

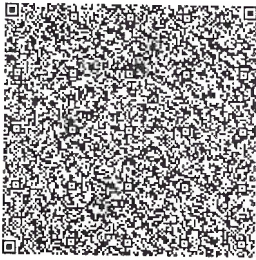
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL30242408246971P
Certificate Issued Date	: 13-Sep-2017 02:39 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1762208764290805P
Purchased by	: MS LUCY RANA
Description of Document	: Article Others
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: MS LUCY RANA
Second Party	: Not Applicable
Stamp Duty Paid By	: MS LUCY RANA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line
BEFORE THE SOLE ARBITRATOR UNDER IN DISPUTE RESOLUTION POLICY
(Appointed by .IN Registry – National Internet Exchange of India)

ARBITRATION AWARD

Disputed Domain Name: <MAXXIS.IN>

IN THE MATTER OF:

Cheng Shin Rubber Ind. Co. Ltd.
No.215, Meei-Kong Rd.,
Ta-Tsun Township,
Chang-Hwa County 51545,
Taiwan (R.O.C.)

Versus

...Complainant

Imran Haider
R/O P-23, Street 7
Gulbahar Colony
Faisalabad, Punjab
Pakistan-38000

...Respondent

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Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

1. **The Parties:**

The **Complainant** in this arbitration proceeding is **Cheng Shin Rubber Ind. Co. Ltd.** of the address No. 215, Meei-Kong Rd., Ta-Tsun Township, Chang-Hwa County 51545, Taiwan (R.O.C)

The **Respondent** in this arbitration proceeding is Imran Haider, R/O P-23, Street 7, Gulbahar Colony, Faisalabad, Punjab, Pakistan-38000.

2. **The Domain Name, Registrar and Registrant:**

The present arbitration proceeding pertains to a dispute concerning the registration of domain name <maxxis.in> with the .IN Registry. The Registrant in the present matter is Imran Haider and the Registrar is Endurance Domains Technology Private Limited.

3. **Procedural History:**

The arbitration proceeding is in accordance with the .IN Domain Name dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI).

NIXI vide its email dated July 04, 2017, sought consent of Mrs. Lucy Rana to act as the Sole arbitrator in the matter. The Arbitrator informed of her availability and gave her consent vide Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure on the same day.

In accordance with Rules 2(a) and 4(a), NIXI vide email dated July 06, 2017, notified all parties of the appointment of the Arbitrator for adjudicating upon the disputed domain name <maxxis.in>. On the same day NIXI also served upon the Respondent the complete set of the domain complaint along with annexures vide email and also sent the hard copy of the complaint along with annexures vide courier.

The Arbitrator received the domain complaint from NIXI on July 07, 2017.



Thereafter, NIXI informed the Arbitrator vide email dated July 10, 2017, that the soft copy of the domain complaint as sent to the Respondent along with annexures has been delivered since the same has not bounced back.

The Arbitrator thereafter sent an email dated July 10, 2017, to the Respondent informing that copy of this complaint along with annexures has already been forwarded to the Respondent by the .IN Registry and the soft copy of the same has already been received by them as the email has not bounced back and granting the Respondent a period of 14 days **(Fourteen Days)** from the receipt of the email to file its response to the complaint.

The Respondent vide email dated July 25, 2017, informed that the copy of the complaint as well as annexures had landed in his spam folder and therefore, requested for time to furnish a reply. The Arbitrator in the interest of justice granted the Respondent extension of time until August 04, 2017, to file a reply.

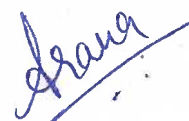
Vide email dated July 31, 2017, the Respondent again requested for time to furnish a reply, which was also allowed by the Arbitrator granting further time until August 11, 2017, to file his reply.

On August 11, 2017, the Respondent filed his reply along with annexures however, reply as filed was not marked to the Complainant or NIXI as required. The Arbitrator thereafter, forwarded a copy of the reply as filed along with annexures to NIXI as well as the Complainant and granted the Complainant time until August 26, 2017, to file his rejoinder.

The Complainant filed his rejoinder along with annexures on August 26, 2017.

Vide email dated August 28, 2017, the Arbitrator acknowledged receipt of the Rejoinder along with Annexures and stated that the award has been reserved and will be passed on the basis of the materials on record.

Thereafter an email dated August 29, 2017, was received from the Respondent that a copy of the rejoinder as filed along with annexures has not been marked to his email address as mentioned on the WHOIS records and asked that the same be resent to him and the same



was sent to him vide email on August 30, 2017, and it was stated in the email that no further submissions by either parties will be entertained in the matter.

Further on perusal of the documents as filed by both parties, it came to the notice of the arbitrator that the Complainant has not filed any authorization document/Power of Attorney as well as Vakalatnama in the matter. In view thereof vide email dated September 11, 2017, the Arbitrator asked the Complainant to file the same latest by September 14, 2017, failing which the matter would be decided on the basis of material existing on record.

The Complainant filed a letter of authorization in favour of Mr. Jia Ciao Liou and Vakalatnama on September 12, 2017.

1. Factual Background

The Complainant submits that it is the registered proprietor of the trade mark **Maxxis** in various countries and jurisdictions of the world including in India and has been using it in connection with its ongoing business. Further the Complainant has also provided details of its registration for the mark Maxxis which are as follows:

S. No	Trade Mark	Application/ Registration No.	Date of Application/ Registration	Country	Class	Goods
1.	Maxxis	684254	19.10.1995	India	12	Tyres and Tubes for vehicles and aircraft and parts and fitting thereof

Relevant copies of the registration certificate as well as renewal are annexed as **Annexure C-4**. A list of the jurisdictions and relevant details where the mark Maxxis of the Complainant has been registered is also annexed as **Annexure C-5**.

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The Complainant has also stated that it is also the registered proprietor of the trade mark Maxxis in various other countries of the world. The said trade mark is registered in Australia, Canada, Great Britain and other countries. Some of the certificates and online status are annexed as **Annexure C-6**.

The Complainant has also stated that it has registered the domain name **Maxxis.com** and various other domains names and details thereof are given in the paragraph 11 and also annexed a list of domain names as **Annexure C-7**.

DOMAIN NAME	EXPIRATION DATE	STATUS
MAXXIS.COM	2021/07/23	Active
MAXXIS.MOBI	2018/03/24	Active
MAXXIS.TV	2018/03/24	Active
MAXXIS.US	2018/10/10	Active
MAXXISBMX.COM	2016/10/11	Active
MAXXISDIRECT.BIZ	2018/02/09	Active
MAXXISDIRECT.NET	2018/02/10	Active
MAXXISDIRECT.ORG	2018/02/10	Active
MAXXISDIRECT.US	2018/02/09	Active
MAXXISFILMS.COM	2017/06/22	Active
MAXXISLINK.XXX	2016/12/13	Active
MAXXISOFFROAD.COM	2021/07/21	Active
MAXXISRC1.COM	2018/04/05	Active
MAXXISSUCKS.COM	2016/11/10	Active
MAXXISTIRE.COM	2018/02/11	Active
MAXXISTIRE.XXX	2016/12/06	Active
MAXXISTIRES.BIZ	2018/03/23	Active
MAXXISTIRES.COM	2018/01/18	Active
MAXXISTIRES.INFO	2018/10/11	Active
MAXXISTIRES.MOBI	2018/03/24	Active
MAXXISTIRES.NET	2018/10/11	Active
MAXXISTIRES.ORG	2018/10/11	Active

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MAXXISTIRES.TV	2018/03/24	Active
MAXXISTIRES.US	2018/10/10	Active
MAXXISTIRES.XXX	2016/12/06	Active
MAXXISTIRES.BIZ	2018/03/23	Active
MAXXISTIRES.COM	2018/01/18	Active
MAXXISTIRES.INFO	2018/10/11	Active
MAXXISTIRES.MOBI	2018/03/24	Active
MAXXISTIRES.NET	2018/10/11	Active
MAXXISTIRES.ORG	2018/10/11	Active
MAXXISTIRES.TV	2018/03/24	Active
MAXXISTIRES.US	2018/10/10	Active
MAXXISTIRES.XXX	2016/12/06	Active
MAXXISTRAILERTIRE.COM	2021/07/20	Active
MAXXISTRAILERTIRES.COM	2017/07/10	Active

Further the Complainant has also annexed their WHOIS records as **Annexure 6**.

The Complainant has submitted that it is engaged in the business of inter alia manufacturing and marketing of tyres under the name **Maxxis**. Further the Complainant has also stated that its products sold in India as well as abroad have acquired an enviable reputation and goodwill as a result of its quality, packaging and characteristics namely gnp, long wear, distinctive tread pattern which offers precise handling, stability and high performance.

The Complainant has further submitted that apart from having statutory rights the Complainant's trade mark has also acquired a secondary meaning by virtue of continuous and extensive use since 1992 and promotion.

The Complainant has stated that due to extensive advertising and reputation of the product the said mark has gained immense goodwill. The Complainant has also submitted that products under the Complainant's trade mark Maxxis has also been advertised in magazines and advertisements across the world. The Complainant has also annexed as

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Annexure C-8 photographs showing the publicity of Maxxis brand. Further the Complainant has annexed as **Annexure C-9** photographs of advertisement and outdoor billboard of the mark Maxxis.

The Complainant has also annexed as **Annexure C-10** copies of invoices evidencing operations, business dealings and distribution of the Maxxis brand in India.

The Complainant has also annexed a copy of the screenshot of the Respondent's website from the domain name <maxxis.in> as **Annexure C-11**.

2. Parties Contentions

Complainant

- i. The Complainant has submitted that the Respondent does not have any relationship with the business of the Complainant or any legitimate interest in the trade mark Maxxis. Further the Complainant has also submitted that the Complainant has never at any point of time given any license nor authorized the Respondent to use its trade mark Maxxis. The Complainant has also submitted that it has never sought the assistance of the Respondent to register any domain name incorporating the trade mark Maxxis. Further the Complainant has referred to the decision in the matter *Guerlein S.A v. Peikang*, D2000-0055 (WIPO March 21, 2000) and stated that in the absence of any license or permission from the Complainant to use any of its trade marks no actual or contemplated bona fide or legitimate use of the domain name can be claimed by the Respondent.
- ii. The Complainant further submits that the disputed domain name incorporates the trade mark of the Complainant in its entirety and the same is also similar to the trade mark/trade name Maxxis of the Complainant. Further the Complainant has also referred to order passed by the Learned Arbitrator INDRP/125, February 14, 2010 *Lego Juris A/S v. Robert Martin*; INDRP/286, February 20, 2009, *G.A Modefine S.A v. Naveen Tiwari* in this regard. The Complainant has further submitted that such registration of the domain name by the Respondent amounts to violation of paragraph 3 of the INDRP which states that a Registrant is solely



responsible to ensure before registration of the disputed domain name that such domain name registration does not violate the rights of any proprietor/brand.

- iii. The Complainant has submitted that the Respondent has registered the domain name <maxxis.in> with the intention of domain squatting. The Complainant has further submitted that the Respondent has never operated any website on the said domain name and also submitted that the website resolves into domain parking page with further links to other websites.
- iv. The Complainant has further submitted that the Respondent is not commonly known by the name Maxxis nor has applied for registration of the mark Maxxis or any other similar mark nor has registered his business under the said name with the Ministry of Corporate Affairs in India.
- v. The Complainant has also submitted that the domain name was registered by the Respondent for commercial gain to misleadingly divert the consumers or traders of the Complainant to the disputed domain name <maxxis.in> thereby causing loss, harm and damage to the goodwill and business of the Complainant.
- vi. The Complainant has stated that it is apparently clear that the Respondent has failed to comply with paragraph 7 of the INDRP, wherein the onus is on the Registrant to prove that he has a right and legitimate interest in the domain name.
- vii. The Complainant has further submitted that the Respondent herein has deliberately registered the disputed domain name with the intention of preventing the Complainant from reflecting its trade mark in its domain in India. Hence, the complaint is filed by the Complainant.

Respondent

- i. The Respondent submits that he is the owner of the company under the name **Maxxis Technologies** incorporated under the laws of Government of Pakistan and carries on business of "Web Development and Hosting Services, Software Development Services, Information and Communication/Computer Programming,



Consultancy and Related Activities/Other Information Technology and Computer Service Activities.

- ii. The Respondent has annexed as **Annexure R 1** a Tax Payer.Online Verification Form which shows that he operates his business under the name **Maxxis Technologies**.
- iii. The Respondent has further submitted that the Complainant has not attached any document regarding its incorporation as well as its affiliate companies and subsidiaries. Further the Respondent has also submitted that the Complainant has not put on record any document regarding the Authorized Signatory.
- iv. The Respondent has submitted that the trade mark Maxxis has been registered by different organizations and has also annexed as **Annexure R 3** a list in this regard from the WIPO Global Brand Database.
- v. The Respondent has also submitted that different entities incorporate the mark Maxxis in their domain names and have annexed as **Annexure R 4** WHOIS results of various Maxxis formative domain names.
- vi. The Respondent has further submitted that most of the trade mark details as provided by the Complainant regarding its foreign registrations are inactive.
- vii. The Respondent has further submitted that the 28 domain names belong to the Complainant, where 20 domain names are being parked, 4 domain names are available for registration and 3 domain names redirect to the website maxxis.com. The Respondent has submitted that these domain names are registered in the name of different entities and Maxxis International. The Respondent has also submitted that the Complainant has not submitted any incorporation documents for their company, its subsidiaries, sister organizations etc.
- viii. The Respondent has submitted that the mark Maxxis is registered with other persons and companies as per WIPO records and has also annexed as **Annexure R 3** a list in this regard.



- ix. The Respondent has submitted that the Complainant has failed to put on record advertisements in Indian magazines or billboards. Further the Respondent has submitted that **Annexure C-8 and C-9** as annexed with the Complainant include advertisements in United States of America, Australia, Europe, Arab, Africa, Thailand, Malaysia etc. The Respondent has also submitted that the Complainant has failed to provide any business, traders, invoice, tax filings in India.
- x. The Respondent has submitted that the Complainant has made misleading submissions that their trade name and trade mark is Maxxis however, has filed the present complaint under the name Cheng Shin Rubber Ind. Co and has not attached any legal documents as well as authorization letter of the signatory to the complaint.
- xi. The Respondent has submitted that although the Complainant states that to use the mark Maxxis, authorization and permission is required from the Complainant but there are lot of other entities using the mark Maxxis.
- xii. The Respondent has stated that the Complainant's submissions of domain squatting by the Respondent is false.
- xiii. The Respondent has submitted that the Complainant has not attached any corporate document of Cheng Shin Rubber Ind Co Ltd nor any corporate document for Maxxis as issued by Taiwan (R.O.C)/Ministry of Corporate Affairs in India.
- xiv. The Respondent has submitted that the Complainant in its complaint has stated that the Respondent has registered <maxxis.in> for commercial gain however, has also submitted that the contents of the website are not related to tyre promotions, offers and advertisement.
- xv. The Respondent has further submitted that he is carrying out his business under the registered company name Maxxis Technologies and has also filed application no. 3611225 in India in this regard.



- xvi. The Respondent has further stated that his business name and domain name is identical and that the domain is not for sale and thus has requested the Arbitrator to reject the complaint.
- xvii. The Respondent has submitted that the domain name <maxxis.in> has been registered in his name since September 03, 2015 and that he owns a company under the name Maxxis Technologies. The Respondent has further submitted that he has filed application no. 3611225 for the mark Maxxis and has also annexed as **Annexure R 10** a snapshot of the Trade mark status page.
- xviii. The Respondent has also submitted that the website www.maxxis.in contains information regarding web hosting packages and is not listed for sale.
- xix. The Respondent has also submitted that <maxxis.in> does not offer any content regarding tyre and the said website does not redirect to any third party website or there is no provision for Pay Per Click on the said website.
- xx. The Respondent submits that the mark Maxxis is advertised by him on tshirts, pen, blog etc and the same is not registered in bad faith as per INDRP policy.
- xxi. The Respondent has submitted that the complaint has been anonymously filed without any requisite legal documents.
- xxii. The Respondent submits that there is over writing on the Trade Mark Registration certificates as attached. The Respondent has also submitted that the Complainant has a habit of registering trade marks under Cheng Shin Rubber Ind Co. Ltd.
- xxiii. The Respondent has also submitted that there are other entities who have registered domain names incorporating the Maxxis mark.
- xxiv. The Respondent has also submitted that his business name is identical to the domain name and the same is also not listed for sale.

Complainant's Rejoinder



- i. The Complainant has denied the contentions of the Respondent as submitted in its reply and has once again submitted that it is a well known company across the world and carries on business throughout the world either directly or through subsidiaries which are granted license to use the brand name, trade mark etc of the Complainant. The Complainant further submits that it carries out business in India through its wholly owner subsidiary "Maxxis Rubber India Pvt Ltd" and has also annexed as **Annexure C-12** a copy of the incorporation certificate and has further Annexed as **Annexure C-13** a snapshot from the Ministry of Corporate Affairs website and incorporation certificate of "Maxxis Rubber India Pvt Ltd".
- ii. The Complainant has further submitted that the Respondent has filed trade mark application no. 3611225 for the mark Maxxis on August 11, 2017 i.e., after receipt of the complaint and as such the same is an afterthought.
- iii. The Complainant has referred to the **Annexure R-3** as filed by the Respondent and has stated that a perusal of the same would reveal that the approved and registered trade marks are owned by the Complainant. The Complainant has also submitted that the Respondent has failed to show any prior use of the <maxxis.in>.
- iv. The complaint has relied upon trade mark registration under no. 684254 dated October 19, 1995 for the trade mark Maxxis in class 12 and its renewal dated July 28, 2009. The said registration and renewal certificate is placed on record.
- v. The Complainant has denied the Respondent's submissions that it is not in possession of domain names incorporating the mark Maxxis. The Complainant has submitted that it is in possession of domain names incorporating the mark Maxxis either through itself or through its wholly owned subsidiaries. Additionally, the Complainant has also provided another list of domain names registered by it incorporating the mark Maxxis and also annexed as **Annexure C-14** copies of printouts of websites and WHOIS record.
- vi. The Complainant has submitted that even assuming that some domain names incorporating the mark Maxxis are in possession of other entities, it does not



divorce from the fact that the Complainant possess a clearly reputed trade mark and brand Maxxis.

- vii. The Complainant has further denied the allegation of the Respondent that it has not annexed proof regarding its business in India and submitted that it has already annexed as Annexure C-10 copies of invoices regarding Complainant's business in India. Further the Complainant has also annexed as **Annexure C-15** additional invoices in this regard.
- viii. Further the Complainant has also placed on record as **Annexure C-16** photographs regarding promotion of the brand name Maxxis by the Complainant in India.
- ix. The Complainant has reiterated that they are the proprietor of the mark Maxxis and has been using it since 1992 and due to extensive advertising and reputation the product of the Complainant has become distinctive and accrued immense goodwill. The Complainant has also submitted that Maxxis products have been cited and discussed in leading magazines and newspapers across the world.
- x. The Complainant has reiterated that it has several websites which are accessible to people across the country and which contains extensive information about the Complainant and its products under the name Maxxis.
- xi. The Complainant has further reiterated that it does not have any relationship with the business of the Respondent or has never authorized or licensed the Respondent to use its trade marks.
- xii. The Complainant has also submitted that that the domain name is identical to the Complainant's trade mark and contains the Complainant's trade mark in its entirety. Such registration is in violation of paragraph 3 of INDRP.
- xiii. The Complainant has submitted that the Respondent has made a calculated approach purely with the intention of domain squatting and hoping to hold the Complainant herein to ransom. The Respondent has not created any website on the domain.

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- xiv. The Complainant stated that the disputed domain name was intentionally created by the Respondent for commercial gain to misleadingly divert the consumers or traders of the Complainant to the disputed domain name thereby causing irreparable loss, harm and damage to the goodwill and business of the complainant.
- xv. The Complainant has submitted that the Respondent herein has failed to prove that he has a right and legitimate interest in the domain name.
- xvi. The Complainant has also submitted that the Respondent herein has deliberately registered the disputed domain name with the intention of preventing the Complainant who is the owner of the trade mark Maxxis from reflecting in the same in a domain name in India.
- xvii. Complainant has also filed authorization document on record on September 12, 2017.

3. **Discussion and Findings:**

In a domain complaint the Complainant is required to satisfy three conditions as outlined in Paragraph 4 of the .IN Domain Name Dispute Resolution Policy, i.e., :-

- i. The Registrant's domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights;
- ii. The Registrant has no rights and legitimate interest in respect of the domain name;
- iii. The Registrant's domain name has been registered or is being used in bad faith.

i. **The domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights**

(Paragraph 4 (i) of .IN Domain Name Dispute Resolution Policy)

The Complainant is the registered proprietor of the trade mark **Maxxis** in India under registration no. 684254 dated October 19, 1995, in class 12 and the same stands last renewed for a period of ten years with effect from October 27, 2009, and is valid and subsisting. The Complainant has also obtained registrations of its trade mark Maxxis in various jurisdictions of the world and some of them are placed on record. Even **Annexure R-3** as filed by the Respondent (WIPO Global Brand

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Database) shows a number of registrations for the trade mark Maxxis in the name of the Complainant.

It is well-established that trade mark registration is recognized as a prima facie evidence of rights in a mark. The Complainant by filing documents of its registered trade marks has established that it has prior statutory rights in the trade mark Maxxis in India and numerous jurisdictions around the world.

The disputed domain name <maxxis.in> is confusingly identical/similar to Maxxis, the registered trade mark of the Complainant and completely incorporates the said registered trade mark of the Complainant. It has been held by prior panels deciding under the INDRP that there exists confusing similarity where the disputed name incorporates the Complainant's trade mark such as *Kenneth Cole productions v. Viswas Infomedia INDRP/093*.

The disputed domain name <maxxis.in> is confusingly similar/identical to the registered trade mark of the Complainant and the Complainant has satisfied the requirement paragraph 4(i) of the .IN Domain Name Dispute Resolution Policy.

ii. **The Registrant has no rights and legitimate interest in respect of the domain name**

(Paragraph 4(ii); paragraph 7 of .IN Domain Name Dispute Resolution Policy)

The disputed domain name incorporates the mark Maxxis which is confusingly and deceptively similar/identical to Complainant's trade mark Maxxis in which Complainant has statutory rights by virtue of the valid and subsisting trademark registration in India.

The respondent has not submitted any registration certificates for the trade mark Maxxis in India, Pakistan or any other jurisdiction. An intent to use application for the trade mark **maxxis.in** vide application no. 3611225 dated 11th August 2017, has been filed by the Respondent in India. It is also noted that the said application has been filed after service of the present complaint.



Further the Respondent has annexed as **Annexure R-1** a document to show that he is operating his business under name Maxxis Technologies in Pakistan. However neither has he put on record any document to prove use of the said mark in India nor any proof of business operations or connections with India:

The Complainant has no relationship with the Respondent and has not permitted or licensed the Respondent to use or register the disputed domain name.

Use of such confusingly and deceptively similar/identical domain name by the Respondent is likely to mislead and misrepresent the general public and members of the trade as to the source, sponsorship, affiliation or association of the activity being carried on through the website.

In view of the aforesaid, the Arbitrator accepts the Complainant's claim that the Respondent is not authorized or permitted to use the trade mark Maxxis or any deceptively similar trade mark such as Maxxis and therefore, the Respondent has no rights or legitimate interest in the domain name <maxxis.in> and conditions under paragraph 4(ii) and paragraph 7 of .IN Domain Name Dispute Resolution Policy, have been satisfied.

iii. **The Registrant's domain name has been registered or is being used in bad faith.**

(Paragraph 4(iii) and paragraph 6 of the .IN Policy)

The Respondent is not making any fair and non commercial use of the domain name as on date. The Respondent has merely held onto the domain name <maxxis.in> and not hosted any website therein. The Respondent's website is not bonafide as the Respondent is using the disputed domain name to divert/redirect internet users seeking Complainant and its goods to its own website.

The Respondent has annexed as **Annexure R-1** a document to show that he is operating his business under name Maxxis Technologies in Pakistan. However, has not put on record any document to prove use of the said mark in India.



Further the trade mark application no. 3611225 dated August 11, 2017, filed in India for the trade mark **maxxis.in**, has been filed by the Respondent only after receipt of the domain complaint. Therefore there appears to be no bonafide reason for the Respondent to register a top level Indian domain name when he is not operating any business in India. Such registration by the Respondent is only preventing the Complainant from reflecting its trade mark in a domain name in India.

The view thereof, the Arbitrator concludes that the Complainant has proved the requirements under paragraph 4 (iii) and paragraph 6 of the .IN Domain Name Dispute Resolution Policy.

A. Decision:

Based upon the facts and circumstances and further relying on the materials as available on record, the Arbitrator is of the view that Complainant has statutory and proprietary rights over the trade mark Maxxis and variations thereof. The Complainant has been able to prove that:

- i. The Registrant's domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights;
- ii. The Registrant has no rights and legitimate interest in respect of the domain name;
- iii. The Registrant's domain name has been registered or is being used in bad faith.

The Arbitrator therefore allows the prayer of the Complainant and directs the .IN Registry to transfer the domain **<maxxis.in>** to the Complainant. The Award is accordingly passed and the parties are directed to bear their own costs.


Lucy Rana

Sole Arbitrator

Date: 15th September, 2017

Place: New Delhi, India