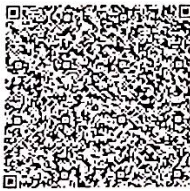


Government of National Capital Territory of Delhi

Certificate No.	: IN-DL35908200834171W
Certificate Issued Date	: 31-Jan-2024 12:08 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP173396772677099W
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)



DEEPA GUPTA
SOLE ARBITRATOR

.IN Registry - National Internet Exchange of India
INDRP Case No: 1795

In the matter of Arbitration Between:

Arcelormittal

.....Complainant

Versus

Sugarcane Internet Nigeria Limited

.....Respondent

Disputed Domain Name : <mittalsgroup.co.in>

nt

[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 Corporation in the details on this Certificate and as available on the website / Mobile App loaders if any.

3. The duty of checking the legitimacy is on the users of the certificate

If there is any discrepancy please inform the Competent Authority

DEEPALI GUPTA
SOLE ARBITRATOR

Appointed by the .IN Registry - National Internet Exchange of India

INDRP Case No: 1795

In the matter of:

ARCELORMITTAL

24-26, boulevard d'Avranches

1160 Luxembourg

LUXEMBOURG

Through its authorised Representative:

NAMESHIELD

79 rue Desjardins

49100 Angers

FRANCE

Telephone: +33.(0)2,41,18,28,28

Fax: +33(0)2,41,18,28,29

Email: legal@nameshield.net

.....Complainant

Versus

Sugarcane Internet Nigeria Limited

Domain Administrator

4 Akanbi Danmole Street off Ribadu Road,

Ikoyi, Lagos 106104

NIGERIA

Email: sugarcane@mm.st

Phone: (+234)7060647844

(Registrant)

.....Respondent

Disputed Domain Name : <mittalsgroup.co.in>

ARBITRATION AWARD

DATED FEBRUARY 12, 2024.



1) **The Parties:**

The Complainant in the present arbitration proceedings is **ARCELORMITTAL**, 24-26, boulevard d'Avranches, 1160 Luxembourg, LUXEMBOURG.

The Complainant is represented by its Authorized Representative **NAMESHIELD**, 79 rue Desjardins, 49100 Angers, FRANCE.

The Respondent in the present case is **Sugarcane Internet Nigeria Limited**, Domain Administrator, 4 Akanbi Danmole Street off Ribadu Road, Ikoyi, Lagos 106104, NIGERIA. Email- : sugarcane@mm.st, 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 <**MITTALSGROUP.CO.IN**>

The Registrar is **GoDaddy.com, LLC**

The Registrant is Name- **Sugarcane Internet Nigeria Limited**, Domain Administrator, 4 Akanbi Danmole Street off Ribadu Road, Ikoyi, Lagos 106104, NIGERIA. Email- : sugarcane@mm.st Phone: (+234)7060647844

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.

- The Complaint was produced before the Arbitrator on 20th December, 2023.
- Thereafter Notice was issued to the Respondent on 20th December 2023, at his e.mail address 'sugarcane@mm.st', communicating the appointment of the Arbitrator in the case and outlining that the Complainant had prayed for transfer of the disputed Domain name <MITTALSGROUP.CO.IN> in its favour. The Respondent was called upon to submit their response within fifteen (15) days of the receipt of the Arbitrators email.
- The Arbitrator received no response from the respondent within the said timeline and 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:

The Complainant herein is 'ARCELORMITTAL', the Complainant is a Luxembourgish steel manufacturing company specialized in steel production. The Complainant is the largest steel producing company in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging. It holds sizeable captive supplies of raw materials and operates extensive distribution networks. The Complainant is present in India through numerous entities.

The Complainant owns numerous trademark registrations in the mark 'MITTAL' in many jurisdictions throughout the world, including in India such as:

- The Indian trademark MITTAL n°1363006 registered since 2005-06-10
- The Indian trademark MITTAL n°1319446 registered since 2004-11-08

The Complainant also owns and communicates on Internet through various domain names, such as <mittalgroupindia.com> registered on August 28th, 2021 and <mittal.eu> registered since February 23rd, 2010.



That the disputed domain name <mittalsgroup.co.in> was registered by the respondent on November 2nd, 2023 and resolves to a parking page with commercial links.

5) Parties contentions:

A. Complainant

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. The Complainant has in support of its case has made the following submissions:

- a) The Complainant submits that the Complainant owns numerous trademark registrations in the mark 'MITTAL' in many jurisdictions throughout the world, including in India such as:

The Indian trademark MITTAL n°1363006 registered since 2005-06-10,

The Indian trademark MITTAL n°1319446 registered since 2004-11-08.

The Complainant also owns and communicates on Internet through various domain names, such as <mittalgroupindia.com> registered on August 28th, 2021 and <mittal.eu> registered since February 23rd, 2010. That the disputed domain name <mittalsgroup.co.in> was registered on November 2nd, 2023 by respondent and resolves to a parking page with commercial links.

- b) The Complainant states that the disputed domain name <mittalsgroup.co.in> is confusingly similar to the trademark MITTAL, as it incorporates the Complainant's 'MITTAL' trademark in its entirety.
- c) The Complainant contends that the addition of the letter "S" and the terms "GROUP" and "CO" (short for "company") are not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark 'MITTAL'. It is submitted that this does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent

- the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the domain names associated. On the contrary, the terms may refer to the structure of the Complainant and may therefore lead consumers to believe that the disputed domain name is related to the Complainant.
- d) Furthermore, the Complainant contends that the addition of the ccTLD “.IN” is not sufficient to escape the finding that the domain is identical to its trademark MITTAL and does not change the overall impression of the designation as being connected to the trademarks of the Complainant. Hence, the Complainant contends that the disputed domain name <mittalsgroup.co.in> is confusingly similar to its trademarks.
- e) The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the trademark, or apply for registration of the disputed domain name by the Complainant.
- f) Moreover, the disputed domain name <mittalsgroup.co.in> resolves to a parking page with commercial links related to the Complainant activities. Hence it is not a bona fide offering of goods or services or legitimate non-commercial or fair use. The Complainant relies on ‘WIPO Case No. D2007-1695’, *Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe* (“Respondent’s use of a domain name confusingly similar to Complainant’s trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use.”).
- g) Thus, the Complainant contends that the Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public and therefore is not making a legitimate, fair or bona fide use of the domain name.
- h) The Complainant states that the disputed domain name <mittalsgroup.co.in> is confusingly similar to its trademark MITTAL. Prior UDRP panels have established that the ‘MITTAL’ trademarks are well-known. Complainant relies on WIPO Case No. D2018-1086, *ArcelorMittal S.A. v. Registrant of lakshmimittal.org, c/o WHOIstrustee.com Limited / Zeus Holding Market Ltd.* (“The Domain Name wholly incorporates a well-known mark [MITTAL]”); WIPO Case No. D2010-2049,

Arcelormittal v. Mesotek Software Solutions Pvt. Ltd. ("the Complainant's marks MITTAL and MITTAL STEEL have been widely used and are well-known.").

- i) Thus, Complainant submits that given the distinctiveness of the Complainant's trademarks and reputation, it is inconceivable that the Respondent could have registered the disputed domain name <mittalsgroup.co.in> without actual knowledge of Complainant's rights in the trademarks, which evidences bad faith.
- j) Furthermore, the disputed domain name resolves to a parking page with commercial links related to the Complainant activities. The Complainant contends that the Respondent has attempted to attract Internet users for commercial gain to his own website through the Complainant's trademarks for its own commercial gain, which is an evidence of bad faith.
- k) Moreover, the disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes. This is also indicative of bad faith registration and use because any email emanating from the disputed domain name could not be used for any good faith purpose.
- l) Further the Complainant contends that the Respondent, Sugarcane Internet Nigeria Limited, has already been involved in several UDRP cases for registering domain names comprising third party trademarks, for instance WIPO Case No. D2023-0745, Sentara Healthcare Domain v. Administrator, Sugarcane Internet Nigeria Limited <sentaramedicalrecords.com>; WIPO Case No. D2022-0860, Blackbaud, Inc. v. Sugarcane Internet Nigeria Limited <uncgacademicworks.com>; WIPO Case No. D2021-1954, Accor v. Privacy Protection/ Sugarcane Internet Nigeria Limited <accorhotelscarriers.com>.
- m) In view of the aforesaid facts, the Complainant contends that the Respondent has registered the disputed domain name and is using it in bad faith.

B. RESPONDENT:

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



6) 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.

Identical or confusingly Similar:

The disputed Domain Name incorporates the Complainant's 'MITTAL' mark without addition or alteration. It is well established that the full incorporation of a complainant's trademark in a disputed domain name is sufficient for a finding of identical or confusing similarity. Addition of generic terms to a well known trademark does not prevent a finding of confusing similarity between the disputed domain name and mark. It is a well established principal that when a domain name wholly incorporates a complainant's registered mark, the same is sufficient to establish identity or confusing similarity for purposes of the Policy. It is evident that the disputed domain name "MITTALSGROUP.CO.IN" incorporates in its entirety the Complainant's trademark 'MITTAL' and has the term "group.co.in" appended to it. However, such differences can be ignored for the purpose of determining similarity between the disputed domain name and the Complainant's trademark as it is a generic and technical requirement and is non-distinctive and does not prevent a finding of confusing similarity between the disputed domain name and mark.

The Complainant has submitted evidence of its trademark registrations for the "Mittal" mark in India since the year 2004 as also in other Jurisdictions globally 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 global use. Further in addition to the above, reflecting its global reach, the Complainant is also the owner of numerous domain names consisting of its 'MITTAL' trade mark.



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.

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.

Rights and Legitimate Interests:

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.

The Complainant has argued that the Respondent lacks rights or legitimate interests in the disputed domain name and has submitted that the Registrant does not own any registered rights in any trademarks that comprise part or all of the disputed domain name.

The disputed domain name <mittalsgroup.co.in> was registered on November 2nd, 2023. The Complainant has stated that the Respondent has registered the disputed domain name after a considerable time of the Complainant having established its rights in the 'MITTAL' mark. It is found that the Complainant has provided evidence of its prior adoption of the 'MITTAL' mark. The Complainant has submitted that the use of the mark by the respondent is likely to mislead people and the respondent lacks rights to use the said trademark in the disputed domain name.

Use of the said trademark 'MITTAL' 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 'MITTAL' 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.

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.

In the light of the facts and circumstances discussed, it is found that the Complainant has made out a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name. The second element under paragraph 4 of the Policy has been met by the Complainant.

Bad faith

The evidence on record clearly demonstrates the Complainant's prior adoption and extensive use of the 'MITTAL' mark. Complainant had clearly acquired common law rights in the term 'MITTAL' much before the registration date of the disputed Domain Name. It is evident that neither the Respondent's name nor the Respondent's organization bears any resemblance to the disputed Domain Name. It has been established by evidence adduced on record by the Complainant that it has acquired valuable rights in the mark 'MITTAL' not only by prior use but also by having registered trademarks for 'MITTAL' in numerous jurisdictions globally.

These facts establish the Complainants prior adoption of the 'MITTAL' 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 internationally and is well known, which has substantial value. The evidence filed by the Complainant clearly establishes the recognition and reputation associated with the 'MITTAL' mark.

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 'MITTAL' 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.

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 'MITTAL' 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. Thus it can be presumed that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves.

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. 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 disputed domain name <MITTALSGROUP.CO.IN > be transferred to the Complainant.



Deepali Gupta
Sole Arbitrator
Date: 12th February 2024.