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INDIA NON JUDICIAL

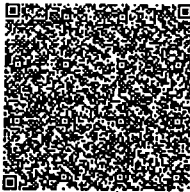
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Certificate No.	: IN-DL40638553765211W
Certificate Issued Date	: 08-Feb-2024 11:28 AM
Account Reference	: IMPACC (IV)/ dl717303/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL71730343069019931377W
Purchased by	: AJAY GUPTA ARBITRATOR
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: AJAY GUPTA ARBITRATOR
Second Party	: OTHERS
Stamp Duty Paid By	: AJAY GUPTA ARBITRATOR
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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INDRP ARBITRATION CASE No.1811  
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION  
SOLE ARBITRATOR: AJAY GUPTA

ZHEJIANG DAHUA TECHNOLOGY COMPANY LIMITED

Vs.

TECHFINDER ELECTRONICS PRIVATE LIMITED

DISPUTED DOMAIN NAME: "dahuacamera.in"

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*Ajay*

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ADMINISTRATIVE PANEL DECISION  
SOLE ARBITRATOR: AJAY GUPTA

ZHEJIANG DAHUA TECHNOLOGY COMPANY LIMITED  
No. 1199, Bin'an Road,  
Binjiang District, Hangzhou,  
China, P.C: 310053

... Complainant

VERSUS

TECHFINDER ELECTRONICS PRIVATE LIMITED  
F-28,29,30/1st Floor, Shree Rudraksh Bhavan,  
Near C.D Pachhiggar Homeopathic College,  
Navjeevan Circle, Udhna-Magdalla Road  
Surat-395017 (Gujarat), India

... Respondent

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



## 1. THE PARTIES

- 1.1 The Complainant, Zhejiang Dahua Technology Company Limited, in this arbitration proceeding, is a video-centric AIoT solution and service provider company and its contact address is No. 1199, Bin'an Road, Binjiang District, Hangzhou, China, P.C: 310053
- 1.2 The Complainant's Authorized Representative in this administrative proceeding is Ms. Vindhya S. Mani Advocate Lakshmikumaran & Sridharan, Attorneys Address: 5, Link Road, Jangpura Extension, New Delhi – 110014 Telephone: +91-11-41299800 Fax: +91-11-41299898 Email : [iprdel@lakshmisri.com](mailto:iprdel@lakshmisri.com), [vindhya.s@lakshmisri.com](mailto:vindhya.s@lakshmisri.com).
- 1.3 In this arbitration proceeding, the Respondent is TECHFINDER ELECTRONICS PRIVATE LIMITED F-28, Shree Rudraksh Bhavan, Near C.D Pachhiggar Homeopathic College, Navjeevan Circle, Udhna-Magdalla Road Surat-395017 (Gujarat), India 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 "**dahuacamera.in** " and the Registrar with which the disputed domain name is registered is **GoDaddy.com, LLC**.

## 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 and 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 By Rules 2(a) and 4(a), NIXI on 31.01.2024 formally notified the Respondent of the complaint along with a copy of the complaint & annexures/documents, 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. That I submitted the Statement of Acceptance & Declaration of Impartiality and Independence dated 31.01.2024 to NIXI.

3.2.2 That commencing the arbitration proceedings an Arbitration Notice Dated 31.01.2024 was emailed to the Respondent on 31.01.2024 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.

3.2.3 This panel vide email dated 01.02.2024 directed the Complainant to serve the copy of the complaint to the Respondent and submit the proof of the same before this panel. The Complainant via email dated 03.02.2024 submitted before this panel, the proof of supply of the copy of the complaint to the respondent, and also attached/submitted the courier receipt.

3.2.4 This panel vide its Arbitration Notice dated 31.01.2024 had directed the Respondent to file the reply of complaint, if any, within 10 days of the notice. That since the respondent failed to file the reply of the complaint within 10 days i.e. by 09.02.2024 as directed in the arbitration notice dated 31.01.2024, this panel via its email dated 12.02.2024 again in the interest of justice gave one more opportunity to the respondent to file the reply of the complaint if any, within 3 days i.e. by 14.02.24.

3.2.5 The Respondent, despite the receipt of Notice Dated 31.01.2024 and reminder dated 12.02.2024 of this panel neither replied to the Arbitration notice nor filed a reply of complaint; hence, on 15.02.2024 the Respondent was proceeded ex-parte.

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

4.1 The Respondent failed to reply to the notice regarding the complaint. 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 "**dahuacamera.in**".

4.2 The 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 Registry 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 has been given a fair opportunity to present his case. The Respondent was given direction to file a reply to the complaint if any, but the Respondent neither gave any reply to notice nor to the complaint despite repeated opportunities. 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 the circumstances, the panel's decision is based upon the Complainant's assertions, evidence, inferences, and merits only as the Respondent has not replied despite repeated opportunities given in this regard and was proceeded ex parte.

5. **BACKGROUND OF THE COMPLAINANT & ITS SUBMISSIONS ABOUT THE TRADEMARK "DAHUA", 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 it is a world-leading, video-centric AIoT solution and service provider

company and Dahua was incorporated in the year 2001 under the laws of China. The Complainant further submits that with a global marketing and service network, Dahua has established 57+ subsidiaries covering Asia Pacific, North America, South America, Europe, Africa, and other regions, to provide customers with speedy and superior quality services. In addition, Dahua has deployed its products, solutions, and services in more than 180 countries and regions, covering key vertical industries such as transportation, manufacturing, education, retail, banking and finance, energy, environmental protection, etc. Dahua Solutions and Products have been installed in numerous major projects including China International Import Expo, the Rio Olympics, G20 Hangzhou Summit, BRICS Xiamen Summit, Vatican City Project, Toyota Argentina Plant, Sao Paulo International Airport, are a few amongst others. The Complainant submits that Dahua became a publicly listed company in Shenzhen Stock Exchange (SZSE: 002236) in May 2008, and since 2014, Dahua has been estimated to be the 2nd largest supplier of video surveillance equipment in the world according to the third-party research company Omdia (formerly known as IHS). In addition, it has been ranked 2nd on the A&S Security 50 list for 5 consecutive years.

#### COMPLAINANT'S SUBMISSIONS ABOUT ITS TRADE MARKS

5.1.2 The complainant has submitted exhaustive list of the trademark(s) or service mark(s) along with copies of the registrations in which the complainant has rights and on which the present complaint is based.



5.1.3 The Complainant submits that the word and device marks 'DAHUA' (hereinafter known as DAHUA trademark) have been in use since the year 2001 across globe, and Dahua, has secured several registrations for the DAHUA trademarks in India in multiple classes. The Complainant submits that at present, Dahua is the bona fide adopter and exclusive proprietor of the trademarks 'DAHUA', and moreover, by virtue of their use and promotions globally as well as in India since over a decade, the said DAHUA trademarks are not just inherently distinctive, but have also acquired immense goodwill and reputation in favor of Dahua.

5.1.4 The Complainant submits that as an authorized licensee/user of the DAHUA trademarks, the Complainant has the right to restrict any third-party trying to copy or imitate the DAHUA trademarks. The Complainant aggressively and zealously protects DAHUA trademarks and takes all necessary steps to protect them from any infringement by any person/entity.

#### COMPLAINANT'S SUBMISSIONS ABOUT RESPONDENT

5.1.5 The Complainant submits that it would like to highlight an important fact that the Respondent only claims to be installers, integrator, wholesalers, importer, exporter of the Dahua products. The Respondent clearly has no other right over the registered intellectual property of the Complainant. As an installer or integrator of the products, they are

merely providing installation service for the products and cannot use or rely on the proprietary marks of the Complainant, without restriction.

5.1.6 The Complainant submits that it recently came to the Complainant's attention that the Respondent has registered the infringing domain name 'dahuacamera.in' and is operating a website using the Complainant's registered trademark as <https://www.dahuacamera.in>.

## 6. THE ISSUES INVOLVED IN THE DISPUTE

6.1 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/are being used in bad faith."*

6.2 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.



## 7. PARTIES' CONTENTIONS

### 7.1 The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

#### COMPLAINANT

7.2 The Complainant submits it was surprised to see how the Respondent has not just clandestinely copied the Complainant's registered trademark as part of their domain name but has also gone a step ahead to blatantly copy the device mark 'Dahua' and advertised the same on their website in proximity to their mark 'DAHUA Camera' and their website 'https://www.techfinder.in', giving a general impression of them being connected to the Complainants' and causing confusion in the minds of the consumers.

7.3 The Complainant submits that the Respondent in order to encash upon the reputation of the Complainant has registered the infringing domain 'dahuacamera.in' and is operating an infringing website at <https://www.dahuacamera.in/>. What further took the Complainant by surprise was that not only had the Respondent registered the infringing domain name but also unauthorizedly using the Dahua Trademarks in close proximity to their trademarks on the said infringing website with the sole purpose of misleading the customers, giving rise to an action of infringement of Dahua Trademarks as well as the rights of Dahua Technologies.

7.4 The Complainant submits that, any person who visits the Respondent's website at <https://www.dahuacamera.in/> and comes across our Client's Dahua Trademarks is bound to be confused and deceived into believing that the Respondent's company is that of the Complainant/its group company and

may be deceived by unauthorized representations made on the said infringing website. The Complainant submits that such unauthorized use of the Complainant's registered Dahua Trademarks by Respondent is bound to cause harm to their interests and business, in addition to confusing and deceiving the general public including customers and traders alike.

7.5 The Complainant submits that at first instance, one can be misled to conclude that the impugned domain name belongs to the Complainant and the goods and services offered by the Complainant, and further submits that it is a clear case of misrepresentation by the Respondent that is bound to create confusion in the minds of the customers.

7.6 The Complainant further submits that impugned domain name is identical to the DAHUA trademarks, in which the Complainant has exclusive rights.

### **RESPONDENT**

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

### **8. PANEL OBSERVATIONS**

8.1 This Panel on pursuing the documents and records submitted by Complainant, observes that the complainant is a world-leading, video-centric AIoT solution and service provider with a global marketing and service network. The business of the complainant covers key vertical industries such as transportation, manufacturing, education, retail, banking and finance, energy, environmental protection, etc., and the complainant's Dahua Solutions and its Products have been installed in numerous major projects.

- 8.2 This panel observes that the Complainant has common law as well as statutory rights in its trade/service mark **"DAHUA"**. It is also observed by this panel, that the Complainant has successfully secured registrations globally for the DAHUA marks including in India. The Complainant has proved that it has trademark rights and other rights in the mark **"DAHUA"** by submitting substantial documents in support of it.
- 8.3 It is further observed by this panel that the trademark **"DAHUA"** in the Disputed Domain Name **"dahuacamera.in"** comprises the Complaint's trademarks in its entirety has the potential to cause consumer confusion and will cause the user to mistakenly believe that it originates from, is associated with or is sponsored by the Complainant. It is further observed by this panel that word **camera** in the disputed name and suffix **"in"** is not sufficient to escape the finding that the domain is confusingly similar to Complainant's trademark.
- 8.4 This panel, therefore, is of opinion that the disputed domain name **"dahuacamera.in"** being identical/confusingly similar to the trademark of Complainant will mislead the public and will cause an unfair advantage to the Respondent. The Panel is of the view that 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 confusingly similar to the trademark **"DAHUA"** of the Complainant.
- 8.5 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.

- 8.6 This Panel, therefore, in light of the contentions raised by the Complainant concludes that the disputed domain name **"dahuacamera.in"** is 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.

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

#### **COMPLAINANT**

- 8.7 The Complainant submits that, the Respondent is not a licensee or user of the DAHUA trademarks. It is submitted by the complainant that the Respondent is involved in the installation, system integration, wholesale etc. of the Complainant's products. Thus, the limited association of the Respondent to the DAHUA trademarks is that of a service provider who provides the services of the DAHUA products, owned, and produced solely by the Complainant.
- 8.8 The Complainant submits that the Respondent runs its business as a company named 'Techfinder Electronics Private Limited'. The same has been mentioned in the 'About Us' section of the Respondent's website. However, the Respondent is deceiving the customers by advertising the DAHUA trademark in a very planned manner wherein the Complainant's mark is used in amalgamation with the marks of the Respondent along with the impugned website, to strike a close-knit association between them.

- 8.9 The Complainant further submits that the Respondent registered the impugned domain name as a blatant attempt to create confusion in the minds of the customers by representing itself as the person/entity authorized to do business in the name of the Complainant. If it is not to deceive the customers, then the Respondent has no legitimate interests in respect of the domain name.
- 8.10 The Complainant submits that, it also observed that Respondent provides similar services for other brands as well. The Complainant could have considered that the use of its DAHUA trademarks was just to inform the Respondent's customers about the availability of Dahua products, amongst others, for installation or other related purposes. However, the Respondent's usage as highlighted above elucidates the mala fide intention of operating under the pretext of the Complainant's brand. The Complainant further submits that any interested party, who clicks on the impugned domain name, will land on the homepage of the Respondent's website which is designed to portray the Respondent as the authorized dealers of all the products under the DAHUA trademarks. The Complainant submits that this is a clear indication regarding the intent of Respondent to piggyback on the goodwill and reputation built by the Complainant over decades and deceives the consumers by creating confusion.
- 8.11 The Complainant submits, it is also pertinent to note that the Respondent is maliciously grabbing on the well-known and reputed DAHUA trademarks by clandestinely marketing their service under a domain name carrying the Complainant's registered trademarks. And it is evident that

this act of the Respondent of registering or using domain name, which is deceptively similar and completely identical to the Complainant's registered trademarks, to make profit at the expense of the Complainant's highly reputable registered trademarks, brand and name amounts to maliciously domain name grabbing and cyber-squatting. Based on this ground itself, the impugned domain name should be canceled.

8.12 The Complainant submits that the unauthorized use of the infringing domain, Dahua Trademarks on the URL belonging to Respondent amounts to misrepresentation that the said infringing domain belongs to Dahua Technology India. Moreover, any person who visits the website, accessible at <https://www.dahuacamera.in/> and comes across Dahua Trademarks is bound to be confused and deceived into believing that the Respondent has some nexus with the Complainant and may be deceived by unauthorized representations made on the said infringing website.

8.13 The Complainant further submits that looking at the Complainant's name, and the type of services they are involved in, one cannot conclude that the Respondent has legitimate interest in respect of the impugned domain name. Being a registered trademark of the Complainant, the Respondent does not hold any legal rights with respect to the DAHUA trademarks. The registration was clearly done as a blatant attempt to get commercial gains by misleading diverting the consumers and tarnishing the reputation and good will of the registered DAHUA trademarks.

#### **RESPONDENT**

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



## 9. **PANEL OBSERVATIONS**

- 9.1 This Panel holds that the second element that the Complainant needs to prove and as is required by paragraph 4(b) of the INDRP is that the Respondent has no legitimate right or interests in the disputed domain name.
- 9.2 This panel observes that the Complainant by placing documents/records and evidence along with the complaint has been able to prove that the Complainant is trading and doing its business under the mark '**DAHUA**' in many countries including India. The Complainant by 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 '**DAHUA**' mark in respect of its business.
- 9.3 Whereas, it is observed by this panel that the Respondent has failed to rebut the allegations of the Complainant that , the Respondent is not a licensee or user of the DAHUA trademarks, and that the Respondent is involved only in the installation, system integration, wholesale etc. of the Complainant's products. The Complainant failed to rebut the allegations of the Complainant that the limited association of the Respondent to the DAHUA trademarks is only that of a service provider who provides the services of the DAHUA products, owned, and produced solely by the Complainant. The Respondent has also failed to rebut the allegations of the complainant that the Respondent is deceiving the customers by advertising the DAHUA trademark in a very planned manner wherein the Complainant's mark is used in amalgamation with the marks of the Respondent along with the respondent's website, to strike a close-knit association between them.

9.4 It is also observed by this panel that the Respondent has failed to rebut the allegations of the Complainant that the Respondent registered the impugned domain name as a blatant attempt to create confusion in the minds of the customers by representing itself as the person/entity authorized to do business in the name of the Complainant and, the Respondent has no legitimate interests in respect of the domain name.

9.5 It is further observed by this panel that the Respondent has failed to rebut the allegations of the Complainant, that looking at the Complainant's name, and the type of services they are involved in, one cannot conclude that the Respondent has legitimate interest in respect of the impugned domain name. The Complainant further submits that being a registered trademark of the Complainant, the Respondent does not hold any legal rights with respect to the DAHUA trademarks. The Respondent has also failed to rebut the allegations of the complainant that the registration was clearly done as a blatant attempt to get commercial gains by misleading diverting the consumers and tarnishing the reputation and good will of the registered DAHUA trademarks.

9.6 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.

9.7 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."*

9.8 This panel observe 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 "**dahuacamera.in**".

**The domain name was registered or is being used in bad faith.**

## COMPLAINANT

- 9.9 The Complainant submits that, the Respondent goes by the name 'Techfinder Electronics Private Limited.' Dahua products are one of the many brands they sell on the website with impugned domain name. The Respondent has never been associated to or referred to as DAHUA since they have no legal rights over the said trademark.
- 9.10 The Complainant further submits that, getting such a registration where another party's registered trademark is being used as a domain name corresponds to an unauthorized use of the DAHUA trademarks as part of the impugned domain name.
- 9.11 The Complainant submits that the Respondent, for personal gains, has gone ahead and got a registration for domain name that clearly breaches the legal rights provided to the Complainant under the statute. The Complainant further submits that , in order to safeguard the proprietary rights belonging to the Complainant, a notice dated 03, March 2023 was issued to the Respondent via their email IDs; [info@techfinder.in](mailto:info@techfinder.in) asserting the availability of legal recourse in case of non-compliance with the measures mentioned therein.
- 9.12 The Complainant submits that, it was to further the stand of the Complainant and the intention to protect the proprietary rights that the Complainant's wholly owned subsidiary and authorized Trademark Licensee; Dahua Technology India Private Limited had a Legal Notice issued to the Respondent to immediately delete the website and transfer the domain name to the Complainant.

9.13 The Complainant submits that the mala fides are further apparent on the part of the Respondent by the fact that the Respondent has successfully duped in a customer of Dahua Technology ; Mr. Abhishek Verma, who under the pretext of buying the model "Dahua 4Mp PTZ 360 Camera" via the alleged URL <https://www.dahuacamera.in>, merely by virtue of clicking and selecting the product was redirected to the Respondent's payment page "TechFinder" (Screenshot evidencing the same is attached below), wherein he ended up paying a sum of INR 5,999. The fraud on the part of the Respondent is to the extent that no order confirmation or details were provided to the buyer, resulting in a high disregard for the product as well as the company.

9.14 The Complainant submits that the use of the Complainant's registered DAHUA trademarks as part of the impugned domain name has been done without any authorization or permission from the Complainant. The Complainant submits that merely providing the installation service for the Complainant's product does not give the Respondent any right to use its registered trademark without due authorization. The adoption of the impugned domain name by the Respondent is relation to goods and services offered under the DAHUA trademarks has been done in a deceitful manner to cause confusion in the mind of a quintessential consumer of average intelligence and improper recollection. Especially for something as important as domain name, which is bound to mislead the consumers into believing that the impugned domain name belongs to the Complainant.

9.15 The Complainant submits that such unsanctioned use of the Complainant's DAHUA trademarks as part of impugned

domain name clearly evidences the mala fide intention on the part of the Respondent to misrepresent and pass off their respective companies as a client or group company of the Complainant's and exploit the Complainant's hard-earned reputation to their advantage and misappropriate the goodwill associated with the Complainant. The Complainant further submits that the Respondent's registration of the impugned domain name was done in bad faith to harm the business and reputation of the Complainant.

## **RESPONDENT**

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

## **10. PANEL OBSERVATION**

10.1 Paragraph 7 of the INDRP provides that the following circumstances are deemed to be evidence that Respondent has registered and used a domain name in bad faith :

*"(a) Circumstances indicating that the Respondent has registered or has acquired the domain name primarily for 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 over the Registrar's documented out of pocket costs directly related to the domain name; or*

*(b) the Respondent has registered the domain name to prevent the owner of the trademark or service mark from reflecting*

*By*

*the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or*

- (c) *by using the domain name, the Respondent has intentionally attempted to attract internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its Website or location or a product or services on its website or location."*

This panel while going through the complaint and documents which are placed in the form of exhibits has observed that the Respondent registered the disputed domain name in July 2017, whereas the complainant has been using the mark DAHUA mark since 2001. It is observed by this panel that the Complainant has statutory and common law rights in the mark DAHUA worldwide including in India and Complainant is also using the DAHUA mark on the internet, in other domain name, and as a trading name before registration of disputed domain name. It is observed by this panel that given 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 DAHUA. Moreover, this fact cannot be ignored that, the Respondent being the service provider of the DAHUA products, owned, and produced solely by the Complainant was also aware of the complainant's rights in Trade mark DAHUA, while registering the disputed domain name "dahuacamera.in".

- 10.2 It is further observed by this panel that the Respondent has failed to rebut the allegation of the Complainant, that the Respondent has never been associated to or referred to as DAHUA since they have no legal rights over the said trademark , and getting such a registration where another party's registered trademark is being used as a domain name corresponds to an unauthorized use of the DAHUA trademarks as part of the impugned domain name.
- 10.3 It is further observed by this panel that the Respondent has failed to rebut the allegation of the Complainant that the Respondent, for personal gains, has gone ahead and got a registration for domain name that clearly breaches the legal rights provided to the Complainant under the statute.
- 10.4 It is further observed by this panel that the Respondent has failed to rebut the allegation of the Complainant, that the use of the Complainant's registered DAHUA trademarks as part of the impugned domain name has been done by Respondent without any authorization or permission from the Complainant. The Respondent further failed to rebut the allegations of the complainant ,that merely providing the installation service for the Complainant's product does not give the Respondent any right to use its registered trademark without due authorization , and the adoption of the impugned domain name by the Respondent in relation to goods ,and services offered under the DAHUA trademarks has been done in a deceitful manner to cause confusion in the mind of a quintessential consumer of average intelligence and improper recollection. Especially for something as important as domain name, which is bound to mislead the consumers into believing that the impugned domain name belongs to the Complainant.



10.5 It is further observed by this panel that the Respondent has failed to rebut the allegation of the Complainant, that such unsanctioned use of the Complainant's DAHUA trademarks as part of impugned domain name clearly evidences the mala fide intention on the part of the Respondent to misrepresent and pass off their respective companies as a client or group company of the Complainant's and exploit the Complainant's hard-earned reputation to their advantage and misappropriate the goodwill associated with the Complainant.

10.6 The Complainant has rightly established that the Respondent has registered the disputed domain name in bad faith, and there is evidence that points to the existence of circumstances as mentioned in Clause 7 (C) of the INDRP Policy. 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 in its favor in bad faith.

## 11. **REMEDIES REQUESTED**

11.1 The Complainant has prayed to this Administrative Panel for the transfer of domain name **<dahuacamera.in>** to the complainant.

## 12. **DECISION**

12.1 The following circumstances are material to the issue in the present case :

12.1.1 Through its contentions based on documents/ records and evidence, the Complainant has been able to establish that the mark "DAHUA" is a well-established name globally including India in video-centric AIoT solution and service provider business. The Complainant has established that the trademark DAHUA is inherently distinctive of the products, services, and business of the Complainant and has secured trademark protection for DAHUA by registering trademarks in many countries including India.

12.1.2 The Respondent, despite repeated opportunities given, 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.

12.1.3 The Complainant has rather has been able to establish by its contentions and records in the form of annexures, that the Respondent has attempted to attract Internet users for monetary gains which is evidence of bad faith. It is therefore established by the Complainant that the domain name by itself is being used for attracting internet users rather than any bona fide offering of goods thereunder. While considering the complaint and records in the form of annexures submitted by the Complainant, this panel has concluded that there exist circumstances as stated in para 7(C) of INDRP Policy.

12.1.4 Taking into account the nature of the disputed domain name "**DAHUACAMER.IN**" and in particular, the ".in" extension alongside the Complainant's marks **DAHUA** is confusingly similar, and which would inevitably associate the disputed domain name closely with the Complainant's group of domains in the minds of consumers, all plausible actual or contemplated active use of disputed Domain Name by the Respondent is and would be illegitimate.

12.1.5 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.

12.1.6 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 also failed to do that. The Respondent's registration and use of the domain name **[dahuacamera.in]** are in bad faith for illegal commercial gains by attracting the internet users. 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 **[dahuacamera.in]** be transferred from the Respondent to the Complainant, requesting NIXI to monitor the transfer.

**New Delhi, India**  
**Dated: February 16, 2024**

  
**[AJAY GUPTA]**  
**Sole Arbitrator**