



सत्यमेव जयते

INDIA NON JUDICIAL Chandigarh Administration

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Unique Doc. Reference : SUBIN-CHCHIMPSP0772100453863936U
Purchased by : RAJESH KUMAR
Description of Document : Article 12 Award
Property Description : Not Applicable
Consideration Price (Rs.) : 0
(Zero)
First Party : SAJAL KOSER
Second Party : Not Applicable
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ARBITRATION AWARD

BEFORE SH. SAJAL KOSER, SOLE ARBITRATOR, CHANDIGARH

INDRP CASE NO. 1557 OF 2022

DISPUTED DOMAIN NAME: < MATRIXPROFESSNAL.IN >

JD 0006749180

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L'Oréal 14 rue Royale, 75008 Paris, France.

...Complainant

Versus

Domain Administrator, 4 Akanbi Danmole Street off Ribadu Road,
Ikoyi101233, Lagos, Nigeria.

...Respondent

1. **INTRODUCTION:**

The above titled complaint was submitted to the undersigned for Arbitration in accordance with the .IN Domain name Dispute Resolution Policy (the INDRP), adopted by the National Internet Exchange of India (the NIXI), and the INDRP Rules and Procedure (the Rules of Procedure).

2. **THE PARTIES:**

a) **Complainant**

The Complainant in this dispute is L'Oréal, a French Industrial Group specialized in the field of cosmetics and beauty, with its registered office located at 14 rue Royale, 75008 Paris France. Complainant's contact details are given in the Complaint and the complainant is represented through **Dreyfus & associés**, contact@dreyfus.fr.

b) **Respondent**

As mentioned in the complaint, according to the Whois database of the .IN Registry, the Respondent's details in this arbitration proceeding are no longer available, but Respondent was 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 are provided as **ANNEX 1** to the complaint. **The Complainant in the complaint has also mentioned qua an email received from National Internet Exchange of India (NIXI) and also provided all information known to the**

complainant qua the Respondent and as such has been mentioned in the Memo of Parties.

3. THE DOMAIN NAME AND REGISTRAR:

According to the Complaint, this dispute concerns the domain name **<MATRIXPROFESSNAL.IN>** registered on July 22, 2021. The registrar with whom the domain name is registered is **GoDaddy.com, LLC,** @godaddy.com.

4. PROCEDURAL HISTORY:

- i) Vide mail dated 31.05.2022, the undersigned was appointed as an Arbitrator by the NIXI to adjudicate and decide the abovementioned dispute, accordingly, thereafter, vide mail dated 04.06.2022, the undersigned submitted the Statement of acceptance and Declaration of Impartiality and Independence in the conduct of the abovementioned Complaint relating to Disputed Domain Name **<MATRIXPROFESSNAL.IN>**, as an Arbitrator.
- ii) In the meanwhile, vide mail dated 01.06.2022, the undersigned received amended complaint and annexures and subsequently, after the receipt of the proof of service of the copy of the complaint and annexures upon the Respondent, in the compliance of INDRP Rules of Procedure, vide mail dated 16.06.2022, the Notice to the respondent was issued giving 15 days to the Respondent for filing reply if any to the said complaint or else the Complaint shall be decided on the basis of the merits of the Complaint.
- iii) As no reply or response of any kind whatsoever was received from the Respondent within the stipulated period of 15 days and in fact beyond that also, vide mail dated 05.07.2022, the opportunity to the Respondent to file reply matter was closed by order and the matter was reserved for passing the Award ex-parte in terms of the merits of the Complaint.



5. **CASE OF THE COMPLAINANT:**

According to the complaint, the Complainant, L'Oréal, is a French industrial group specialized in the field of cosmetics and beauty and is the first cosmetics group worldwide. 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. Complainant further states that 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.

It is further case of the complainant that 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/>. According to the Complainant, Matrix was founded in 1980 by the American husband and wife hairdressing team, Arnie and Sydell 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. It is further mentioned in the Complaint that in 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. 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 and over next two decades Matrix flourished as a developed 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. In support of the above mentioned averments, assertions and submissions, the Complainant has annexed Annexure 3 which is the data on complainant. ***(Here the Tribunal is constrained to observe that the Complainant has not been meticulous in presenting its case, especially qua the submissions relating to the documents as the annexures have neither been properly marked nor there is page marking making it difficult for the undersigned to peruse the relevant documents in context with the submissions made. However, since, there is no rebuttal to the averments and documents, therefore, the undersigned in its discretion is accepting what is stated in the complaint and documents annexed. In view this, the undersigned is requesting NIXI, to kindly, before accepting any complaint, please see that the pages are properly marked with index and the Annexures are also appropriately marked with page numbers).***

6. **COMPLAINANT'S EFFORT TO RESOLVE THIS MATTER AMICABLY:**

It is further case of the complainant that its attention was drawn by the registration of the domain name <MATRIXPROFESSNAL.IN> which entirely reproduces its trademark MATRIX and associates it with the misspelled generic term "professnal", which does not prevent any likelihood of confusion. On the contrary, this term along with the extension ".in" increases the likelihood of confusion since it targets directly Complainant's field of activity. Therefore, 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. Further, 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. Having performed the initial research, Complainant established that the registrant of the disputed domain name was Sugarcane Internet Nigeria Limited, a well known cyber squatter (**ANNEX 1**) whose details were later on redacted for privacy. 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.

Additionally, the following email server is configured on the domain name **<MATRIXPROFESSNAL.IN>**: mail.mailerhost.net 34.212.133.129, increasing in that way the risk of potential phishing activities. The complainant relied upon Annexure 1 in support of its above submissions.

It is specific case of the complainant that before starting the present proceeding, Complainant made some efforts to resolve this matter amicably. According to the complainant having performed the preliminary research, Complainant sent a cease and desist letter to Respondent on July 30, 2021, asserting its trademark rights and asking it to cease the use of the domain name **<MATRIXPROFESSNAL.IN>**, as well as to proceed with its transfer to Complainant free of charge. 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. Having sent several reminders, the only response received 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.



Considering the lack of responsiveness from both the registrar and Respondent, Complainant has exhausted all means available to resolve this matter, therefore, 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, hence, the present complaint.

7. **THE COMPLAINT IS BASED ON FOLLOWING GROUNDS:**

A) **The domain name registered by Respondent is identical to the trademarks of Complainant**

Complainant submits that its trademark MATRIX enjoys a worldwide reputation. Complainant owns numerous MATRIX trademark registrations around the world, as well as in India. Complainant is, in particular, the owner of the following trademark registrations:-

- i) Indian trademark MATRIX n° 534128 dated July 26, 1990, duly renewed and covering goods in class 3;
- ii) Indian trademark MATRIXWAVE SENSATION n° 2232311 dated November 11, 2011, duly renewed and covering goods in class 3;
- iii) International trademark MATRIX no. 776942 dated February 20, 2002, duly renewed, designating *inter alia* Australia, China, Singapore, Tajikistan, covering goods in class 3. The complainant has annexed **Annexure 4** in support of above submissions.

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:

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

- <matrixprofessional.com>registered on June 29, 2012.

Annexure 5 in support.

It is further case of the Complainant that the disputed domain name <**MATRIXPROFESSNAL.IN**> is virtually identical or at least confusingly similar to Complainant's prior trademarks MATRIX and the official domain name <**MATRIXPROFESSIONAL.IN**>. Also, the domain name <**MATRIXPROFESSNAL.IN**> reproduces Complainant's trademark MATRIX in its entirety. Complainant submits that 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. Complainant submits that 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".

Likewise, according to the Complainant, the disputed domain name <**MATRIXPROFESSNAL.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. The omission of the letters "i" and "o" 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.



Complainant further submits 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."

Furthermore, as per the Complainant, the structure of the disputed domain name **<MATRIXPROFESSNAL.IN>** is confusingly similar to the MATRIX trademark in that it reproduces entirely Complainant's trademark associated with the misspelled generic term "professnal" 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".

It is also the case of the Complainant that the disputed domain name **<MATRIXPROFESSNAL.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.

Complainant uses the trademark MATRIX in connection with a wide variety of products and services around the world (**ANNEXES 3 and 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.

According to the Complainant, 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. And, 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.

The Complainant has referred to the following decisions in support of his case:-

WIPO Case No. D2013-0150 Swarovski Aktiengesellschaft v. mei xudong; INDRP Case No. INDRP/887 <colgate.in> decided on May26, 2017, INDRP Case No. INDRP/741 <goodyear.in> decide on February 8, 2016. 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. Invisible Registration.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.

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* (**ANNEXES 1 and 5**). 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.* 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.

B) Respondent has no rights or legitimate interests in respect of the domain name:

The Complainant under this ground has further 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. In addition, Respondent is not known by the name of MATRIX.

According to the Complainant, 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.

Also, the 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 year, as evident from **ANNEXES 1 and 4**.

Moreover, according to the Complainant, 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.

Complainant further submits, 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 (**ANNEX 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. 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.

It is also the case of the Complainant 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. 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.

Complainant added that furthermore, an email server has been configured on the disputed domain name **<MATRIXPROFESSNAL.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. Additionally, according to the Complainant, the 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.

Finally, it is submitted that 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 and 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.

Complainant has relied upon following decisions in support of his case to prove this ground:-

WIPO Case No. D 2013-0188, 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. 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. WIPO Case No. D2001-0903, Oki Data Americas, Inc. v. ASD, Inc. WIPO Case No. D2010-1017, AREVA v. St James Robyn; WIPO Case No. D2003-0269, Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim.

C) The domain name has been registered or is being used in bad faith

Under this ground, the case of the Complainant is that 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.

According to the Complainant, this is evident from the facts that firstly, Complainant is well-known throughout the world, including Africa and India (**ANNEXES 3 and 4**) and Secondly, as already submitted, the disputed domain name reproduces entirely Complainant's trademark MATRIX and associates it with the misspelled generic term "professnal" (**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. The omission of the letters "i" and "o" 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.

Complainant also 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. Thus, given the reputation of the MATRIX trademarks, registration in bad faith can be inferred. 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.

It is added 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" demonstrates that all first results relate to Complainant's field of activities or news (**ANNEX7**).

In Support of its submissions under this ground, the Complainant further submits that 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 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. The Complainant has referred to some decisions to support its case and submits 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; Also, 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. Further, 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.

As per Complainant, 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*".

Towards the end, Complainant stated that 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

<MATRIXPROFESSIONAL.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 (**ANNEX1**). 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 and in view of above there is no iota of doubt that 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 (**ANNEX1**).

Finally, Complainant states in the Complaint that 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. 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. Also, according to the complainant, besides the abovementioned submissions, 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. 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 (**Annex 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 recognised by prior Panel. Therefore, 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.

Finally, Complainant emphasized 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 / 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.*

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.

Therefore, according to the Complainant, 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.

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

In support of the above submissions and averments in support of its case, the Complainant has relied upon the following decisions:-

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. 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 (ANNEXES 1 and 5). WIPO Case No. D2010-0494, LEGO Juris A/S v. Reiner Stotte, WIPO Case No. D2006-0303 Sanofi-Aventis v. Nevis Domains LLC. WIPO Case No. D2008-0226, Lancôme Parfums et Beauté & Cie, L'Oréal v. 10 Selling. 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. WIPO Case No. D2008-0287, Alstom v. Domain Investments LLC; WIPO Case No. D2007-0077, NBC Universal Inc. v. Szk.com. WIPO Case No. D2000-0055, Guerlain S.A. v. Peikang; WIPO Case No. D2008-0281, Alstom, Bouygues v. Webmaster. 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. 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. 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. WIPO Case No. D2009-0242, L'oreal v. Chenxiangsheng.

8. RELIEF SOUGHT:

On the basis of the averments made in the Complaint as well as documents annexed, the Complainant, In accordance with Paragraph 10 of the INDRP Policy, requested that the domain name <MATRIXPROFESSNAL.IN> be transferred to L'Oréal.

9. FINDINGS:

After going through unrebutted and uncontroverted averments and submissions made in the Complaint as well as the documents annexed and also the crux of the decisions/judgements relied upon by the complainant, the undersigned is of the view that the Complainant has been able to prove the ingredients of sub paras/sub clauses (a) to (c) of Clause 4 of the INDRP dispute Resolution Policy. From the contents and grounds mentioned in the complaint, it has been proved on record that the Disputed Domain Name is not only identical to a great extent but also confusingly similar to the Trademark Matrix in which the complainant has rights. It has also been proved that the Respondent Registrant has no rights or legitimate interest in respect of the Domain name and also that the Domain name has been registered by the Respondent and is being used in bad faith. The Complainant has been able to prove its case in terms of clause 4



of the INDRP Dispute Resolution Policy and also falls within the ambit of Clause 7 of the said policy.

10. **CONCLUSION:**

As evident from the findings above, since, the Complainant has established and proven its case as required under the INDRP Dispute Resolution Policy, therefore, the Complaint is allowed with cost and the following award is being passed in favour of the complainant and against the Respondent.

11. **AWARD:**

In view of above, it is awarded that the disputed domain name <**MATRIXPROFESSNAL.IN**> is transferred to the complainant, **L'Oréal**. Accordingly, the registry is directed to transfer the said domain name in favour of the Complainant. It is further ordered that the Respondent is barred from using the mark **MATRIXPROFESSNAL.IN** and therefore, shall immediately be ceased to use the said domain name in any manner whatsoever.

12. **COST:**

In view of the facts and circumstances of the case, the costs of the proceedings are awarded in favour of the complainant and against the Respondent.



(Sajal Koser)
Arbitrator
28.07.2022