

AWARD

1. The Parties

The Complainant is Godrej Consumer Products Limited, 4th Floor, Godrej One, Pirojshanagar, Eastern Express Highway, Vikhroli [East], Mumbai, 400079 Maharashtra, India.

The Respondent is Godrej Godrej, Godrej Godrej, Godrej Godrej, Assam – 111177, India.

2. The Domain Name and Registrar

The disputed domain name is <godrejaer.in>. The said domain name is registered with the Registrar – Endurance Digital Domain Technology LLP (IANA ID: 801217). The details of registration of the disputed domain name (as per WHOIS details relevant to the Complaint) are as follows:

- a. Domain ROID: D3F42D792FEF04D30B2CDDFFBA7064718D-IN
- b. Date of creation: July 13, 2023.
- c. Expiry date: July 13, 2024.

3. Procedural History

- (a) A Complaint dated 19.12.2023 by the Complainant has been filed with the National Internet Exchange of India (NIXI). The Complainant has made the registrar verification in connection with the domain name at issue. The print outs confirmed that the Respondent is listed as the registrant and provided the contact details for the administrative, billing, and technical contact. The Exchange verified that the Complaint satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the “Policy”) and the Rules framed thereunder.
- (b) The Exchange appointed the undersigned Mr. P.K.Agrawal, Former Addl. Director General in the Government of India, as the sole Arbitrator in this matter. The Arbitrator finds that he has been properly appointed. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Exchange.
- (c) In accordance with the Policy and the Rules, the copies of complaint with annexures were sent by the National Internet Exchange of India on

26.12.2023 by email. The Arbitrator served the Notice under Rule 5(C) of INDRP Rules of procedure along-with copies of complaint and annexures to the parties through email on 27.12.2023. The Complainant was advised to serve copies of the domain complaint along with complete set of documents in soft copies as well as in physical via courier or post to the Respondent Registrant at the address provided in the WHOIS details of the domain. The Respondent was given 14 days' time by the Arbitrator through Notice dated 27.12.2023 for reply. The Notice email was served upon the Respondent email id given in WHOIS details, which was delivered. According to the Complainant's emails dated 27.12.2023 / 28.12.2023, the Complaint with annexures was sent to the Respondent through email on 27.12.2023 / 28.12.2023 and DTDC Courier on 28.12.2023. In view of this, the Complaint and its annexures may be regarded to have been served to the Respondents as per Arbitration and Conciliation Act, 1996 and INDRP rules. The Respondent responded to the Notice with a very short message through email dated 27.12.2023. He wrote – "You want domain transfer from our side." He submitted a reply on 28.12.2023 in his defence. Accordingly, the present proceedings have to be conducted on merits as per the Arbitration and Conciliation Act, 1996 and the .IN Domain Name Dispute Resolution Policy and the Rules of Procedures framed there under.

4. Factual Background

The Complainant in this arbitration proceedings is Godrej Consumer Products Limited, 4th Floor, Godrej One, Pirojshanagar, Eastern Express Highway, Vikhroli [East], Mumbai, 400079 Maharashtra, India.

The Complainant, Godrej Consumer Products Limited [GCPL] is a leading Fast Moving Consumer Goods [FMCG] company with presence in Asia, Latin America and Africa. Its products include soap, household insecticides, hair colourants, toiletries, air fresheners, liquid detergents, etc. The Complainant is part of the Godrej Group, an Indian conglomerate headquartered in Mumbai, Maharashtra which was founded in 1897. The Godrej Group operates worldwide in several different sectors such as real estate, consumer products, industrial engineering, appliances, furniture, security and agricultural products, and has a combined revenue of over 4.5 billion USD through its various subsidiaries.

The Complainant [GCPL] is a critical group company of the Godrej Group and owns several well-known and popular brands such as 'Godrej', 'Godrej Aer', 'aer', 'Godrej Aer Pocket', 'Cinthol', 'Godrej Fresh Glow', 'Godrej No. 1', 'Godrej Shikakai', 'Godrej Expert Rich Crème', 'Godrej Expert Powder Hair Dye', 'Renew', 'ColourSoft', 'Ezee', 'Godrej Protekt', 'Mr Magic/Magic', 'Godrej Professional', 'Goodness.me', etc.

The Complainant submits that GCPL ranks among the largest

household air freshener and hair care players in emerging markets. The Complainant's products are available in over 80 countries as of now. Further, the Complainant's brand 'Godrej Aer' along with its variants, 'aer', 'Godrej Aer pocket', 'Godrej Aer Power Pocket', 'GODREJ AER' and other similar marks ["**Godrej Aer marks**"] are extremely popular all over the world and are widely used by car owners, restaurants, domestic households and other users in a variety of applications. A variety of products including car and room air fresheners, bathroom fresheners and automatic air freshener diffusers are sold by the Complainant under the Godrej Aer marks.

The Complainant have secured trade mark registrations for the marks 'Godrej', 'Godrej Aer' and several other related marks in India as well as in several other jurisdictions.

INDICATIVE LIST OF TRADEMARK APPLICATIONS / REGISTRATIONS FOR THE 'GODREJ AER' MARKS OF THE COMPLAINANT IN COUNTRIES OTHER THAN INDIA #

	Trade-mark	Appln. No.	Appln. Date	Regn. No.	Class	Country
1	Godrej Aer	85789	04.02.2014	85789	5	Oman
2	Godrej Aer	85788	04.02.2014	85788	3	Oman
3	Godrej Aer	87056	5.02.2014	87056	5	Qatar
4	Godrej Aer	87055	5.02.2014	87055	3	Qatar
5	Godrej Aer	1435006567	11.02.2014	1435006567	3	Saudi Arabia
6	Godrej Aer	1435006568	11.02.2014	1435006568	5	Saudi Arabia
7	Godrej Aer	101979	3.02.2014	101979	3	Bahrain
8	Godrej Aer	101980	3.02.2014	101980	5	Bahrain
9	Godrej Aer	205680	5.02.2014	205680	3	UAE
10	Godrej Aer	205681	5.02.2014	205681	5	UAE
11	Godrej Aer	1325	29.12.2012	15900	3 & 5	Afghanistan

12	Godrej Aer	323811	10.04.2015	323811	5	Egypt
13	Godrej Aer	323810	10.04.2015	323810	3	Egypt
14	Godrej Aer	046869	23.12.2012	44263	5	Nepal
15	Godrej Aer	F/TM/2012/12017	23.10.2012	105949	3	Nigeria
16	Godrej Aer	F/TM/2012/11589	28.09.2012	103391	3	Nigeria
17	Godrej Aer	29173805	07.02.2018	29173805	3	China
18	Godrej Aer	20,89,543	19.05.2020	20,89,543	3 & 5	Australia
19	Godrej Aer	43796055	14.01.2020	43796055	3	China
20	Aer	4/5103/5320/2013	21.05.2013	4/5103/5320/2013	3	Myanmar
21	Godrej Aer	3669740	16.07.2021	3669740	3 & 5	UK
22	Godrej Aer	17695	13.06.2016	17695	3	Madagascar
23	Godrej Aer	160095	19.12.2012	160095	3	Bangladesh
24	Godrej Aer	40202200718Y	11.01.2022	40202200718Y	3	Singapore
25	AER	UK00003817679	8.08.2022	UK00003817679	3,5,1	UK
26	Godrej Aer	147934	4.02.2014	129219	3	Kuwait

The complainant's official website <www.godrej.com> is a comprehensive, unique and acclaimed introduction to the Complainant's well-known mark 'Godrej'. The said domain name was registered in the year 1998. The Complainant and its group companies own more than 50 different domain names out of which each and every one comprises of the mark 'Godrej'.

INDICATIVE LIST OF DOMAIN NAMES OWNED BY THE COMPLAINANT AND OTHER GROUP COMPANIES OF THE GODREJ GROUP

1. www.godrej.com
2. www.godrejpodcasts.com
3. www.godrejcareers.com
4. www.godrejite.com

5. www.designdekko.com
6. www.VikhroliCucina.com
7. www.godrejlaffaire.com
8. <https://godrejcp.com/>
9. <https://www.godrejindiasaarc.com/>
10. <https://www.godrejindonesia.com/>
11. <https://www.godrejafrica.com/>
12. <https://www.godrejnorthamerica.com/>
13. <https://www.godrejlatam.com/>
14. <https://www.godrejcareers.com/on-campus/>
15. <https://www.godrejcareers.com/loud/>
16. <https://www.godrejcareers.com/on-campus/management-trainees/>
17. <https://www.godrejcareers.com/on-campus/internships/>
18. acigodrej.com
19. godrejafrica.com
20. godrejagrovvet.com
21. godrejagrovvet.com
22. godrejastec.com
23. godrejcdpl.com
24. godrejcdt.com
25. godrejconsumerproducts.com
26. godrejconsumerproducts.net
27. godrejconsumerproducts.org
28. godrejcp.asia
29. godrejcp.biz
30. godrejcp.co.in
31. godrejcp.com
32. godrejcp.in
33. godrejcp.in
34. godrejcp.net
35. godrejcp.net
36. godrejcp.org
37. godrejdarling.biz
38. godrejeasternafrica.biz
39. godrejeasternafrica.com
40. godrejeasternafrica.in
41. godrejeasternafrica.net
42. godrejeasternafrica.org
43. godrejinds.co.in
44. godrejinds.com
45. godrejinds.in
46. godrejinds.net
47. godrejindustries.co.in
48. godrejindustries.com
49. godrejindustries.net
50. godrejindustries.org
51. godrejnjb.com
52. godrejsa.in
53. godrejsa.net
54. godrejsa.org
55. godrejssoaps.com
56. godrejssoaps.com
57. godrejssoaps.net
58. godrejssoaps.org
59. godrejsouthernafrica.biz
60. godrejsouthernafrica.com
61. godrejsouthernafrica.in
62. godrejsouthernafrica.net
63. godrejsouthernafrica.org
64. godrejuk.com
65. godrejwesternafrica.biz
66. godrejwesternafrica.com
67. godrejwesternafrica.in
68. godrejwesternafrica.net
69. godrejwesternafrica.org
70. cinthol.com
71. ezeefabcare.com

72. fairglow.com	73. godrejaer.com
74. godrejinthol.com	75. godrejdarling.com
76. godrejdarling.in	77. godrejdarling.net
78. godrejdarling.org	79. godrejdishwash.com
80. godrejezee.com	81. godrejezee.com
82. godrejgenteel.com	83. godrejhit.com
84. godrejmaxximilk.com	85. godrejno1.com
86. godrejno1.com	87. godrejnupur.com
88. godrejprofessional.com	89. godrejprofessional.com
90. godrejprofessional.in	91. godrejshavingcream.com
92. haircareindia.com	93. adigodrej.com
94. adigodrej.in	95. adigodrej.net
96. adigodrej.org	97. godrejadi.com
98. godrejadi.in	99. godrejinds.org

The Complainant's brands 'Godrej' and 'Godrej Aer' have a huge social media presence.

Respondent's Identity and Activities

The Respondent has not disclosed any information regarding his identity or activities. In WHOIS details available in public domain, most of the information including address has been "redacted for privacy".

The Respondent responded to the Notice with a very short message through email dated 27.12.2023, and submitted a reply on 28.12.2023 in his defence.

5. Parties Contentions

A. Complainant

The Complainant contends that each of the elements specified in the Policy are applicable to this dispute.

In relation to **element (i)**, the Complainant submits that the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

According to the Complainant:

- The disputed domain name gives rise to enormous confusion as to its origin, as the domain name used by the Respondent is identical to the well-known trademark/service mark of the Complainant. The Respondent has copied the entirety of the Complainant's registered and

well-known trademark 'Godrej Aer' verbatim without even changing a single letter.

- Moreover, the disputed domain name redirects to a secondary website, available at <<https://airfreshner.in/>> [the "**Redirected Website**"]. It must be noted that the Redirected Website, which is now inactive, contained a fake and fraudulent website, which purported to sell products under the 'Godrej Aer' brand owned by the Complainant. It is important to note that the Complainant previously owned and operated a dedicated website for its 'Godrej Aer' brand, at the URL <<https://godrejaer.com>>, which the Complainant stopped operating in March 2023. Since the Complainant manufactures and sells a wide range of goods under the Godrej Aer marks, any member of the general public would mistakenly assume that the disputed domain name and the Redirected Website are owned and operated by the Complainant, whereas nothing could be further from the truth. Thus, the use of the disputed domain name by the Respondent is a prima facie case of cybersquatting and trade/service mark/name infringement and passing-off.
- In fact, the WIPO Panels in cases such as *Reuters Ltd. v. Global Net 2000 Inc., D2000-0441*; *Altavista Company v. Grandtotal Finances Ltd., D2000-0848*; *Playboy Enterprises v. Movie Name Company, D2001-1201* have held that the mere omission of one letter of a trademark has no effect on the determination of confusing similarity between a trademark and a domain name. The present case is on an even higher footing as the Respondent has picked up the **registered trademark** of the Complainant verbatim without even changing a single letter. This particular term is identical to the 'Godrej Aer' range of air freshener products manufactured and sold by the Complainant. Thus, the use of the disputed domain name by the Respondent is a prima facie case of cybersquatting and trade/service mark/name infringement and passing-off.
- It is submitted that the domain name <www.godrejaer.in> is identical to the well-known and registered trademark 'Godrej Aer'. Numerous UDRP panels have held [*Farouk Systems, Inc. v. Yishi, D2010-0006*; *Havells India Limited, ORG Enterprises Limited v. Whois Foundation D2016-1775*] that a domain name which wholly incorporates a Complainant's registered mark may be sufficient to establish identicalness or confusing similarity, despite the addition of other words to such marks.

- The well-known mark 'Godrej' has been in extensive, continuous and uninterrupted use since the year 1897 in relation to the Complainant's [and its group companies] business. The Godrej Aer marks have also been used in relation to advertisements and related business/commercial information disseminated in several print media such as newspapers, magazines etc. both in India as well as abroad.
- The 'Godrej' mark is the corporate name as well as the primary brand name of the Complainant and its group companies.
- The Complainant and its group companies have been using the trademark 'Godrej' in an extensive and continuous manner for more than a century and has thus acquired secondary meaning in the mark. [*Realmark Cape Harbour L.L.C. v. Lawrence S. Lewis, D2000-1435*].
- The trademark 'Godrej' has been declared a 'well-known' mark by the Trade Marks Registry, India under Section 11[6] of the Indian Trade Marks Act, 1999. A list has been published by the Trade Marks Registry, India, duly indicating 'Godrej' as a well-known mark.
- It is well established that specific top-level domain, such as ".com", ".in", ".co.in" ".net" or ".travel", does not affect the domain name for the purpose of determining whether it is identical or confusingly similar [*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr., D2000-1525; Rollerblade, Inc. v. Chris McCrady, D2000-0429; Wells Fargo and Company v. Jessica Frankfurter, INDRP/392*].
- In *Living Media, Limited v. India Services, D2000-0973*, it has been held that "trademark registration is itself prima facie evidence that the mark is distinctive". Similarly, in *eAuto, LLC v. Triple S Auto Parts, D2000-0047*, the Panel decided that when a domain name wholly incorporates a Complainant's registered mark, that is sufficient to establish identical or confusing similarity for purposes of the UDRP policy.
- An internet user, who wishes to visit the website of the Complainant to purchase the Complainant's products under the brand name 'Godrej Aer', to type its brand name 'Godrej' followed by the term 'aer' [which is identical to the Complainant's registered trademark] and the country specific Top-Level Domain <.in>. This will lead the Internet user to believe that the Complainant is associated with or owns the website

bearing the domain name <www.godrejaer.in>. Moreover, it is very likely that an internet user, who would want to search for air freshener solutions by Godrej would search for the term 'Godrej Air Fresheners'. Such a search would inadvertently lead the user to the disputed domain name and the user would mistakenly assume that the disputed domain name, the Redirected Website and the services offered through it are being offered by the Complainant.

- In the past, administrative panels have also ruled in favour of brand owners even where the mark was not registered [*Satyam Computer Service Limited v. Vasudeva Varma Gokharaju, D2000-0835; Express Publications [Madurai] Ltd. v. Murali Ramakrishnan, D2001-0208 and Hindustan Petroleum Corporation Limited v. Neel Punatar, D2004-0351*].

Accordingly, the Complainant contends that the first condition that Respondent's domain name is identical or confusingly similar to a name, trademark, or service mark in which the Complainant has rights, as per Paragraph 4 (a) of the Policy has been satisfied.

In relation to **element (ii)**, the Complainant contends that the Respondent does not have any right or legitimate interest in <godrejaer.in>.

The Complainant submits:

- The Respondent has no proprietary or contractual rights in any registered or common law trademark corresponding in whole or in part to the disputed domain name.
- The use of the Complainant's 'Godrej' and Godrej Aer marks, of which the mark 'Godrej' is a **well-known trademark**, clearly indicates that the Respondent knew of the Complainant's 'well-known' mark and its business activities due to the fact that the 'Godrej' mark has been in use by the Complainant in relation to various household products since the year 1897. Similarly, the Godrej Aer marks have been in continuous use since the year 2012. It is thus highly improbable that the Respondent has any rights or legitimate interests in the impugned domain name. The term 'Godrej' has also been recognized as being a well-known mark in past WIPO decisions. [Relevant Decisions: *Godrej Consumer Products Limited v. Registration Private, Domains By Proxy, LLC / Vishal Jain, fmcg D2020-1616; Godrej Industries Limited, and Godrej Consumer Products Limited v. Ixami narayan Case No. D2023-0971; Godrej Industries Limited and Godrej Seeds and Genetics Limited v.*

godrej seed Case No. D2023-1395; Shri Adi Godrej v. Summit Services LLC, Bruce Wayne D2012-0596.]

- Moreover, the impugned domain name was registered by the Respondent on **July 13, 2023**, which is very recent compared to the inception and gradual popularity of the 'Godrej' and 'Godrej Aer' marks. [Telstra Corporation Limited v. Nuclear Marshmallows, D2000-0003; Kelemata S.p.A. v. Mr. Bassarab Dungaciu, D2003-0849]
- The Respondent has developed the Redirected Website via the disputed domain name wherein several products under the Complainant's 'Godrej Aer' range of products were advertised. It is submitted that the Respondent has been trying to lure and defraud unassuming customers by misleading them into believing that the Redirected Website and the services offered through it and the disputed domain name are being provided by the Complainant.
- The very fact that the Respondent has registered a domain name with the Complainant's trademark 'Godrej Aer' indicates that the Respondent knew of the Complainant's brand and registered the domain name to cash-in on the brand's reputation. The Respondent is passing-off by pretending to be offering the Complainant's 'Godrej Aer' range of products via the Redirected Website.
- Furthermore, the very fact that the Respondent created the Redirected Website which was identical to the Complainant's erstwhile 'Godrej Aer' website further proves that the Respondent had actual knowledge of the Complainant's brand and yet it continued using the domain name. Moreover, this is a serious case of trademark infringement and passing-off on the part of the Respondent.
- The act of redirection employed by the Respondent in this case is particularly concerning, since by using the disputed domain name and subsequently redirecting users to a counterfeit website, the Respondent deliberately creates a false impression that the two entities are related or affiliated. This redirection not only serves as a deceptive mechanism but also diverts genuine traffic intended for the Complainant's legitimate websites and products to an unauthorized, potentially malicious website. This calculated use of redirection underscores the Respondent's intent to exploit the Complainant's trademarks and goodwill for their own gain, further underscoring the lack of rights or

legitimate interests in the domain name. [*Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records, Case No. D2017-2533; Ann Summers Limited v. Domains By Proxy, LLC / Mingchun Chen Case No. D2018-0625; Conforama France v. Benjamin Kouassi*]

- The Respondent has no active legitimate or bona fide business in the name of 'Godrej' and 'Godrej Aer'. The Respondent is not a licensee of the Complainant, nor has the Respondent ever been authorized by the Complainant to use the Complainant's trademarks or register the disputed domain name. The Complainant has no relationship with the Respondent. [*Charles Jourdan Holding AG v. AAIM, D2000-0403 ; ITC Limited vs. Mr. Mark Segal, INDRP/079; Wells Fargo & Co. and Anr. v. Krishna Reddy, INDRP/581; Aon PLC and Ors. v. Gangadhar Mahesh, INDRP/632; Aon PLC and Ors. v. Guanrui, INDRP/633*]
- Furthermore, the Respondent whose name as per Whois records is 'Godrej Godrej', does not engage in any legitimate or bonafide business or commerce under the name 'Godrej'. [*Etro S.p.A v. M/S Keep Guessing, INDRP/024; Tata Sons Limited v. Jacob W., D2016-1264*].
- In light of the uniqueness of the domain name <www.godrejaer.in>, which is completely identical to the Complainant's trademark, it is extremely difficult to foresee any justifiable use that the Respondent may have with the disputed domain name. On the contrary, registering this domain name gives rise to the impression of an association with the Complainant. [*Telstra Corporation Limited v. Nuclear Marshmallows, D2000-0003; Daniel C. Marino, Jr. v. Video Images Productions, et al., D2000-0598*]
- The Respondent has not provided his complete address in the Whois contact information. This clearly indicates the mala fide of the Respondent leading to the conclusion that the Respondent does not have any legitimate rights in the disputed domain name. Moreover, by providing inaccurate and unreliable information, the Respondent has violated Section 2 of the 'Terms and Conditions for Registrants' issued by the .IN Registry. A similar provision in Paragraph 3[a] of the Policy states that the credentials furnished by the domain name registrant should be complete and accurate. The Respondent has not adhered to this as well.



- The Respondent cannot have any rights or legitimate interests in the disputed domain name because the disputed domain name incorporates the Complainant's well-known mark 'Godrej' and its registered trademark 'Godrej Aer' in its entirety.
- The Complainant contends that the Respondent has never been commonly identified with the disputed domain name or any variation thereof prior to Respondent's registration of the disputed domain name.

Based on the above-mentioned arguments, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, as per Paragraph 4 (b) of the Policy.

Regarding the **element (iii)**, the Complainant contends that the Domain Name has been registered and used in bad faith for the following reasons:

- The Complainant asserts that it is inconceivable that the registration of the disputed domain name was made without full knowledge of the existence of the Complainant and its 'well-known' trademark. The Complainant's 'Godrej' trademark is globally 'well-known' as it has been continuously used since **1897**.
- Furthermore, the use of the Complainant's trademark 'Godrej Aer' in the disputed domain name makes it apparent that the Respondent is deliberately passing-off its services under the 'Godrej' and 'Godrej Aer' brands. It is apparent that the Respondent registered the disputed domain name to mislead consumers into believing that the impugned domain name is associated with the Complainant. [*Arthur Guinness Son & Co. (Dublin) Ltd. v. Healy/BOSTH, D2001-0026; Lockheed Martin Corporation v. Aslam Nadia, INDRP/947*]
- Moreover, a basic internet search of the term 'Godrej' would have alerted the Respondent of the Complainant's extensive ownership and rights over the 'Godrej' mark as well as its business activities under the said mark.
- Both the Complainant and the Respondent are primarily based in India, and it is thus inconceivable that the Respondent while registering the disputed domain in the year **2023** was unaware of the well-known mark 'Godrej' which has been actively and continuously used in India since **1897**. Moreover, the Respondent has created a fake website that is redirected from the disputed domain name which clearly establishes that the Respondent knew of the Complainant's brand while registering

the disputed domain name. Moreover, this is a serious case of trademark infringement and passing-off on the part of the Respondent.

- In light of the Respondent's knowledge of the Complainant's rights and the availability of the Redirected website accessible via the disputed domain name, it is reasonable to infer that the Respondent registered the disputed domain name in bad faith with the intention to target these rights. [Cellular One Group v. Paul Brien, D2000-0028; Façonnable SAS v. Names4Sale, D2001-1365; Vakko Holding Anonim Sti. v. Esat Ist, D2001-1173; Maori Television Service v. Damien Sampat, D2005-0524; Kelemata S.p.A. v. Mr. Bassarab Dungaciu, D2003-0849]
- Registration of a domain name identical or confusingly similar to a 'well-known' trademark is a clear indicator of bad faith. [Yahoo! Inc. v. Jorge O. Kirovsky, D2000-0428; Kabushiki Kaisha Toshiba v Shan Computers, D2000-0325; Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net, D2000-0226; Nike, Inc. v. B. B. de Boer, D2000-1397; Wells Fargo & Co. and Anr. v. Krishna Reddy, INDRP/581; QRG Enterprises Limited & Anr. v. Zhang Mi, INDRP/852]
- At present, the domain name <www.godrejaer.in> is being held by the Respondent in bad faith. Since the Complainant manufactures and sells a wide variety of air freshener products under the Godrej Aer marks, any member of the general public would mistakenly assume that the disputed domain name is owned and operated by the Complainant. Thus, the use of the disputed domain name by the Respondent is a prima facie case of cybersquatting and trade/service mark/name infringement and passing-off.
- The blatant disregard and violation of the Terms & Conditions as well as of the Policy by the Respondent constitutes strong evidence of bad faith. As per Section 2 of the 'Terms & Conditions for Registrants', registrants are mandated to provide complete and accurate contact details. A similar provision in Paragraph 3[a] of the Policy states that the credentials furnished by the registrant should be complete and accurate.
- The Respondent is solely using the domain name for wrongful financial gain. Furthermore, it would be extremely difficult, if not impossible, for the Respondent to use the disputed domain name as the name of any business, product or service without violating the Complainant's rights.

Thus, the disputed domain name was registered in bad faith. [*The Ritz Carlton Hotel Company LLC v. Nelton! Brands Inc., INDRP/250*]

- The Respondent's registration of the domain name meets the bad faith elements set forth in the INDRP. The Complainant has a long and well-established reputation in the 'Godrej' and 'Godrej Aer' marks through its exclusive use in India and abroad. Moreover, the Complainant has spent a significant amount of time and resources in securing its rights to the Godrej Aer marks. By registering the disputed domain name with actual knowledge of the Complainant's trademark, the Respondent has acted in bad faith by breaching its service agreement with the Registrar because the Respondent registered a domain name that infringes upon the Intellectual Property rights of another entity - that is, the Complainant. [*Ray Marks Co. LLC v. Rachel Ray Techniques Pvt. Ltd., INDRP/215; Kenneth Cole Production Inc. v. Viswas Infomedia, INDRP/93*]
- On account of the high degree of inherent and acquired distinctiveness which the well-known mark 'Godrej' is possessed of, the use of this mark or any other phonetically, visually or deceptively similar mark, by any other person would result in immense confusion and deception in the trade.
- That any use of the impugned domain name by the Respondent would necessarily be in bad faith. [*Xpedia Travel.com, D2000-0137 and Goodfoodguide.net, D2000-0019* wherein it was held that owing to a wide public knowledge of the Complainant's mark, the Respondent cannot be said to have a legitimate interest in the concerned mark since he ought to have known of the Complainant's mark.]
- In cases such as *Guerlain S.A. v. Peikang, D2000-0055* and *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co., D2000-0163* it has been held that bad faith is found where a domain name "is so obviously connected with such a well-known product that its very use by someone with no connection with the product suggests opportunistic bad faith".
- With regard to famous and well-known brands, successive UDRP panels have found bad faith registration in similar circumstances. [*Cho Yong Pil v. Sinwoo Yoon, D2000-0310; America Online Inc. v. Chinese ICQ Network, D2000-0808; thecaravanclub.com, NAF/FA95314*]

- The Respondent has obtained registration for the disputed domain name in bad faith for either or all of the following motives:
 1. The domain name could be used by the Respondent to extract huge sums of money from the Complainant who have legitimate interest in the said domain name.
 2. The Respondent is cashing-in on the reputation of the Complainant's mark by using the domain name for offering services similar to the Complainant.
 3. The Respondent can transfer or sell the domain name to some competing interest of the Complainant.

In view of the aforesaid, the Complainant submits that the disputed domain name has been registered and is being used in bad faith, and that paragraph 4(c) of the INDRP is satisfied.

B. Respondent

The Respondent responded to the Notice with a very short message through email dated 27.12.2023. He wrote – “You want domain transfer from our side.” He submitted a reply on 28.12.2023 in his defence as extracted below:

*“If this domain is that much important for them why they dont register it why it is available in market.
According to NIXI anybody can register the any word domain name with .IN registry either the word is trademarked or not.
I have purchased this through my money if they want because they know its value we cannot give it in this way.
Also they are saying i am doing illegal or illawfull things with this domain kindly show the proofs of that.
Also i in past, present, and in future i will not do anything from this domain or i will not sell to their competitors this assurance i can give to them.if i find to do anything doing with this domain they can file legal claims then on me.
Also all decision is upto you. I will surely mark your decision as final.
One more thing i dont have that much money to hire big legal firms.
I am a 12th grade student.
This is not cyber squad, or any kind of fraud.
One more thing before filling this complaint they never call me or email me to discuss the issue they raised in this regard.”*

6. Discussion and Findings

The Rules instruct this arbitrator as to the principles to be used in

rendering its decision. It says that, “a panel shall decide a complaint on the basis of the statements and documents submitted by the parties in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any rules and principles of law that it deems applicable”.

According to the Policy, the Complainant must prove that:

- (i) The Registrant’s domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
- (ii) The Registrant has no rights or legitimate interests in respect of the domain name that is the subject of Complaint; and
- (iii) The Registrant’s domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name <godrejaer.in> was registered by the Respondent on July 13, 2023.

The Complainant is an owner of the registered trademark Godrej Aer for the last many years. The Complainant is also the owner of the similar domains as referred to in the Complaint. These domain names and the trademark have been created by the Complainant much before the date of creation of the disputed domain name by the Respondent. In the present case the disputed domain name is <godrejaer.in>. While the Complainant has claimed that the disputed domain name is very much similar to the name, activities and the trademark of the Complainant, the Respondent has not opposed this plea of the Complainant.

The Hon’ble Supreme Court of India has in the case of *Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd.*, [2004Supp. (2) SCR 465] held that the domain name has acquired the characteristic of being a business identifier. A domain name helps identify the subject of trade or service that an entity seeks to provide to its potential customers. Further that, there is a strong likelihood that a web browser looking for Godrej Aer products would mistake the disputed domain name as of the Complainant.

In the case of *Wal Mart Stores, Inc. v. Richard MacLeod*, (WIPO Case No. D2000-0662) it has been held that “When the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name” it is identical or confusingly similar for purposes of the Policy.

Therefore, I hold that the domain name <godrejaer.in> is phonetically, visually and conceptually identical or confusingly similar to the trademark of the Complainant.

B. Rights or Legitimate Interests

The Respondent may demonstrate its rights to or legitimate interest in the domain name by proving any of the following circumstances:

- (i) 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; or
- (ii) 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
- (iii) 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.

In Case No. INDRP/776, *Amundi v. GaoGou*, the arbitration panel found that the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4 (II) of the INDRP Policy.

There is no evidence to suggest that the Respondent has been known by the disputed domain name anywhere in the world. The name of the Registrant / Respondent is not Godrej / Godrej Aer as per WHOIS details. Based on the evidence adduced by the Complainant, it is concluded that the above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

Further, the Complainant has not consented, licensed, or otherwise permitted the Respondent to use its name or trademark Godrej / Godrej Aer or to apply for or use the domain name incorporating said trademark / service mark. The domain name bears no relationship with the Registrant. Further that, the Registrant has nothing to do remotely with the business of the Complainant. In his reply, the Respondent has not presented any evidence which can controvert this plea of the Complainant.

As has been contended by the Complainant, the Respondent is not making a legitimate, fair or *bona fide* use of the said domain name for offering goods and services. The Respondent registered the domain name

for the sole purpose of creating confusion and misleading the general public. In his reply, the Respondent has claimed that he in past, present, and in future will not do anything from this domain or he will not sell to the competitors of the Complainant. He has also asked for legal proofs for his illegal or unlawful activities with this domain. The Complainant has shown that the Respondent created the Redirected Website which was identical to the Complainant's erstwhile 'Godrej Aer' website.

I, therefore, find that the Respondent has no rights or legitimate interests in the domain name <godrejaer.in> under INDRP Policy, Para- 4(ii).

C. Registered and Used in Bad Faith

Any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out of pocket costs directly related to the domain name; or
- (ii) the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or
- (iv) by using the domain name, the Registrant has intentionally attempted to attract the internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.

The contention of the Complainant is that the present case is covered by the circumstances mentioned herein above. There are circumstances indicating that the Respondent has intentionally attempted to attract, for commercial gain, internet users to its web site, by creating a likelihood of

confusion with the Complainant's mark. It may also lead to deceiving and confusing the trade and the public.

In 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."

The circumstances as evident from the foregoing paragraphs lead to the conclusion that the domain name in dispute was registered and used by the Respondent in bad faith.

7. **Decision**

In light of the foregoing findings, namely, that the domain name is confusingly similar to the trademark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the domain name was registered in bad faith and is being used in bad faith, it is clear beyond doubt that the Respondent has violated the provisions of Rule-3 of the Policy. Therefore, in accordance with the Policy and the Rules, the Arbitrator orders that the domain name <godrejaer.in> be transferred to the Complainant.

No order to the costs.



Prabodha K. Agrawal

Sole Arbitrator

Dated: 10th Jan, 2024