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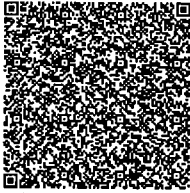
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Certificate No.	: IN-DL00826728826972V
Certificate Issued Date	: 23-Nov-2023 12:02 PM
Account Reference	: IMPACC (IV)/ dl717303/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL71730366041093148794V
Purchased by	: AJAY GUPTA ARBITRATOR
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: AJAY GUPTA ARBITRATOR
Second Party	: Not Applicable
Stamp Duty Paid By	: AJAY GUPTA ARBITRATOR
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line IN-DL00826728826972V

INDRP Case No. 1779

TV 18 Broadcast Limited

vs.

Aman Yadav

Disputed Domain Name: 'news18bharati.in'

*(Signature)*

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INDRP ARBITRATION CASE NO.1779  
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION  
SOLE ARBITRATOR: AJAY GUPTA

**TV 18 BROADCAST LIMITED**

Vs.

**AMAN YADAV**

DISPUTED DOMAIN : "news18bharat.in"

A handwritten signature in black ink, appearing to read 'Ajay', with a horizontal line extending to the right.

INDRP ARBITRATION CASE NO.1779  
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION  
SOLE ARBITRATOR: AJAY GUPTA

**TV18 BROADCAST LIMITED**

First Floor, Empire Complex, 414  
Senapati Bapat Marg, Lower Parel  
Mumbai-400013 (MAHARASHTRA) [INDIA]. ... Complainant

VERSUS

**AMAN YADAV**

42, Village Panera, Kotputli  
Jaipur-303105 (RAJASTHAN).  
Email ID : [news18bharat@gmail.com](mailto:news18bharat@gmail.com)  
Telephone : +91 94616 70989 ... Respondent

Disputed Domain Name: "**news18bharat.in**"



## **1. THE PARTIES**

- 1.1 The Complainant TV18 Broadcast Limited, in this arbitration proceeding, is news and entertainment company and its contact address is First Floor, Empire Complex, 414, Senapati Bapat Marg, Lower Parel, Mumbai-400013 (MAHARASHTRA) – [INDIA].
- 1.2 The Complainant's Authorized Representative in these proceedings is Ira Law Attorneys (Ira Law) Address 3-A, Plot No.8B, Jangpura-B, Mathura Road, New Delhi-110014. Email ID : [office@ira.law](mailto:office@ira.law); [abhilasha@ira.law](mailto:abhilasha@ira.law); [sauhard@ira.law](mailto:sauhard@ira.law) - Telephone +91-11-40204694.
- 1.3 The Respondent, in this arbitration proceedings, is Aman Yadav address 42, Village Panera, Kotputli, Jaipur-303105 (RAJASTHAN) [INDIA]. E-mail [news18bharat@gmail.com](mailto:news18bharat@gmail.com) – Telephone : +919461670989 as per the details given by the WHOIS database maintained by the National Internet Exchange of India (NIXI).

## **2. THE DOMAIN NAME AND REGISTRAR**

- 2.1 The disputed domain name is “news18bharat.in” and the Registrar with which the disputed domain name registered is godaddy.com LLC, having its office at 2155 East GoDaddy Way, Tempe, AZ 85284, USA.

## **3. PROCEDURAL HISTORY [ARBITRATION PROCEEDINGS]**

- 3.1 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 28<sup>th</sup> June 2005 in accordance with the Indian Arbitration & Conciliation Act, 1996. By registering

the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes under the .IN Dispute Resolution Policy and Rules framed thereunder.

3.2 The history of this proceeding is as follows :

3.2.1 That as required by the NIXI, I submitted the Statement of Acceptance & Declaration of Impartiality and Independence Dated 17.11.2023 to NIXI in accordance with Rules 2(a) and 4(a). NIXI on 17.11.2023 formally notified the Respondent of the complaint along with a copy of the complaint & annexures, and appointed me as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, IN Domain Resolution Policy and the Rules framed thereunder.

3.2.2 That commencing the arbitration proceedings an Arbitration Notice Dated 17.11.2023 was emailed to the Respondent on 17.11.2023 by this panel under Rule 5(c) of INDRP Rules of Procedure with direction to file a reply of the complaint, if any, within 10 days, i.e., by 26.11.2023.

3.2.3 The Respondent via mail dated 18.11.2023 acknowledge the notice sent by this panel and stated in the said mail that "***I acknowledge the notice for www.news18bharaat.in, I am not using this domain for commercial purpose or any other activities. I bought it just for curiosity as it was available on Go Daddy and I was not aware about its trademark. I am agree to transfer this domain to its rightfully owner TV18NETWORK.***"



**3.2.4** The Authorized Representative of the Complainant via its mail dated 20.11.2023 also informed this panel about service of the copies of complaint, annexures and arbitration notice to the respondent via email dated 17.11.2023 and also attached the proof of same. The hard copy of the complaint along with annexures was also dispatched through speed post at Respondent's postal address by complainant's authorized representative, and as a proof of the same the scanned copy of speed post receipt was also attached with the email sent to this panel. It is pertinent to note that the authorized representative of the complainant via its mail dated 20.11.2023 to this panel also submitted/attached the reply dated 17.11.2023 of the respondent in response to the complainant's mail dated 17.11.2023, wherein it was stated by the respondent **"Hello Sauhard I acknowledge the notice for domain news18bharat.in, I am not using this domain for commercial purpose and not getting any kind of profit from it. I am ready to transfer this domain to TV18 Group (rightfully Owner). I just want to know will I get any compensation for this? Thanks & Regards Aman Yadav"**.

**3.2.5** This panel vide its Arbitration Notice dated 17.11.2023 had directed the Respondent to file the reply of complaint, if any, within 10 days of the notice and therefore respondent was supposed to file the reply of the complaint by 26.11.2023. However, the respondent failed to file the reply of complaint "if any" in time despite acknowledging the arbitration notice and copy of the complaint along with annexes. This panel observed that the respondent via its email dated 17.11.2023 replied to the complaint's mail dated 17.11.23 and



acknowledged the receipt of notice, itself proves that the respondent was in receipt and knowledge of the complaint and arbitration notice. The Respondent vide his mail to this panel also acknowledged the receipt of notice but despite that he chooses not to file the reply to the same. In view of the aforesaid facts and circumstances, on 27.11.2023 matter was reserved for passing of the award and information about the same was communicated by this panel to the respondent, complainant and others via mail dated 27.11.2023.

#### **4. THE RESPONDENT'S DEFAULT**

- 4.1 It is a well-established principle that once a Complainant makes a prima facie case showing that a Respondent lacks rights to the domain name at issue; the Respondent must come forward with proof that it has some legitimate interest in the domain name to rebut this presumption. The disputed domain name in question is "news18bharat.in".
- 4.2 INDRP Rules of Procedure require under Rule 8(b) that the arbitrator must ensure that each party is given a fair opportunity to present its case. Rule 8(b) reads as follows :

*"In all cases, the Arbitrator shall ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case."*

- 4.3 The Respondent was notified of this administrative proceeding per the Rules. The .IN discharged its responsibility under Rules paragraph 2(a) to employ reasonably available means calculated to achieve actual notice to the Respondent of the complaint.



- 4.4 The panel finds that the Respondent as mentioned herein above has been given a fair opportunity to present his case. The Respondent was given direction to file a reply of the Complaint 'if any', but the Respondent failed to file the reply of the complaint thus failed to comply with the directions of this tribunal. The 'Rules' paragraph 12 states, "In the event, any party breaches the provisions of INDRP rules and/or directions of the Arbitrator, the matter can be decided ex parte by the Arbitrator and such arbitral award shall be binding in accordance to the law". In these circumstances, the panel's decision is based upon the Complainant's assertions, evidence, inferences, and merits only as the Respondent has not replied despite opportunity given in this regard.

**5. BACKGROUND OF THE COMPLAINANT & ITS SUBMISSIONS ABOUT THE TRADEMARK "NEWS18", ITS STATUTORY AND COMMON LAW RIGHTS ADOPTION :**

- 5.1 The Complainant, in the present arbitration proceedings to support their case, has relied and placed on records documents as Annexures and made the following submissions :
- 5.1.1 The Complainant submits that the complainant, TV18 Broadcast Limited, is a renowned and award-winning news and entertainment company. It owns and operates, inter alia, multiple national and regional news channels, websites and mobile applications under its News18 brand, including News18 India and the News18 Network comprising at least 14 channels covering 26 states in 15 languages.
- 5.1.2 The complainant submits that it is a part of the Network18 group, which is one of the largest companies in the media and entertainment sector in India and is engaged in broadcasting, publishing, streaming etc. in relation to a



wide variety of content through television channels, streaming platforms, magazines and websites.

5.1.3 The Complainant submits that the website [www.news18.com](http://www.news18.com) was registered in 1999. The channel News18 India was launched in 2005 in India and was renamed as its current name in or around 2016.

5.1.4 The Complainant submits that the complainant is the registered proprietor of various NEWS18 Trademarks, including "NEWS18 BHARAT" and "NEWS18 INDIA" in India across classes. The complainant submits that its trademarks "News18" and "News18 India", as applicable, are essential components of its marks. The Complainant further submits that the services under the complainant's NEWS18 Trademarks have grown exponentially since first launch. In fact, the complainant currently has an established presence across India and the viewership of the various news channels under the complainant's NEWS18 Trademarks has grown exponentially over the years.

5.1.5 The Complainant submits that in addition to the numerous channels operated under the complainant's NEWS18 Trademarks, the services under the complainant's NEWS18 Trademarks also have significant online presence through the website [www.news18.com](http://www.news18.com) and mobile application available on the Google Play Store and Apple App Store and licensed by the complainant. The website [www.news18.com](http://www.news18.com), inter-alia, hosts <https://hindi.news18.com/livetv/>, which shows prominent use of the complainant's trademark News18India, also used as NEWS18..



- 5.1.6 The Complainant submits that the News18 application on the Google Play Store has been downloaded by more than 50,00,000 users and has a rating of 4.2/5 with more than 23,600 reviews. Moreover, the website [www.news18.com](http://www.news18.com) has noted a progressive rise in traffic over the past few years.
- 5.1.7 The Complainant submits that the complainant has spent significant amount of time, money and resources on the advertisement and promotion of its business under the NEWS18 Trademarks. The Complainant further submits that the complainant's NEWS18 Trademarks are used and promoted on social media platforms such as Facebook (<https://www.facebook.com/cnnnews18/>), X (formerly twitter) (<https://twitter.com/CNNnews18>), YouTube (<https://www.youtube.com/CNNnews18>) and Telegram (<https://t.me/news18dotcom>).
- 5.1.8 The Complainant submits that the complainant's use of the trademark NEWS18 BHARAT and dates back to at least August 2017, when its request for change of name and logo of the TV Channel from 'News18 Punjab' to 'News18 Bharat' was allowed by the Ministry of Information and Broadcasting and pertinently, the complainant is also the owner of the mark NEWS18 India.
- 5.1.9 The Complainant submits that owing to the long and continuous use of the trademark NEWS18 coupled with extensive promotional efforts and substantial revenues generated, the complainant has acquired immense goodwill and reputation and exercises strong common law rights in its NEWS18 Trademarks.



## 6. SUBMISSIONS OF COMPLAINANT ABOUT THE RESPONDENT AND ITS USE OF THE DOMAIN NAME

- 6.1 The complainant submits that the respondent is the registrant of the impugned domain name <news18bharat.in>. According to the WHOIS search conducted by the complainant for the impugned domain name <news18bharat.in>, the respondent is News10 Media Pvt., 1617 Ltd. It is clear from the WHOIS details that the impugned domain name was registered only recently in February 26, 2022. A search for the company name News10 Media Pvt. Ltd. in the company master data provided by Ministry of Corporate Affairs on its website mca.gov.in did not reveal a company under said name.
- 6.2 The Complainant further submits that the website hosted by the respondent on the impugned domain name is functional and interactive and the respondent is actively offering its services through the impugned domain name by misusing and prominently displaying the complainant's NEWS18 Trademarks.

## 7. THE ISSUES INVOLVED IN THE DISPUTE

- 10.1 The Complainant in its complaint has invoked paragraph 4 of the INDRP, which reads :

*"Types of Disputes*

*Any person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the.IN Registry on the following premises :-*

*The disputed domain name is identical or confusing similar to a trademark in which the Complainant has statutory /common law rights.*

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

*The disputed domain name has been registered or is/is being used in bad faith.*

*The above-mentioned 3 essential elements of a domain name dispute are being discussed hereunder in light of the facts and circumstances of this complaint."*

## **8. PARTIES CONTENTIONS**

### **8.1 THE REGISTRANT'S DOMAIN NAME IS IDENTICAL AND/OR CONFUSINGLY SIMILAR TO A MARK IN WHICH THE COMPLAINANT HAS RIGHTS.**

#### **COMPLAINANT**

- 8.2 The Complainant submits that the impugned domain name <news18bharat.in> is identical to the complainant's trademark "NEWS18 BHARAT" and the device mark of which the trademark "NEWS18 BHARAT" is an essential feature and incorporates in full the Plaintiff's NEWS18 Trademarks including registered trademarks "NEWS18" and the impugned domain name is also similar to the registered domain name www.news18.com. The complainant has overwhelming common law as well as statutory rights in its NEWS18 Trademarks and is their sole and legitimate owner and proprietor.
- 8.3 The Complainant submits that the impugned domain name attempts to associate itself with the services provided under the complainant's NEWS18 Trademarks by incorporating the complainant's registered and reputed trademark in full. Moreover, any use of the trademarks NEWS18/NEWS18 BHARAT is understood only as making a reference to the complainant since the said trademark of the complainant is a registered and reputed trademark. The Complainant further submits that the incorporation of the complainant's trademark in its entirety in a domain name is enough for establishing confusing similarity and has been upheld in numerous UDRP

adjudications such as Magnum Piering Inc Vs The Mudjackers; WIPO Case No.D2000-1525, that there exists confusing similarity where the disputed domain name incorporates the complainant's trademark.

- 8.4 The Complainant submits that the unauthorized use of the complainant's registered and reputed NEWS18 Trademarks by the respondent as regards its unauthorized services through the impugned domain name will lead to consumer confusion and the erosion of the distinctive value and strength associated with the said trademark and adversely impact the immense goodwill and reputation accruing thereto.
- 8.5 The Complainant submits that the use of the complainant's NEWS18 Trademarks dates back to at least 2013. The respondent's act of registering the impugned domain name, being identical to the complainant's reputed and registered NEWS18 Trademarks, is an infringement of the complainant's overwhelming common law and statutory rights as in its registered and reputed News18Trademarks. There can be no plausible explanation for the misuse of the trademark NEWS18/ NEWS18 BHARAT by the respondent as same is a coined mark.
- 8.6 The Complainant submits that given the highly distinctive and reputed nature of the complainant's NEWS18 Trademarks coupled with the fact that the respondent appears to be engaged in the same business as that provided under the complainant's NEWS18 Trademarks (which is evident from the content of the website hosted on the impugned domain name), the respondent is likely to have had at least constructive, if not actual notice, as to the existence of the Complainant's trade mark at the time of registration of the impugned domain name incorporating an identical mark in totality as that of the complainant. This demonstrates that the

respondent acted with opportunistic bad faith in registering the impugned domain name incorporating an identical mark as that of the complainant's reputed NEWS18 Trademarks.

- 8.7 The Complainant further submits that the impugned domain name bearing the complainant's reputed NEWS18 Trademarks has also been registered by the respondent with the sole ulterior motive of preventing the complainant from making a legitimate commercial use of the same for offering its products and services. The said infringing acts of the respondent are an obvious attempt to ride on the complainant's goodwill and pass off the website maintained under the impugned domain name as originating from the complainant.
- 8.8 The Complainant submits that the impugned domain name <news18bharat.in> is identical and confusingly similar as a whole to the complainant's registered and reputed NEWS18 Trademarks.

## **RESPONDENT**

- 8.9 The Respondent has not replied to Complainant's contentions.

## **9. PANEL OBSERVATIONS**

- 9.1 This Panel on pursuing the pleadings, documents and records submitted by Complainant observes that the Complainant, is engaged in the business of news and entertainment, under the brand name 'NEWS18' having presence its presence all over India. This panel further observes that by virtue of long, continuous and uninterrupted use for several years Mark 'NEWS18' has acquired distinctiveness and is associated solely with the Complainant.
- 9.2 This panel observes that the Complainant has common law as well as statutory rights in its trade/service mark "NEWS18". It is also observed by this panel that the Complainant has successfully

secured registration for the “news18bharat” in India. The Complainant, in order to prove that it has trademark rights and other rights in the mark “NEWS18”, has submitting substantial information and documents in support of it. It is further observed by this panel that the Complainant's use of the News18bharat Name and Marks was registered in 2017 which precedes the date of registration of the disputed domain name.

- 9.3 It is further observed by this panel that the trademark that the Disputed domain “news18bhaerat.in” comprises the Complaint's trademarks “news18bharat” in their entirety and also mere addition of the country-code top level domain, .IN does nothing to distinguish the domain name from the news18bharat Name and Marks.
- 9.4 This panel, therefore, is of opinion that the disputed domain name “news18bharat.in” there is a likelihood of confusion between the disputed domain name and the Complainant, its trademark, and the domain names associated. The disputed domain name registered by the Respondent is identical and confusingly similar to the trademark “news18bharat” of the Complainant.
- 9.5 It is the responsibility of the Respondent to find out before registration that the domain name he is going to register does not violate the rights of any proprietor/brand owner and the respondent has miserably failed in following this condition.
- 9.6 This Panel, therefore, in light of the contentions raised by the Complainant concludes that the disputed domain name is not only identical but also confusingly similar to the Complainant marks. Accordingly, the Panel concludes that the Complainant has satisfied the first element required by Paragraph 4(a) of the INDR Policy.



## **10. THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DOMAIN NAME**

### **COMPLAINANT**

- 10.1 The Complainant submits that the complainant has overwhelming common law and statutory rights in its NEWS18 Trademarks. The complainant, being the sole legitimate owner of the said marks, is solely entitled to use the same in relation to its business including the incorporation of the said mark as a conspicuous part of domain 21 names used to provide its services through the said domain names.
- 10.2 The Complainant submits that the complainant has not in any way authorized, licensed, or otherwise permitted the respondent to use its reputed NEWS18 Trademarks or to apply for any domain name incorporating its trademark in full or in part. The respondent thus cannot be permitted to use complainant's NEWS18 Trademarks in the impugned domain name, the same being identical to complainant's prior registered and reputed trademarks. Such use by the respondent is only to deceive the consumers.
- 10.3 The Complainant submits that the respondent's registration of the impugned domain name <news18bharat.in> is not bona fide since he/she is likely to be trading on the fame and recognition of the complainant's registered and reputed NEWS18 Trademarks in order to cause confusion and bait internet users.
- 10.4 The Complainant submits that there can be no plausible explanation for the registration and use of the impugned domain name by the respondent as the NEWS18 Trademarks of the complainant are inherently distinctive and exclusively used by the complainant and its group companies for their products and



services. Further, there is no evidence that the respondent has been ever commonly known by the mark incorporated in the impugned domain name.

- 10.5 The Complainant submits that the respondent has no rights or legitimate interest in the impugned domain name and has registered the impugned domain name <news18bharat.in> with the sole mala fide intention to deceive the public and ride off the complainant's immense goodwill and impeccable reputation.

### **RESPONDENT**

- 10.6 The Respondent has not replied to Complainant's contentions.

### **11. PANEL OBSERVATIONS**

- 11.1 This panel observes that the Complainant by placing documents/ records and evidence in the form of annexures along with the complaint has been able to prove, that the Complainant is doing its business under the mark 'NEWS18'. The Complainant by virtue of its priority in adoption, goodwill, and long, continuous and extensive use of the mark, the Complainant has acquired the exclusive right to the use of the 'NEWS18' & "NEWS18BHARAT mark in respect of its News and Entertainment business.
- 11.2 It is observed by this panel that the Respondent has failed to rebut the contention of the complainant that complainant has not in any way authorized, licensed, or otherwise permitted the respondent to use its reputed NEWS18 Trademarks or to apply for any domain name incorporating its trademark in full or in part. The respondent thus cannot be permitted to use complainant's NEWS18 Trademarks in the impugned domain name, the same being identical to complainant's prior registered and reputed

trademarks. Such use by the respondent is only to deceive the consumers.

- 11.3 It is further observed by this panel that the Respondent has failed to rebut the contention of the complainant that the respondent's registration of the impugned domain name <news18bharat.in> is not bona fide since he/she is likely to be trading on the fame and recognition of the complainant's registered and reputed NEWS18 Trademarks in order to cause confusion and bait internet users.
- 11.4 It is further observed by this panel that the Respondent has failed to rebut the contention of the complainant that there can be no plausible explanation for the registration and use of the impugned domain name by the respondent as the NEWS18 Trademarks of the complainant are inherently distinctive and exclusively used by the complainant and its group companies for their products and services. Further, there is no evidence that the respondent has been ever commonly known by the mark incorporated in the impugned domain name.
- 11.5 It is further observed by this panel that the Respondent has failed to rebut the contention of the complainant that the respondent has no rights or legitimate interest in the impugned domain name and has registered the impugned domain name <news18bharat.in> with the sole mala fide intention to deceive the public and ride off the complainant's immense goodwill and impeccable reputation.
- 11.6 It is observed by this panel that once the Complainant makes a prima facie case showing that the Respondent does not have any rights or legitimate interest in the domain name, the burden to give evidence shifts to the Respondent to rebut the contention by providing evidence of its rights or interests in the domain name.

The Respondent has failed to place any evidence to rebut the allegations of the Complainant.

- 11.7 It is further observed by this panel that para 6 of the .IN Domain Name Dispute Resolution Policy (INDRP) states :

Any of the following circumstances, in particular but without limitation, if found by the Arbitrator to be proved based on its evaluation of all evidence presented, shall demonstrate the Registrant's rights to or legitimate interests in the domain name for Clause 4 (b) :

*"(a) before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; (b) the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or (c) the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."*

- 11.8 This panel observes that the respondent also failed to full fill any of the requirements as mentioned in Para 6 of INDRP Policy which demonstrates the Registrant's rights to or legitimate interests in the domain name for Clause 4 (b). For these reasons, the Panel holds that the Complainant has proved that the Respondent does not have any rights or legitimate interests in the disputed domain name 'NEWS18BHARAT.IN'.

**12. THE REGISTRANT HAS REGISTERED OR USED THE DOMAIN NAME IN BAD FAITH**

## COMPLAINANT

- 12.1 The Complainant submits that the respondent's adoption and registration of the impugned domain name is wholly *mala fide*. The complainant's NEWS18 Trademarks are coined and distinctive for the relevant products and services.
- 12.2 The Complainant submits that the respondent undoubtedly had constructive notice of the complainant's much prior rights in the reputed NEWS18 Trademarks before adopting the impugned domain name by virtue of the complainant's widespread reputation, use and registrations of the said trademarks.
- 12.3 The Complainant submits that the following facts further clearly illustrate as to how the instant case is a classic case of registration of the domain name in bad faith :
- i. Firstly, the respondent is using the complainant's registered, inherently distinctive, and reputed NEWS18 Trademarks as part of the impugned domain name <news18bharat.in> in which the complainant has immense common law and statutory rights without any authorization or license from the complainant. The said unlawful acts of the respondent therefore amount to infringement of the complainant's NEWS18 Trademarks as well as the tort of passing off.
  - ii. Secondly, owing to the continuous and uninterrupted use of the NEWS18 Trademarks by the complainant, the respondent should have had, at the very least, constructive notice of the insurmountable reputation and goodwill associated with the complainant's NEWS18 Trademarks, which inures and continues to inure to the complainant. Thus, owing to the commercial value associated with the

NEWS18 Trademarks, the respondent grabbed the impugned domain name <news18bharat.in> in 2022.

- iii. The respondent's bad faith is evident from the website hosted at the impugned domain name which gives a clear impression of being associated with the complainant and providing services that are identical to those under the complainant's NEWS18 Trademarks.

12.4 The Complainant submits that the respondent is not making a legitimate, non-commercial or fair use of the impugned domain name and has registered the same with a mala fide intent to deceive the public and ride off the complainant's immense goodwill and impeccable reputation. It appears that the respondent has used a false name to register the impugned domain name since the company master data provided by the Ministry of Corporate Affairs on its website mca.gov.in did not reveal a company under said name. The use of an incorrect name by the respondent in registering the impugned domain name also demonstrates the respondent's bad faith.

12.5 The Complainant submits that the general proposition that the registration of a domain name incorporating a highly reputed trademark of the complainant is in bad faith has been upheld by numerous UDRP decisions. Some notable cases reaffirming this proposition are *Marie Claire Album v. Marie-Claire Apparel, Inc.* Case No D 2003 0767 , *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.* Case No D 2000 0163 and *Adidas Salomon AG v. Domain Locations* Case No D 2003 0489 , wherein it has been held that registration of a well-known trademark of which the respondent must reasonably have been aware is in itself sufficient to amount to bad faith. In every likelihood actual or potential visitors to the website maintained on

the impugned domain name <news18bharat.in> have been and will be induced to believe :

- i. The complainant has authorized, endorsed or licensed the use of its NEWS18 Trademarks by the respondent including the registration of the impugned domain name <news18bharat.in>.
- ii. The respondent has some connection with the complainant in terms of a direct nexus or affiliation with the complainant or has been authorized by the complainant in some manner to continue its business through the impugned domain name <news18bharat.in>.

12.6 The Complainant submits therefore, it is evident that by using the impugned domain name, the respondent has intentionally attempted to mislead and attract internet users to the respondent's website hosted on the impugned domain name, by creating a likelihood of confusion with the complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or of any product or service on the respondent's website. [Rule 7(b)]

12.7 The Complainant therefore submits that the impugned domain name has been registered and is being used in bad faith.

## **RESPONDENT**

12.8 The Respondent has not replied to Complainant's contentions.

## **13. PANEL OBSERVATION**

13.1 This panel while going through the complaint and documents which are placed in the form of annexures has observed that Complainant adopted the mark NEWS18 prior to the date on which



Respondent registered the domain <news18bharat.in>. It is observed by this panel that the Complainant has statutory and common law rights in the mark NEWS18 and NEWS18BHARAT and is also using the mark NEWS18, in other domain name www.news18.com, and as a trading name prior to registration of disputed domain name. There is also nothing on record to show that Respondent has ever registered the marks NEWS18 OR NEWS18BHARAT.

- 13.2 It is observed by this panel, that there is nothing on record to show that the respondent has any relationship with complainant or with the complainant's mark "NEWS18". It is further observed by this panel that the registration and use of the disputed domain name diverts potential customers looking for complainant's services and business to the Respondent's website under the disputed domain name. These customers may mistakenly believe that the disputed domain name is affiliated to complainant and may further mistakenly believe that the services offered on this website are offered by a channel partner/affiliate of complainant. The Complainant has been able to prove that by registering and using the disputed domain name, the Respondent has intentionally attempted to attract for commercial gain, Internet users to the corresponding website by creating a likelihood of confusion with the complainant's well-known NEWS18 brand as to the source, sponsorship, affiliation, or endorsement of Respondent's website and business. This is clear evidence of the Respondent's bad faith. The Respondent's domain name registration meets the bad faith elements outlined in Para 7 (c) of the INDRP Policy.
- 13.3 It is observed by this panel that in view of the above-mentioned facts and circumstances, it is impossible to conceive that the Respondent could have registered the disputed domain name in



good faith or without knowledge of the Complainant's rights in the mark NEWS18 and NEWS18BHARAT .

- 16.4 The complainant has rightly established that the respondent has registered the disputed domain name in bad faith. The Respondent's domain name registration meets the bad faith elements outlined in Para 4(c) of the INDRP Policy. Therefore, the Panel concludes that the registration by Respondent is in bad faith. Consequently, it is established that the disputed domain name was registered in bad faith or used in bad faith and the Respondent has wrongfully acquired/registered the domain name www.news18bharat.in its favor in bad faith.

#### **14. REMEDIES REQUESTED**

- 14.1 It is submitted by the complainant that the Respondent/ Registrant's domain name <news18bharat.in> be transferred to the Complainant with heavy cost on the Respondent.

#### **15. DECISION**

- 15.1 The following circumstances are material to the issue in the present case :
- (i) Through its contentions based on documents/ records and evidence, the Complainant has been able to establish that the complainant, TV18 Broadcast Limited, is a renowned and award-winning news and entertainment company and owns and operates, inter alia, multiple national and regional news channels, websites and mobile applications under its News18 brand, including News18 India and the News18 Network. The Complainant has also established that the trademark NEWS18 and NEWS18 BHARAT are inherently





distinctive of the business of the Complainant and has secured trademark protection in India by registering trademarks.

- (ii) The Respondent despite proper opportunity given, however, has failed to provide any evidence that it has any rights or legitimate interests in respect of the domain name, and the Respondent is related in any way to the Complainant. The Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the Disputed Domain Name.
- (iii) The very incorporation of NEWS18BHARAT in toto by the respondent in the disputed domain name causes a false association between the same and the NEWS18 brand of the complainant and leads the average Internet user to believe that the disputed domain name and any corresponding website is owned by complainant and relates to genuine NEWS18 business/offering. The Respondent has registered the disputed domain name in bad faith with full knowledge of Complainant's rights and to intentionally attract, Complainant's customers for commercial gains. The fact that the Respondent while responding to the mail dated 17.11.2023 of the Complainant has himself admitted Complainant to be the rightfully owner, and also his query from the Complainant about the compensation for transferring the disputed domain name proves that the disputed domain name has been registered by the Complainant also for the purpose of selling, renting etc., which is the element of bad faith as mentioned in the INDRP Policy.
- (iv) The Respondent also failed to comply with Para 3 of the INDRP, which requires that it is the responsibility of the Respondent to ensure before the registration of the impugned domain name by him that the domain name



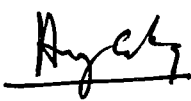
registration does not infringe or violate someone else's rights. The Respondent should have exercised reasonable efforts to ensure there was no encroachment on any third-party rights.

**15.2** This panel is of the view that it is for the Complainant to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name but the Respondent has miserably failed to do that. The Respondent's registration and use of the domain name [www.news18bharat.in] are in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name and also the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

### **RELIEF**

Following INDRP Policy and Rules, this Panel directs that the disputed domain name [news18bharat.in] be transferred from the Respondent to the Complainant; with a request to NIXI to monitor the transfer.

New Delhi, India  
Dated :28 November 2023

  
AJAY GUPTA  
Sole Arbitrator