



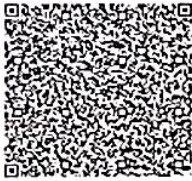
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL00892172612747V
Certificate Issued Date	: 23-Nov-2023 12:43 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1766143916899336V
Purchased by	: DEEPALI GUPTA
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: DEEPALI GUPTA
Second Party	: Not Applicable
Stamp Duty Paid By	: DEEPALI GUPTA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line

**DEEPALI GUPTA
SOLE ARBITRATOR**

**.IN Registry - National Internet Exchange of India
INDRP Case No: 1763**

In the matter of Arbitration Between:

**Reckitt & Colman (Overseas) Health Limited
Versus**

James Patel

.....Complainant

.....Respondent

Disputed Domain Name : < reckitt.net.in >

(Signature)

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at: www.shoestamp.com/ or using e-Stamp Mobile App of Stock Holding.
2. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
3. The onus of checking the authenticity is on the users of the certificate.
4. In case of any discrepancy please inform the Competent Authority.

DEEPALI GUPTA
SOLE ARBITRATOR
Appointed by the .IN Registry - National Internet Exchange of India
INDRP Case No: 1763

In the matter of:

Reckitt & Colman (Overseas) Health Limited,
103 - 105 Bath Road Slough,
Berkshire, SL1 3UH
United Kingdom.

Through it's authorized representative:

Mr. Luca Barbero, c/o Studio Barbero S.p.A.
Corso Massimo d'Azeglio 57, 10126 Torino, Italy

Telephone: +39 011 381 0600

Fax: +39 011 381 0601

E-mail: info@studiobarbero.com.

.....Complainant

Versus

James Patel

Organization: James Reckitt

0, near haridhvargam Vadodara,

Vadodara, 391740, Gujarat, IN

Telephone: 44.78832906 4

Email: jamesp.hr.reckitt@gmail.com

(Registrant)

.....Respondent

Disputed Domain Name : < reckitt.net.in>

ARBITRATION AWARD

DATED DECEMBER 23, 2023.

1) The Parties:

The Complainant in the present arbitration proceedings is 'Reckitt & Colman (Overseas) Health Limited' 103 - 105 Bath Road Slough, Berkshire, SL1 3UH, United Kingdom.

The Complainant is represented by its Authorized Representative, Mr. Luca Barbero, c/o Studio Barbero S.p.A. Corso Massimo d'Azeglio 57, 10126 Torino, Italy.



The Respondent in the present case is James Patel. Organization: Jamesp Reckitt, 0, near haridhvargam Vadodara, Vadodara, 391740, Gujarat, IN. Email: jamesp.hr.reckitt@gmail.com. as per the details available in the 'WHOIS' database by National Internet Exchange of India (NIXI).

2) The Domain Name, Registrar and Registrant:

The disputed domain name is <reckitt.net.in>

The Registrar is GoDaddy.com, LLC

The Registrant is - James Patel, Organization: Jamesp Reckitt, 0, near haridhvargam Vadodara, Vadodara, 391740, Gujarat, IN.

Telephone: 44.78832906 Email: jamesp.hr.reckitt@gmail.com

3) Procedural History:

This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP) adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28th June 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed Ms. Deepali Gupta as the Sole Arbitrator to arbitrate the dispute between parties in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.

- Notice was issued to the Respondent on 25th October, 2023, at his e.mail address 'jamesp.hr.reckitt@gmail.com' thereby communicating the appointment of the Arbitrator in the case and outlining that the Complainant had prayed for transfer of the disputed Domain name <reckitt.net.in> in its favour. The Respondent was called



upon to submit their response within twelve (12) days of the receipt of the Arbitrators email.

- The Arbitrator received no response from the respondent within the said timeline or even thereafter. Further the Arbitrator did not receive any delivery failure notification from the Respondents email id, therefore the respondent is deemed to be served with the complaint. In view of no response / acknowledgement / communication from the Respondent, the Complaint is being decided ex-parte and solely based on the materials and evidence submitted by the Complainant and contentions put forth by them.

4) FACTUAL BACKGROUND:

That Complainant belongs to the Reckitt Group of companies which is a global leader in consumer health, hygiene, home, and nutrition products. That the history of Reckitt began in 1819 when Isaac and Thomas Reckitt built the Maud Foster Mill in Boston in Lincolnshire, in 1840 and Reckitt & Sons was established. In 1938, Reckitt & Colman was formed. Reckitt & Colman merged with the industrial chemicals business Benckiser in 1999 to become Reckitt Benckiser Plc. In March 2021, the company rebranded as Reckitt. That Reckitt manufactures and markets health, personal care and household products, including over-the-counter pharmaceuticals such as analgesics, antiseptics, flu remedies and gastrointestinal medications and products for hair removal, denture cleaning, intimate wellness and pest control. Reckitt has more than 40,000 employees, operations in more than 60 countries and sales in most countries across the globe. That India is one of its top three markets, where it has been operational since 1934. India is currently Reckitt's principal developing market and Reckitt is manufacturing some of its most recognisable branded products in India, including Dettol, Durex, and Mortein. Reckitt has two offices and three R&D facilities in Haryana, Gurgaon, Baddi, and Mysore with more than 3,000 people directly employed and over 69,000 jobs across India supported. The Complainant is the owner of the registered trademark 'RECKITT' in numerous countries and has been using it in connection with its on-going business. The Complainant is also the owner of the domain name <reckitt.in>, registered on September 10, 2020. The domain name is redirected to the website "www.reckitt.com", based on the domain name <reckitt.com>, registered on February 11, 1996 in the name of Reckitt Benckiser SARL, belonging to the Reckitt group of companies of which also Complainant is part.



5) **Summary of Complainant's contentions:**

The Complainant has contended that each of the element in the .IN Domain Name Dispute Resolution Policy are applicable to the present dispute. It has thus been contended that the Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; that the Registrant's has no rights or legitimate interests in respect of the domain name that is the subject of complaint; and the Registrant's domain name has been registered or is being used in bad faith.

6) **RESPONDENT:**

The Respondent did not respond in these proceedings although notice was sent to the Respondent under the INDRP Rules.

7) **DISCUSSION AND FINDINGS**

Under the INDRP Policy the following three elements are required to be established by the Complainant in order to obtain the relief of transfer of the disputed domain name:

- (i) The disputed domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights and
- (ii) The Respondent lacks rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered or is being used in bad faith.

A. **Identical or confusingly Similar:**

1. The disputed Domain Name <reckitt.net.in> incorporates the Complainant's 'RECKITT' mark without addition or alteration. The Complainant has submitted that the Domain Name <reckitt.net.in> is identical to Complainant's trademark RECKITT, which has been registered by Complainant in several Countries, including India. That the Domain Name reproduces the trademark RECKITT with the sole addition of the second-level domain ("SLD") ".net" and the ccTLD ".in", which are not distinguishing features.



2. It has been submitted by the Complainant that Complainant is the owner of the trademark RECKITT in several countries and has been using it in connection with its on-going business. The details of some of Complainant's registrations are:

(i) **REGISTRATIONS VALID IN INDIA**

International Trademark Registration No. 1621375 for RECKITT

reckitt

(word mark), registered on March 24, 2021 (Annex 2.1) and protected in India for the products and services in classes 1, 3, 5, 8, 9, 10, 11, 21, 25, 29, 30, 31, 32, 35, 36, 41, 42 and 44 listed in the Statement of Grant of Protection in Annex 2.2.

(ii) **REGISTRATIONS VALID IN OTHER COUNTRIES**

International Trademark Registration No 1622606, registered on March 24, 2021 for products and services in classes 3, 5, 10, 29, 35 and 41 (Annex 2.3);

UK Trademark Registration No. UK00003615754 for RECKITT (word mark), filed on March 24, 2021 and registered on November 5, 2021, for products and services in classes 1, 3, 5, 8, 9, 10, 11, 21, 25, 29, 30, 31, 32, 35, 36, 41, 42 and 44 (Annex 2.4);

European Union Trademark Registration No. 018435288 for RECKITT (word mark), filed on March 24, 2021 and registered on October 9, 2021, for products and services in classes 1, 3, 5, 8, 9, 10, 11, 21, 25, 29, 30, 31, 32, 35, 36, 41, 42 and 44 (Annexes 2.5 and 2.6).

3. The Complainant has relied upon Annexes from 2.1 to 2.6 that are the official trademark registration certificates/trademark registration details in respect of the afore mentioned trademarks.
4. Complainant states that the Complainant is also the owner of many additional trademark registrations consisting of or including the trademark 'RECKITT' in other Countries.
5. Complainant is the owner of the domain name <reckitt.in>, registered on September 10, 2020, and relies on the Whois report (Annex 3.1). The domain name is redirected to the website "www.reckitt.com", based on the domain name <reckitt.com>, registered on February 11, 1996 in the name of Reckitt Benckiser SARL, belonging to the Reckitt group of companies of which also Complainant is part. The Whois records of <reckitt.com> and screenshots of the correspondent website "www.reckitt.com" are relied on (Annexes 3.2 and 3.3 respectively).
6. The Complainant has submitted evidence of its trademark registrations for the "RECKITT" mark in India and has accordingly established its rights in the mark. The Complainant has also provided evidence of the reputation, goodwill and fame



associated with its mark due to its extensive use in India. Further in addition to the above, reflecting its reach, the Complainant is also the owner of domain names consisting of its 'RECKITT' trade mark.

7. In '*Nike Inc. v. Nike Innovative CV Zhaxia*, INDRP Case No. 804'; wherein it was held that if a disputed domain name completely incorporates the trademark of the Complainant, then the mere addition of domain codes such as '.in' and/or "co.in" will not distinguish the Respondent's disputed domain name.
8. It is well established that in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark. That in several UDRP decisions as well, various panels have found that the fact that a domain name wholly incorporates a complainant's registered trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy.
9. The disputed domain name is accordingly found to be identical or confusingly similar to the Complainant's mark. The Complainant has successfully fulfilled the first element under paragraph 4 of the Policy, that the disputed domain name is identical or confusingly similar to a mark in which the Complainant has rights.

B. Rights and Legitimate Interests:

1. The second element requires the Complainant to put forward a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Although the onus of proving that the Respondent lacks rights or legitimate interests in the disputed domain name lies on the Complainant, the same may amount to 'proving in negative' hence may not be possible. Hence the Complainant has to make out a prima facie case that the respondent lacks rights or legitimate interests, whereafter, the burden of proof on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.
2. Complainant has submitted that it has legitimate interest in the well-known trademark 'RECKITT' as it registered said trademark in many jurisdictions, including India, and has been openly, continuously and extensively using it world-wide, including online via Complainant's website "www.reckitt.com".



3. Complainant has submitted that Respondent is not a licensee or an authorized agent of Complainant or in any other way authorized to use Complainant's trademark RECKITT. As stated in, *inter alia*, *Pharmacia & Upjohn Company v. Moreonline*, [WIPO Case No. D2000-0134], "the mere registration, or earlier registration, does not establish rights or legitimate interests in the Domain Name." See also along these lines *Perfetti Van Melle Benelux BV v. Jing Zi Xin* [INDRP Case No. 665] (*supra*): "merely registering the domain name is not sufficient to establish right or legitimate interests."
4. Further, Respondent is neither commonly known in the public by the Domain Name nor has applied for any registration of the trademark RECKITT. The Complainant submits that it has apprehensions that the Respondent has fraudulently shown its organization as "James Reckitt" as shown in the WHOIS details in an attempt to impersonate by indicating the name of a member of Reckitt family. The Complainant has relied upon Annexure 5 depicting the creation of email addresses based on the Domain Name by the Respondent to impersonate an employee from the Reckitt's HR department and dispatch email communications from such addresses to third parties requesting unauthorized payments, claiming to act on behalf of Reckitt. It is submitted that this clearly demonstrates that Respondent never intended to use the Domain Name in connection with any legitimate purpose. Complainant has submitted that in addition, Respondent was also gaining from the use of the disputed Domain Name by misleadingly diverting users looking for the Complainant to the website to which the disputed Domain Name resolved, consisting of a pay-per-click page featuring several sponsored links, also related to Complainant's products and redirecting users to third parties' commercial websites, where goods of Complainant's competitors were offered for sale (Annex 4.1 has been relied on).
5. Thus it can be fairly concluded that the Respondent has not used the Disputed Domain Name in connection with a *bona fide* offering of goods or services or a legitimate non-commercial or fair use. Complainant has relied upon the Panel decision in *Paris Hilton v. Deepak Kumar*, WIPO Case No. D2010-1364, holding that "if the owner of the domain name is using it in a similarity with another's mark then such use would not provide the registrant with a right or a legitimate interest in the domain name".
6. The Respondent's use of the disputed Domain Name amounts to a clear attempt to unfairly capitalize on or otherwise take advantage of the Complainant's trademarks and resulting goodwill. Hence, it cannot be considered a bona fide offering of goods and services nor a legitimate non-commercial or fair use. The complainant has made out a



prima facie case that the respondent has no rights or legitimate interests in the disputed domain name.

7. Use of the said trademark 'RECKITT' by the Respondent with the intention of attracting customers is likely to cause confusion and deception to those who encounter the disputed domain name. Internet users are likely to believe that the disputed domain name is in some way connected to the Complainant or is endorsed or authorized by the Complainant. Use of a trademark with the intention to derive benefit from the mark and to make improper commercial gains by such use is recognized as infringing use under INDRP Policy. The use of the Complainants 'RECKITT' mark by the Respondent, is found to be misleading use of the mark, and is accordingly found not qualifying as legitimate use by the Respondent.
8. The Respondent has not participated in these proceedings. The Complainant has categorically submitted that it has not consented, authorized or permitted the Respondent for use of the disputed domain name.
9. In the light of the facts and circumstances discussed, it is accordingly found that the Complainant has made out a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name and that the respondent's use of the 'RECKITT' mark which is distinctive of the Complainant and its products & services, does not constitute legitimate use or fair use of the mark by the Respondent. The second element under paragraph 4 of the Policy has been met by the Complainant.

C. Bad faith

1. The evidence on record clearly demonstrates the Complainant's prior adoption and extensive use of the 'RECKITT' mark. Complainant had clearly acquired common law rights in the term 'RECKITT' much before the registration date of the disputed Domain Name. The disputed domain name has been registered on 24th March 2023, which is much after the registration of the Complainant's trademark registrations in India. The Complainant has argued that there is no evidence to show that Respondent has secured any trademark rights in the term 'RECKITT'. It has been established by evidence adduced on record by the Complainant that it has acquired valuable rights in the mark 'RECKITT' not only by prior use but also by having registered trademark's for 'RECKITT' in various class in India and globally.
2. These facts establish the Complainants prior adoption of the 'RECKITT' mark and the evidence filed by the Complainant also establish that it has extensively used the said



trademark for a number of years continuously and the mark is recognized throughout India and is well known, having substantial value.

3. Complainant has argued that Respondent was well aware of Complainant's trademark rights at the time of registration and that it registered and has been using the Domain Name in bad faith, even after being notified of the infringement of Complainant's rights via Complainant's Cease and Desist letter, sent on June 20, 2023. That the trademark RECKITT was registered before the registration of the Domain Name and has been extensively used for many years worldwide and is well known and recognized internationally. Hence it is highly improbable that the Respondent could not have possibly known of the existence of Complainant's well-known trademark when it registered the identical Domain Name <reckitt.net.in>. The Complainant has submitted that Several INDRP and UDRP decisions confirmed that the well-known character of a trademark incorporated in a disputed domain name is a relevant circumstance in the assessment of bad faith registration. *Accor v. Jiangdeyun*, [WIPO Case No. D2011-2277]; *Perfetti Van Melle Benelux BV v. Jing Zi Xin* [INDRP Case No. 665] ; *Bulgari S.p.A. v DomainBook* [INDRP Case No.1002]; *Amazon Technologies Inc. v. Surya Pratap* [INDRP Case No. 835] relied upon.
4. Complainant has submitted that the Domain Name has been registered and used for fraudulent purposes. Indeed, the evidence on record depicts that the Respondent created and used email addresses based on the Domain Name to send unauthorized email communications concerning job offers and requesting recipients (Annexes 5 relied upon). Complainant submits that Respondent has also used Complainant's figurative trademark RECKITT in its correspondence in a further effort to impersonate Complainant and persuade recipients of its communications that they were dealing with Complainant and that the payment requests were legitimate. Respondent was thus obviously aware of Complainant's trademarks at the time of registration of the Domain Name and clearly used the Domain Name in bad faith. That the fraudulent use of a domain name constitutes bad faith.
5. As submitted by the Complainant and the evidence annexed, the Domain Name was redirected to a web page featuring several sponsored links, which cannot be considered, by any means, a *bona fide* use, since Respondent was clearly attempting to gain revenues through the pay-per-click system, free riding the well-known character of the trademark RECKITT. In addition, Respondent was causing confusion amongst internet users and



- diverting traffic to third parties' websites where also products of Complainant's competitors were offered for sale.
6. The Complainant has relied upon 'Calvin Klein Inc. v. M/s Hangzhou Gougou Internet Co. Ltd.' holding : "The domain name is registered without any authority, agreement or arrangement between the Complainant and the Registrant. The webpage included several links to the third parties in respect of various products including those of the Complainant. Thus, the Registrant has been making money illegally by using the name and fame, of the Complainant."
 7. Such acts are not only prejudicial to the rights of the Complainant but also to the members of trade and public. The activities of the Respondent rise to the level of a bad faith usurpation of the recognition and fame of Complainant's well-known mark 'RECKITT' to improperly benefit the Respondent financially and are in violation of applicable laws. These activities demonstrate bad faith registration.
 8. The Respondent has been found to have no rights or legitimate interests in the disputed domain name. It is furthermore observed that the facts circumstances and the evidence indicate that the Respondent has used the 'RECKITT' Mark in the disputed domain name to intentionally mislead and attract for commercial gain, internet users to its website by creating a likelihood of confusion with the mark of Complainant and based on the reputation associated with the mark.
 9. That as relied upon, in 'Inter IKEA Systems B.V. v. Roman Zubrickiy, WIPO Case No. D2015-0046', where UDRP Panel while holding that the Respondent has registered and is using the disputed domain name in bad faith observed "*Further, the use of the Disputed Domain Name by the Respondent indicates an intention to attract Internet users to its website for commercial gain by taking advantage of the Complainant's reputation in connection with the IKEA Mark. The Respondent has intentionally chosen the Disputed Domain Name in order to generate traffic and income through a site falsely suggesting that it is connected to the Complainant as to source, sponsorship, affiliation or endorsement*".
 10. There are numerous precedents under the Policy, where it has been held that the registration of a domain name with a well known mark which is likely to create confusion in the minds of Internet users and attempting to use such a domain name to attract Internet traffic based on the reputation associated with the mark is considered bad faith registration and use under the Policy. Similarly in the present case it is found that the use of the 'RECKITT' mark by the Respondent is likely to attract customers based on the



Complainant's mark and Internet users are likely to be misled by the use of the trademark in the disputed domain name.

11. For the reasons discussed, the registration of the disputed domain name by the Respondent leads to the conclusion that the domain name in dispute was registered and used by the Respondent in bad faith.
12. In the light of all that has been discussed, it is found that the Respondent has registered the disputed domain name in bad faith. Accordingly, it is found that the Complainant has established the third element under paragraph 4 of the Policy.

DECISION

In view of the above findings, it is ordered that the disputed domain name <RECKITT.NET.IN> be transferred to the Complainant.



Deepali Gupta
Sole Arbitrator

Date: 23rd December, 2023.