



## Chandigarh Administration

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Unique Doc. Reference	: SUBIN-CHCHSPICG0791871699106614V
Purchased by	: ANKUR GUPTA
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: SAJAL KOSER
Second Party	: Not Applicable
Stamp Duty Paid By	: SAJAL KOSER
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### ARBITRATION AWARD

BEFORE SH. SAJAL KOSER, SOLE ARBITRATOR, CHANDIGARH

INDRP CASE NO. 1765 OF 2023

**DISPUTED DOMAIN NAME:** < MORGANSTANLEYLLC.IN >

IRD 0021289331

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Morgan Stanley 1585 Broadway, New York, New York - 10036 United States of America. Email: trademarks@sc-ip.in

...Complainant

**Versus**

Sahil Khatri, Delhi - 110086. Phone: 08755575317, Email  
sahilkhatrikmr1426@gmail.com

...Respondent

**1. INTRODUCTION:**

The above titled complaint was submitted to the undersigned for Arbitration in accordance with the .IN Domain Dispute Resolution Policy (INDRP), and the INDRP Rules of Procedure framed there under.

**2. PROCEDURAL HISTORY:**

- i) In response to the email dated 03.10.2023, appointing undersigned as an Arbitrator, vide email of the same date, the undersigned submitted Statement of Acceptance and Declaration of Impartiality and Independence.
- ii) The Notice to the Respondent was issued on 11.10.2023, however, the Respondent did not submit any response/reply within the stipulated period of 15 days and even after granting more time, there was no response/reply, accordingly, the opportunity to file reply to the Complaint was closed and the case was fixed for passing award ex-parte, in accordance with the merits of the case and provisions of law.



### 3. Further Details

The details of the Parties, Authorised Representatives and Registrars Information alongwith the disputed domain name is given in the complaint and the same is matter of record.

### 4. BRIEF FACTUAL MATRIX OF THE MATTER:

#### A) BRIEF FACTS

- i) As per the Complaint, the Complainant Morgan Stanley founded in the year 1935, is a leading global financial services company. The Complainant, through its subsidiaries and affiliates, provides a full range of financial, investment and wealth management services in its three (3) business segments, namely, institutional securities, wealth management and investment management, to a broad spectrum of clients, including, corporations, governments, institutions, and individuals. Further, the Complainant conducts its business from its headquarters in New York City, United States of America, its regional offices and branches throughout the United States, and its offices in important financial centers around the world, such as Mumbai, India; Bengaluru, India; London, United Kingdom; Tokyo, Japan; and Hong Kong SAR. As of May 2023, the Complainant had offices in more than thirty (30) countries around the world, including India, and more than eighty thousand (80,000) employees worldwide. As early as the year 2004, the Complainant was listed as the number 1 company in global



equity trading, global equity underwriting and the global IPO market share. In the same year, it had the number 2 position in global debt underwriting and completed global mergers and acquisitions.

- ii) According to the Complaint, the Complainant was listed on the New York Stock Exchange (ticker is MS) in the 1980s. It has been, and continues to be, one of the highest-ranking companies in the Fortune 500 list. In fact, since the year 2010, the Complainant has been consistently listed among the world's top Fortune 500 companies. Printouts from the [www.rankingthebrands.com](http://www.rankingthebrands.com) website showing the ranking of the Complainant for the years 2010-2021 have been annexed with the Complaint as Annexure 2.
- iii) Further, as per the Complainant, in the year 2023, the Complainant was ranked first in the Institutional Investor's All-Asia Research Team Survey. In fact, it is pertinent to note that the Complainant has been so ranked for ninth (9) consecutive years from 2015 until 2023. The Institutional Investor's 2023 All-Asia Research Team Rankings Survey reflect the opinions of 5,500 investment professionals from more than 1,500 institutions. Documents in support are annexed with the Complaint as Annexure 3.
- iv) Further, According to the Complainant, Inter brand, a leading branding consultancy firm has ranked the Complainant among the top Best Global Brands in the year 2022. In fact, the Complainant has consistently featured in Inter brand's list of the most valuable brands in the world. In 2022, for instance, the Complainant was ranked 66<sup>th</sup> in Inter brand's global brand





rankings with an estimated brand value of 11,039 million dollars. A printout from Inter brand's website evidencing the Complainant's ranking and brand value is annexed as Annexure 4.

- v) It is also mentioned in the Complaint that the Complainant's success is evidenced by the impressive increase in its revenues over the years. In the year 2020, the Complainant's net annual revenues were in excess of USD 48,757 million. In the year 2021 and 2022, the Complainant's net revenues were in excess of USD 59,755 million and USD 53,668 million, respectively. Extracts from the Complainant's Annual Reports showing the net revenue figures for the years 2020, 2021 and 2022 are annexed as Annexure 5 with the Complaint. Furthermore, the net revenue for the first two quarters of 2023 was in excess of USD 27,974 million. In support of this contention the Complainant's second quarter report for the year 2023 are annexed as Annexure 6 with the Complaint.
- vi) Further, it has been mentioned in the Complaint that each year the Complainant spends millions of US dollar on promoting and advertising its financial services. For instance, in year 2019, 2020, 2021 and 2022, the Complainant spent around USD 660 million, USD 434 million, USD 643 million and USD 905 million on its marketing and business development activities in the respective years. Extracts from the Complainant's Annual Reports showing the above-noted figures for marketing and business development for the years 2021 and 2022 have been annexed as Annexure 7. Further, in the year 2023, the Complainant has spent around USD 483 million on promoting and advertising its



financial services in the first two quarters. Extracts from the Complainant's second quarter report for the year 2023 are also annexed as Annexure 8 with the Complaint.

- vii) It is further case of the Complainant that it has been doing business in India for more than twenty-nine (29) years. Through its Indian offices, the Complainant provides a range of services to its clients. From 1999 to October 2007, the Complainant operated two joint ventures with the JM Financial Group, under the names JM Morgan Stanley Limited and JM Morgan Stanley Securities Limited. These joint ventures were terminated in the year 2007. Thereafter, the Complainant has operated, and continues to operate, under the name Morgan Stanley India Company Private Limited. Morgan Stanley India Company Private Limited provides a variety of financial services, including, but not limited to, investment banking, capital markets, equities, fixed income, commodities and derivative products as well as financial research. The Complainant also operates other companies in India such as Morgan Stanley India Financial Services Private Limited, Morgan Stanley Investment Management Private Limited and Morgan Stanley Solutions India Private Limited. Copies of the printouts of the records of the Registrar of Companies showing the "active" status of some of these companies in support of above contentions are annexed as Annexure — 9 with the Complaint.
- viii) It is also mentioned in the Complaint that in 2003, the Complainant established a new global in-house centre in Mumbai to support its institutional securities, wealth management and investment management businesses



worldwide. According to the Complainant at present, the Complainant has five (5) offices located in Mumbai and Bengaluru that have a workforce of more than ten thousand (10000) employees. The Complainant's website located at [www.morganstanley.com](http://www.morganstanley.com) has an India-specific page located at [www.morganstanley.com/about-us/global-offices/asia-pacific/india](http://www.morganstanley.com/about-us/global-offices/asia-pacific/india) on which consumers can obtain information about the Complainant's Indian operations. Printouts from the Complainant's website confirming the aforesaid information are annexed as Annexure - 10 with the Complaint.

- ix) In respect of Complainant's Marks, it has been mentioned in the Complaint that since the year 1935, the Complainant has used and continues to use, the mark MORGAN STANLEY, marks that incorporate the MORGAN STANLEY mark and the corporate name Morgan Stanley (hereinafter collectively referred to as the "MORGAN STANLEY Name and Marks") in relation to its financial services. It has also been mentioned that the Complainant and its business under the MORGAN STANLEY Name and Marks has been subject to press and media attention from around the world, including, in India. Evidence of such media attention in India and other countries have been annexed as Annexure - 11 with the Complaint.
- x) The Complainant has further submitted that it owns registrations for the MORGAN STANLEY Name and Marks in countries and jurisdictions around the world, including in India, Australia, Austria, Brazil, Canada, the European Union, Mexico, Hong Kong, Japan, Malaysia, the United Kingdom and the United States. Copies of Certificates of Registration issued

by the Trade Marks Offices of some of these countries and/or printouts from the online databases of Trade Marks Offices of these countries have been annexed as Annexure – 12 with the Complaint.

- xi) It has been further mentioned in the Complaint that with specific reference to India, the Complainant owns the following registrations:

Mark	Registration No.	Class(es)	Registration/ Application Date
MORGAN STANLEY	594285	16	April 18, 1993
MORGAN STANLEY	1242410	36	October 10, 2003

Photocopies of Certificates of Registration issued by the Trade Marks Registry, and/or evidence of renewal, as well as extracts from the online records of the Trade Marks Registry showing particulars of the trademark registrations have been annexed as Annexure -13 with the Complaint.

- xii) It is further case of the Complainant as mentioned in the Complaint that owing to the extensive and continuous use of the MORGAN STANLEY Name and Marks by the Complainant all over the world, the MORGAN STANLEY Name and Marks have developed a stellar reputation and this reputation has spilled over into India. Not only have the MORGAN STANLEY Name and Marks acquired trans-border reputation in India, they have also become well-known owing to their extensive and continuous use in India. The MORGAN STANLEY Name and Marks qualify as 'well-known trade marks', as envisaged by



Section 2(1)(zg) and Section 11(6) of the Trade Marks Act, 1999 as well as Article 6bis of the Paris Convention which cover protection of well-known marks.

- xiii) The Complainant has referred to various decisions of the National Arbitration Forum, which has been established by the Internet Corporation for Assigned Names and Numbers (ICANN) which have, held the Complainant's Marks to be well-known marks.
- xiv) So far as the internet presence of the Complainant is concern, according to the Complaint, the Complainant is the owner of the generic top-level domain names (hereinafter referred to as "gTLDs") such as MORGANSTANLEY.COM, MORGAN-STANLEY.COM and MORGANSTANLEY.NET and numerous other variations in the .com domain and other gTLDs. Printouts of WHOIS records relating to the domain names MORGANSTANLEY.COM, MORGAN-STANLEY.COM and MORGANSTANLEY.NET have been annexed as Annexure 14 with the Complaint. Further, according to the Complainant, all three domain names resolve to the same active web site located at [www.morganstanley.com](http://www.morganstanley.com) that is accessible to users all over the world, including in India. A print out of the home page of [www.morganstanley.com](http://www.morganstanley.com) is ~~as~~ attached as Annexure 15 with the Complaint to support the contention of the Complainant that its highly accessible website features the MORGAN STANLEY Name and Marks prominently.
- xv) Further, as per the Complainant as mentioned in the Complaint, it is also the owner of the country-code top level domain name MORGANSTANLEY.IN. This domain name



currently also resolves to the Complainant's web site located at [www.morganstanley.com](http://www.morganstanley.com). Accordingly to the Complainant, notably, the Complainant acquired this domain name through a decision of the Council of the National Internet Exchange of India (NIXI) in Morgan Stanley Vs Keep Guessing, INDRP/024 (June 27, 2007). The Complainant is also the owner of the country-code top level domain name MORGANSTANLEYBANK.CO.IN. This domain name was obtained through a decision of the NIXI in Morgan Stanley Vs Bharat Jain, INDRP/156 (October 27, 2010).

- xvi) Also, as per the Complaint, over the years the Complainant has actively policed domain names registered by third parties that incorporate the MORGAN STANLEY Name and Marks. Complainant has annexed a list of some of the proceedings brought by the Complainant before the National Arbitration Forum as Annexure 16 with the Complaint.
- xvii) Further, according to the Complainant, over the years, the Complainant has expanded its reach on the World Wide Web by establishing official accounts on Facebook, Twitter and Instagram, three of the world's most popular social networking sites, as well as on YouTube, the highly trafficked video sharing website. These sites have been enormously popular with consumers worldwide, including India. The MORGAN STANLEY Name and Marks feature prominently on these sites. Printouts of pages from the Complainant's social media accounts are annexed with the Complaint as Annexure -17.

#### **B) The Registrant and the Disputed Domain Name**



- i) According to the Complainant, the disputed domain name is MORGANSTANLEYLLC.IN. The details of the Registrant have been provided by National Internet Exchange of India ("NIXI"). An extract of the WHOIS records of the disputed domain name as provided by NIXI is annexed as Annexure 18 with the Complaint.
- ii) Complainant has also submitted that the disputed domain name does not resolve to an active site. A printout evidencing this is annexed as Annexure 19 with the complaint.

**5. LEGAL GROUNDS TAKEN BY THE COMPLAINANT:**

The Complainant has submitted the following legal grounds in support of its complaint in respect of the impugned domain name and against the Respondent.

- i) **The Registrant's Domain Name is Identical and/or Confusingly Similar to a Mark in Which the Complainant has Rights**
  - a. According to the Complainant, it is well-settled that a domain name has all the characteristics of a trademark. M/S Satyam Infoway Ltd. v. M/s Siffynet Solution (P) Ltd., JT 2004 (5) SC 541. Thus, a trademark and a domain name, although used in a different manner, can be identical or confusingly similar. The Complainant has prior demonstrated statutory and common law rights in the MORGAN STANLEY Name and Marks. As discussed



above, the Complainant owns registrations for the MORGAN STANLEY Name and Marks in various countries and jurisdictions around the world, including India. The earliest registration in India dates back to 1993. WIPO panelists, over the years, have concurred that if a complainant owns a trade mark registration, then it generally satisfies the threshold requirement of trade mark rights. ByteDance Ltd Jing Ren INDRP/1228 (July 07, 2020). The Registrant, on the other hand, has registered the disputed domain name on July 19, 2023. Clearly, the Complainant's rights in the MORGAN STANLEY Name and Marks predate registration of the disputed domain name and, therefore, the Complainant has prior rights in the MORGAN STANLEY Name and Marks. Furthermore, the Complainant's use of the MORGAN STANLEY Name and Marks also precedes the date of registration of the disputed domain name.

- b. Further, as per the Complainant, the disputed domain name, MORGANSTANLEYLLC.IN, is nearly identical to the MORGAN STANLEY Name and Marks. The domain name incorporates the MORGAN STANLEY Name and Marks in their entirety, (ONEY BANK, v. Xiao Long Lin, A La Si Jia, D2020-2968, (WIPO Mediation and Arbitration Centre, December 23, 2020)), (the Panel held that a domain name which wholly incorporates a complainant's registered mark may be sufficient to establish confusing similarity). Mere addition of the acronym "LLC" for a limited liability company and the country-code top level domain,



.IN after the mark MORGAN STANLEY does nothing to distinguish the domain name from the MORGAN STANLEY Name and Marks, *Dareos Ltd., Dareos Inc. v. Evgeniy. Khlintsev. D2020-1727* (WIPO Mediation and Arbitration Centre, September 28, 2020) the panel held that as a common practice in appropriate circumstances the Top-Level Domain ("TLD") section of domain names is disregarded for the purposes of the comparison).

Accordingly, according to the Complainant, the disputed domain name, MORGANSTANLEYLLC.IN is closely identical and/or confusingly similar to the MORGAN STANLEY Name and Marks under INDRP Policy Paragraph 4 (a) and Rules, Paragraph 4(b)(vi)(1).

**ii) The Registrant Has No Right or Legitimate Interest in the Domain Name**

- a) As mentioned in the Complaint by the Complainant, the Registrant/Respondent cannot have any right or legitimate interest in the disputed domain name because the disputed domain name incorporates the MORGAN STANLEY Name and Marks in which the Complainant has sole and exclusive rights and that have become well-known owing to the Complainant's efforts.
- b) Further, as per the Complainant, the Registrant/Respondent is not a licensee of the Complainant, nor has the Registrant/Respondent ever been authorized by the Complainant to use the MORGAN STANLEY Name and Marks or register the disputed domain name. Indeed, the Complainant has no



relationship whatsoever with the Registrant/Respondent.

- c) Also, Complainant submits that the Registrant/Respondent is not making any legitimate, non-commercial or fair' use of the disputed domain name because there is no web site associated with the disputed domain name. This is also evidence of the Registrant's lack of rights or legitimate interest in the domain name.
- d) Further, as per the Complaint, the Registrant/Respondent is not making any legitimate, non-commercial or fair use of the disputed domain name in connection with a *bona fide* offering of goods or services. Rather, the disputed domain name resolves to Complainants website located at [www.morganstanley.com](http://www.morganstanley.com). Using a disputed domain name to resolve to a complainant's website is not a *bona fide* offering of goods and services or a legitimate or fair use.

Thus, according to the Complainant, the Registrant/Respondent has no rights or legitimate interest in the disputed domain name under INDRP Policy Paragraph 4(b) read with Paragraph 6 and Rules, Paragraph 4(b)(vi)(2).

**iii) The Registrant has Registered or Used the Domain Name in Bad Faith**

- a) According to the Complainant, it is well-settled that registration of a domain name that incorporates a well-known mark by an entity that has no relationship to the mark is evidence of bad faith. Thus, the



Registrant/Respondent, who has no relationship whatsoever to the Complainant or the Complainant's Marks, registered the disputed domain name in bad faith.

- b) Further, it is submitted by the Complainant that it is clearly more than a coincidence that the Registrant chose and registered a domain name that is confusingly similar to the Complainant's MORGAN STANLEY Name and Marks. The Complainant has a long and well-established reputation in the Complainant's MORGAN STANLEY Name and Marks through its exclusive use in the financial and investment services industries throughout the world, including in India. There can be no doubt that the Registrant was aware of the Complainant's MORGAN STANLEY Name and Marks when he chose and registered the disputed domain name, and in fact chose the domain name because it was confusingly similar to the Complainant's MORGAN STANLEY Name and Marks, that are well-known marks and intended to capitalize on that confusion. This constitutes evidence of bad faith.
- c) That, the disputed domain name MORGANSTANLEYLLC.IN does not resolve to any active web site, nor is it being used for any legitimate commercial use. It is well-settled that registration of a domain name that incorporates a third-party mark without any legitimate commercial interest is another evidence of bad faith.

Therefore, according to the Complainant, the Registrant's/Respondent's domain name has been registered,



and is being used, in bad faith under INDRP Policy Paragraph 4(c) read with Paragraph 7 and Rules Paragraph 4(b)(vi)(3).

**6. RESPONSE/ DEFENSE TAKEN BY THE RESPONDENT**

As already stated despite availing more than sufficient time, Respondent has failed to submit any response/defense, therefore, the present case is decided ex-parte on the basis of the averments made in the complaint support of documents which have gone unchallenged and unrebutted and also settled dictum of law as mentioned in the Complaint which in the opinion of the undersigned are applicable to the facts of the present case.

**7. DISCUSSIONS AND FINDINGS**

As per INDRP policy, clause/para 4 requires for the complainant to establish the following 3 requisite conditions.

- a) *The disputed domain name is identical or confusingly similar to the trademark in which Complainant has right, and*
- b) *The respondent has no rights or legitimate interest in the domain name, and*
- c) *The respondent's domain name has been registered or is being used in bad faith.*

The Tribunal has carefully gone through the pleadings of the parties and documents attached thereto. The Complainant has been sufficiently able to prove that not only it is the absolute registered owner of the trademark, 'MORGAN STANLEY' but so also is using the same in various formats/names for its business purposes since



the year 1935. It has also been established on record that the Complainant state mark is vastly well known and enjoys considerable goodwill and reputation. Complainant as registered owner and prior user has all the legal rights to protect its trademark having widespread use and substantial goodwill. As per the pleadings and the documents annexed thereto in support thereof, the Complainant has established that it is the owner of Trademark 'MORGAN STANLEY' which is registered in India and in other countries too and that it has been in use since the year 1935. As per the above discussion, it has been established that the Complainant has statutory protection in the Trademark 'MORGAN STANLEY'. Now let's have a look at the disputed domain name **<MORGANSTANLEYLLC.IN>**. A bare perusal of disputed domain shows that the name 'MORGAN STANLEY' which is the registered trademark of the Complainant for such a long period and have earned a reputation for certain standard of good services in the business of financial services etc. and the inclusion of the said trademark in the disputed domain is almost identical and deceptively similar to the Complainant's trademark and there is every likelihood and probability of creation of an impression of a connection of the Respondent with the Complainant and the possibility of a prejudicial affect on the Complainant's business and trading activities. In the present case, the disputed domain name incorporates almost entirety of the trademark and a dominant feature of the relevant trademark is recognizable in the disputed domain name and therefore, the domain name is liable to be considered confusingly similar to the trademark. The confusing similarity is likely to deceive and confuse the general public/clients/associates of the



Complainant. The Complainant has also been able to prove that the Respondent has no rights or legitimate interest in respect of the domain name and the Registrant's/Respondent's domain name has been registered and is being used in bad faith. The contentions of the Claimant though remained unrebutted in the absence of the contest by the Respondent, however, as per the documents and averments made in the Complaint, the Complainant has been able to prove all the required ingredients of INDRP Policy.

8. **CONCLUSION:**

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

9. **AWARD**

In view of above, it is awarded that the disputed domain name **<MORGANSTANLEYLLC.IN>** be transferred to the complainant. 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 **<MORGANSTANLEYLLC.IN>** and therefore, shall immediately be ceased to use the said domain name in any manner whatsoever.



10. COST

It is a well settled law that no one should be allowed to take benefit of its own wrongs. In the present case, it does not appear to be acceptable that the Respondent was not aware of a well established and in use trademark, 'Morgan Stanley' which with exercise of due diligence and prudence could have been within the knowledge of the Respondent. Also, in view of the findings and conclusions given above, this Tribunal finds appropriate to Award Costs of the proceedings in favour of the Complainant and against the Respondent and therefore, the same is accordingly awarded.



(Sajal Koser)  
Arbitrator  
28.12.2023