Complainant.

A. The domain name is identical or confusingly similar to a trademark in which the Complainant has rights;

(Policy, para 44 (i); Rules, para 3(b)(vi)(1))

I hold that the Complainant has successfully demonstrated by way of its Complaint that the Disputed Domain Name **<MATRIXPROFEESIONAL.IN>** is identical and / or confusingly similar to the Complainant's prior trademarks MATRIX and the official domain name <matrixprofessional.in> for the following reasons:

i. I find that the Complainant and its MATRIX trademarks enjoy a worldwide reputation. I note that the Complainant owns numerous MATRIX trademark registrations around the world, as well as in India which have reproduced in paragraph no. VI(1)(i) above. I also find that the Complainant operates (directly or through its US subsidiary) the domain names reflecting its trademarks in order to promote its goods / services, which have been reproduced in the paragraph no. VI(1)(ii) of this Award.

ii. I find that the disputed domain name domain name <matrixprofeesional.in> reproduces the Complainant's trademark MATRIX in its entirety. I find that many previous INDRP and UDRP Panels have concluded in the past that the incorporation of a trademark in its entirety may be sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered trademark.

iii. I hold that since it is an established principle 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", the disputed domain name can be validly said to be identical and / or deceptively similar to the Complainant's MATRIX trademarks and prior domain name <matrixprofessional.in>.

iv. I find that the disputed domain name <matrixprofeesional.in> is almost identical to the Complainant's domain name <matrixprofessional.in> differing only in one letter, 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. I find that the difference of the single letter does not significantly affect the appearance or pronunciation of the domain name.

v. I find that the present proceeding squarely falls under the clear mandate of section 1.9 of the WIPO Jurisprudential Overview 3.0 which reads as "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."

vi. I further find that the structure of the disputed domain name **<matrixprofeesional.in>** is confusingly similar to the MATRIX trademark in that it reproduces entirely Complainant's trademark associated with the misspelled generic term "profeesional" and the mere addition of the extension ".in", which does not mitigate any possible confusion. I find that this, on the contrary, 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. I find that the addition of the misspelled term "profeesional" may also strongly remind consumers of Complainant's trademark "L'OREAL PROFESSIONAL".

vii. I find that the disputed domain name <matrixprofeesional.in> has been registered in the TLD ".in". I find that 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. I find that it was 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.

viii. I find that the Complainant uses the trademark MATRIX in connection with a wide variety of products and services around the world., as evidenced from the documents annexed by the Complainant along with Complaint and marked as **Annexes 3 and 4**. I find credence in the Complainant's submission that consequently, the public has learnt to perceive the goods and services offered under these trademarks as being those of Complainant. Hence, I find that the public would reasonably assume that the disputed domain name belongs to Complainant or is at least, related to Complainant.

ix. I find that the by the registration of the disputed domain name, the Respondent created a likelihood of confusion with Complainant's trademarks and it is highly 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.

x. Therefore, in view of the abovesaid findings, I hold that the conditions under Paragraph 4(a) of the INDRP stand suitably established.

B. <u>Respondent has no rights or legitimate interests in respect of the domain name;</u>

(Policy, paras. 4 (ii) and 7; Rules, para. 3(b)(vi)(2))

I hold that the Complainant has successfully demonstrated by way of its Complaint that the Respondent has no right or legitimate interest in the disputed domain name <matrixprofeesional.in> for the following reasons:

i. I find that the 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. I find that the Respondent is also not known by the name of MATRIX.

ii. I find that in a number of previous WIPO decisions such as WIPO Case No. D2013-0188, *Groupe Auchan v. Gan Yu* and WIPO Case No. D2010-0138, *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master,* to name a few, Panels have found that in the absence of any license or permission from the Complainant to use such widely known trademarks, no actual or contemplated *bonafide* or legitimate use of the domain name could reasonably be claimed.

iii. I find that the Respondent has no prior rights or legitimate interests in the disputed domain name. I find that the registration of the MATRIX trademarks preceded the registration of the disputed domain name for years, as is evident from the **Annexes 1 and 4** annexed along with the Complainant.

iv. I find that the domain name in dispute is virtually identical to the Complainant's MATRIX trademark and the official domain name <**MATRIXPROFESSIONAL.IN**>, so the Respondent cannot reasonably pretend it was intending to develop a legitimate activity through the disputed domain name. I find that 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.

v. It is apparent that the Respondent is merely squatting over the disputed domain name to take undue advantage of when an Internet user were to misspell the Complainant's official domain name <matrixprofessional.com> on an Internet browser. Consequently, I find that the Respondent has failed to show the non-commercial intention or the fair use of the disputed domain name. Hence, I find that the Respondent has no legitimate interest or rights in the disputed domain name. I further find that it cannot be inferred that the Respondent is making a legitimate non-commercial or fair use of disputed domain name.

vi. I find that the 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. I find that such circumstances described above, and the diversion of Internet traffic to an illicit website in order to generate revenues does not represent a use in connection with a bona fide offering of goods and services. I find that the 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. In this regard, the Complainant relied upon WIPO Case No. D2001-0903, *Oki Data Americas, Inc. v. ASD, Inc.*

vii. I find that an email server has also been configured on the disputed domain name **<MATRIXPROFEESIONAL.IN>** and thus, there might be a risk that Respondent is engaged in a phishing scheme. I find that the disputed domain name is not used in any type of legitimate business or services.

viii. Additionally, I note that the Respondent failed to answer the Complainant's letter which was attached with the Complaint and marked as **Annex-6** despite Complainant's reminders and best efforts. I find that that 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.

ix. I find that given the Complainant's goodwill and renown worldwide, and the nature of the disputed domain name, which is confusingly similar to the Complainant's trademark and virtually identical to the official domain name, it is not possible to conceive a plausible circumstance in which the Respondent could legitimately use the disputed domain name, as it would invariably result in misleading diversion and taking unfair advantage of Complainant's rights.

x. I find that for all of the above-cited reasons, it was undoubtedly established that Respondent had no rights or legitimate interests in respect of the domain name in dispute under Paragraph 4(a)(ii) of the Policy.

C. **<u>The domain name has been registered or is being used in bad faith.</u>**

(Policy, paras. 4 (iii) and 6; Rules, para. 3(b)(vi)(3))

i. I find that it was implausible that the Respondent was unaware of the Complainant when he registered the disputed domain name. I find that 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.

ii. I find that the Complainant is well-known throughout the world, including Africa and India. I also find that the disputed domain name entirely reproduces the Complainant's trademark MATRIX and associates it with the misspelled generic term "PROFEESIONAL". Hence, I find that it was impossible that the Respondent was not aware of Complainant's trademarks and activities at the time of the registration of the disputed domain name. I find that this was even more so evident considering the fact that the disputed domain name is virtually identical to Complainant's official domain name <matrixprofessional.in> differing only in one letter, 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. I find that this difference does not significantly affect the

appearance or pronunciation of the domain name. I note that this practice is commonly referred to as "typosquatting" and creates virtually identical and/or confusingly similar marks to the Complainant's trademark.

iii. I find that 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. I find that given the reputation of the MATRIX trademarks, registration in bad faith can be inferred.

iv. Moreover, I also find that a quick MATRIX trademark search would have revealed to the Respondent the existence of the Complainant and its trademarks. I find that the Respondent's failure to do the above is a contributory factor to its bad faith.

v. I find that 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" would demonstrate that all first results relate to Complainant's field of activities or news.

vi. I find that in this day and age of the Internet and advancement in information technology, the reputation of brands and trademarks transcends national borders. I find that taking into account the worldwide reputation of the Complainant and its trademarks, 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.

vii. I find that it has been held in a number of previous cases such as 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* that knowledge of a corresponding trademark at the time of registration of the domain name suggests bad faith. In this regard, the Complainant relied upon the following cases.

viii. I find that many 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, as was held in the cases WIPO Case No. D2008-0287, *Alstom v. Domain Investments LLC*; WIPO Case No. D2007-0077, *NBC Universal Inc. v. Szk.com*.

ix. I find that many 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.

x. I find that it can be presumed that many Internet users attempting to visit Complainant's website may have ended up on the site of Respondent. I find that where 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*" such as in the case of 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*.

xi. I find that that there was little doubt in this case that, at all times, the Respondent was not aware that MATRIX enjoyed a substantial reputation worldwide. I find that in light of this knowledge, the Respondent used the disputed domain name **<MATRIXPROFEESIONAL.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. I find that the Respondent 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.

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xii. I find that the Respondent's use of a domain name that is confusingly similar to the trademark MATRIX may also prevent Internet users from accessing the Complainant's official website by confusing prospective users.

xiii. I find that the Respondent is taking undue advantage of Complainant's trademark to generate profits. I find that 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.

xiv. I find that a clear inference can be drawn from the Respondent's activities that its intention was to abusively benefit from Complainant's reputation and particularly from the latter's trademark MATRIX to obtain commercial gains.

xv. I find that given the 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.

xvi. I also find that 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. I find that 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.

xvii. I. find that it was more likely than not that Respondent's primary motive in registering and using the disputed domain name was to capitalise on or otherwise take advantage of Complainant's trademark rights, through the creation of initial interest of confusion.

xviii. I find that the initial Respondent, Sugarcane Internet Nigeria Limited, which is also 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. The Complainant cited a few examples of the proceedings that have been instituted against Sugarcane Internet Nigeria Limited which are as follows:

- WIPO Case No. D2020-0991, CSC Brands LP v. Domain Admin, Privacy Protect, LLC / Yabani Eze, Sugarcane Internet Nigeria Limited
- WIPO Case No. D2020-1779, Sanofi v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Yabani Eze, Sugarcane Internet Nigeria Limited
- WIPO Case No. DCO2021-0014, Anda, Inc v. Yabani Eze
- WIPO Case No. DCO2020-0045, Barrett Steel Limited v. Privacy Protect, LLC (PrivacyProtect.org) / Yabani Eze, Sugarcane Internet Nigeria Limited

xix. I note that the Complainant has filed multiple complaints against 10 additional domain names which were typosquatting 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 that the 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.

xx. Hence, I hold that the Respondent registered the disputed domain name to prevent Complainant from using its trademarks in the disputed domain name. I find that this type of conduct constitutes evidence of Respondent's bad faith, in terms of the decision in WIPO Case No. D2009-0242, *L'oreal v. Chenxiansheng*.

xxi. Therefore, I hold that it was established that the Respondent both registered and uses the domain name **<matrixprofeesional.in>** in bad faith in accordance with Paragraph 6 of the Policy.

D. <u>In view of all the above facts and well-known legal precedents, I find and hold as under:</u>

i. That the disputed domain name < **matrixprofeesional.in**> is confusingly similar to the 'MATRIX' trademarks of the Complainant as well as the Complainant's

official domain name <matrixprofeesional.in> as it reproduces the Complainant's trademark MATRIX in its entirety.

ii. The disputed domain name is identical to the Complainant's domain name and differs from it by only a single letter which would make a potential typing error by internet users likely to happen and would divert the traffic from Complainant's website to the Respondent.

iii. The Respondent has no rights or legitimate interests in the disputed domain name.

iv. The Respondent is neither affiliated with the Complainant in any way nor has he been authorized or licensed by the Complainant to use or register its trademarks or to seek registration of any domain name incorporating the previously mentioned trademark.

v. That the Respondent is not commonly known by the disputed domain name and has not acquired any trade/service mark rights to the knowledge of the Complainant, hence, the Respondent is not legitimately non-commercial and fair use of the disputed domain name.

vi. The domain name has been registered and is being used in bad faith.

vii. The Complainant is well-known throughout the world by its trademark MATRIX and domain name <matrixprofeesional.in> and the same would have been evident to the Respondent from a simple prior trademark or Google search and the Respondent's failure to do so contributes to the bad faith of the Respondent.

viii. That it is impossible to conceive of any circumstance in which Respondent could have registered the disputed domain name in good faith or without knowledge of the Complainant's rights in the MATRIX trademarks and domain names incorporating the mark MATRIX.

VII. DECISION

a) In view of the above facts and circumstances, it is clear that the Complainant has succeeded in its complaint.

b) That the .IN Registry of NIXI is hereby directed to transfer the domain name/URL of the Respondent **<MATRIXPROFEESIONAL.IN>** to the Complainant;

c) In the facts and circumstances of the case no cost or penalty is imposed upon the Respondent. The Award is accordingly passed on this 15th of July, 2022.

Mr. Sridharan Rajan Ramkumar
Sole-Arbitrator

Date: 15/07/2022