



हरियाणा HARYANA

R 654896

RACHNA BAKHRU

ARBITRATOR

Appointed by the .In Registry – National Internet Exchange of India

In the matter of:

Morgan Stanley  
1585 Broadway  
New York  
New York 10036  
USA

.....Complainant

Machang  
Hua An Holdings (H.K.) Limited  
Room 14-05-301, West block, North  
Hong Kong 999077

.....Respondent

Disputed Domain Name: [www.morganstanleyiq.in](http://www.morganstanleyiq.in)

AWARD

### **1) The Parties:**

The Complainant in this arbitration proceeding is Morgan Stanley of 1585 Broadway New York 10036 U.S.A. The Complainant is represented by its authorized representatives Sujata Chaudhri, Sujata Chaudhri IP Attorneys, 2106 Express Trade Towers 2, 1<sup>st</sup> Floor, B-36, Sector 132, Expressway, Noida, Uttar Pradesh 201301 who have submitted the present Complaint.

The Respondent in this arbitration proceeding is Machang, Hua An Holdings (H.K.) Limited of Room 14-05-301, West Block, North Hong Kong - 999077 as per the details available in the whois database maintained by National Internet Exchange of India (NIXI).

### **2) The Domain Name, Registrar & Registrant:**

The disputed domain name [www.morganstanleyiq.in](http://www.morganstanleyiq.in). The Registrar is IN Registrar, d.b.a. inregistrar.com of Hotel Adarsh Palace 118, Old Hanuman Lane, Kalbadevi Mumbai 400 002, Maharashtra, India.

The Registrant is Machang, Hua An Holdings (H.K.) Limited of Room 14-05-301, West Block, North Hong Kong - 999077.

### **3) Procedural History:**

This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 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 pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

As per the information received from NIXI, the history of the proceedings is as follows.

In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed Rachna Bakhru 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 Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.

The complaint was produced before the Arbitrator on August 25, 2015 and the notice was issued to the Respondent on August 26, 2015 at his email address with a deadline of 10 days to submit his reply to the arbitration. The Respondent did not



submit any response. The Arbitrator also directed the Complainant to provide by email copy of complaint to the Respondent which was duly complied.

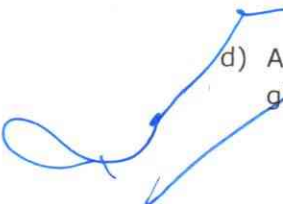
On September 7, 2015 the Arbitrator granted further opportunity to the Respondent to submit its response on or before September 14, 2015. However, no response was submitted by the Respondent within the stipulated time of thereafter. There was no delivery failure message received from the Respondent's email address. In the circumstances the complaint is being decided based on materials submitted by the Complainant and contentions put forth by them.

**Grounds for administrative proceedings:**

- A. The disputed domain name is identical with or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- B. The Respondent has no rights or legitimate interests in respect of the impugned domain name;
- C. The impugned domain name was registered and is being used in bad faith.

**4) Summary of the Complainant's contentions:**

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

- a) The Complainant submits that Morgan Stanley is a leading global financial services firm. The Complainant, through its subsidiaries and affiliates, provides a full range of financial, investment and wealth management services to a broad spectrum of clients, including institutional clients and individual clients. It was founded in the year 1935.
  - b) Since the year 1935 the Complainant has used, and continues to use, MORGAN STANLEY, marks that incorporate the MORGAN STANLEY mark and the corporate name Morgan Stanley (collectively the "MORGAN STANLEY Marks and Name") in connection with its business.
  - c) The Complainant submits that they began using the MORGAN STANLEY IQ mark sometime in the year 2007. The mark has been used, and continues to be used, in connection with a dedicated platform committed to providing innovative, well-designed products as well as high quality educational material to investors. This platform draws on the skills and resources from the Complainant's institutional business to focus on an individual investor. It is serviced by dedicated teams in the United States, Europe and Asia. Information regarding the Complainant's MORGAN STANLEY IQ product is available on the Complainant's web site located at [www.morganstanleyiq.com](http://www.morganstanleyiq.com).
  - d) As early as the year 2004, Morgan Stanley was listed the number 1 company in global equity trading, global equity underwriting and global IPO market share. In
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the same year, it had the number 2 position in global debt underwriting and completed global mergers and acquisitions.

- e) The Complainant was listed on the New York Stock Exchange (ticker is MS) in the 1980s. It has been, and continues to be, one the highest ranking companies in the Fortune 500 list. Since 2011 the Complainant has been consistently listed among the world's top Fortune 500 companies.
- f) The Complainant submits that in 2004 the Complainant was listed at number 27 in a Top 100 Brands Survey conducted by Business Week. Interbrand, considered the world's foremost branding agency has consistently listed the Complainant among the 100-Top Most Powerful Brands.
- g) The Complainant conducts its business from its headquarters in and around New York City, United States of America, its regional offices and branches throughout the United States, and its offices in important financial centres around the world, such as Mumbai, India, London, United Kingdom, Tokyo, Japan and Hong Kong SAR. The Complainant have 55,802 employees worldwide.
- h) The Complainant's annual net revenues have shown impressive increases through the years. Each year the Complainant spends millions of US dollars on promoting and advertising its financial services under the MORGAN STANLEY Mark and Name.
- i) The Complainant owns registrations of the MORGAN STANLEY Marks in countries and jurisdictions around the world, including in the United States, the European Union, Canada, Hong Kong and **India**. In India, the earliest date of the Complainant's registration of the mark MORGAN STANLEY is 1993.
- j) The Complainant further submits that they have been doing business in India for more than twenty (20) years. Through its Indian offices, the Complainant provides a range of services to domestic and international clients. Further, the Complainant submits that they operates several companies in India, all of whose corporate names incorporate the name Morgan Stanley. Morgan Stanley India Company Private Limited provides a variety of financial services, including, but not limited to, investment banking, sales and trading, fixed income, commodities and derivative products, and financial research.
- k) The Complainant's other companies include Morgan Stanley Investment Management Private Limited, Morgan Stanley Advantage Services Private Limited, Morgan Stanley Solutions India Private Limited, Morgan Stanley Investment Services Private Limited and Morgan Stanley Solutions India Private Limited.



- l) The Complainant has a premier institutional securities platform in India and has been an active investor in infrastructure, real estate and private equity projects in India over the last several years. In addition some of the Complainant's companies in India provide support services to its businesses all over the world.
- m) It is further submitted that the Complainant has registered generic top-level domain names (hereinafter "gTLDs") such as MORGANSTANLEY.COM, MORGANSTANLEY.COM and MORGANSTANLEY.NET and numerous other variations in the .com domain and other gTLDs. All three domain names resolve to the same active web site located at [www.morganstanley.com](http://www.morganstanley.com) that is accessible to users around the world, including in India.
- n) Further, the Complainant submits that in order to facilitate its MORGAN STANLEY IQ platform through the Internet, the Complainant has registered numerous gTLDs and country-code top-level domain names (hereinafter "ccTLDs") that incorporate the mark MORGAN STANLEY IQ. For instance, besides the domain name MORGANSTANLEYIQ.COM, the Complainant has registered the top-level domain names MORGANSTANLEYIQ.BIZ, MORGANSTANLEYIQ.FINANCE and MORGANSTANLEYIQ.FINANCIAL. The Complainant has also registered the ccTLDs domain names MORGANSTANLEYIQ.AE, MORGANSTANLEYIQ.CO.UK, MORGANSTANLEYIQ.US to name a few.
- o) The Complainant is also the owner of the ccTLD MORGANSTANLEY.IN. This domain name resolves to the Complainant's active web site located at [www.morganstanley.com](http://www.morganstanley.com).
- p) The Complainant submits that the domain name registered by the Registrant morganstanleyiq.in is identical or confusingly similar to the MORGAN STANLEY marks and name. The domain name consists of the Complainant's MORGANSTANLEY/MORGAN STANLEY IQ marks and country code IN. The Registrant's malafide intention is clear considering that the Registrant has not even changed a single letter in the disputed domain name.
- q) Further, the Complainant submits that currently the disputed domain name, MORGANSTANLEYIQ.IN, resolves to a web site that has links to numerous third-party web sites, including the web sites of some of the Complainant's competitors such as Franklin Templeton, Aditya Birla Finance, etc. as well as other web sites that are related to the financial world.
- r) The Complainant has prior demonstrated statutory and common law rights in the MORGAN STANLEY Marks and Name, including the MORGAN STANLEY IQ mark. Furthermore, the Complainant has used the MORGAN STANLEY Marks and Name, including the MORGAN STANLEY IQ mark, for a number of years. On the other hand, the Registrant has registered the disputed domain name on 4 April 2015.

Clearly, the Complainant's rights in the MORGAN STANLEY Marks and Name predate registration of the disputed domain name by the Registrant. Thus, there is no doubt of the Complainant's prior rights in the MORGAN STANLEY Marks and Name.

- s) The Registrant is not commonly known by the domain name, nor does the Registrant actually engage in any business or commerce under the name of MORGAN STANLEY. Furthermore, the Registrant is not known to the public under the name MORGAN STANLEY. This is evidence of the Registrant's lack of rights or legitimate interests in the disputed domain name.
  - t) Morgan Stanley is not part of the Registrant's personal name. A copy of the WHOIS record associated with the disputed domain name shows that the Registrant's name is Machang. Accordingly, the Registrant cannot be known as MORGAN STANLEY or its name cannot incorporate the MORGAN STANLEY mark. This is also evidence of the Registrant's lack of rights or legitimate interest in the disputed domain name.
  - u) The Registrant is not a licensee of the Complainant nor has the Complainant authorized the Registrant to use the MORGAN STANLEY Marks and Name or to register the disputed domain name. In fact, the Registrant has no relationship with the Complainant.
  - v) The Registrant also does not have any rights or legitimate interest in the disputed domain name because the domain name resolves to a web site that displays links to third-party web sites. Clearly, this is not legitimate non-commercial or fair use because the Registrant is attempting to generate revenue from consumers who mistakenly visit the web site believing that it is the Complainant's web site.
  - w) The Registrant's use of the disputed domain name is bound to lead to confusion and deception in the minds of the public. The MORGAN STANLEY Marks and Name have been used extensively by the Complainant and understood by consumers, including those in India, as a mark of the Complainant's services. On account of the high reputation attributable to the MORGAN STANLEY Marks and Name, use of the disputed domain name would lead to confusion and deception in the trade.
  - x) The Registrant has registered the disputed domain name knowing fully well that the Complainant could require the domain name to resolve to an active web site on which it offers services under the MORGAN STANLEY IQ mark. Consequently, it cannot be ruled out that the Registrant could use the disputed domain name to extract huge sums of money from the Complainant who has legitimate interest in the disputed domain name. This is evidence of the Registrar's bad faith registration of the disputed domain name.
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- y) The Registrant uses the disputed domain name in connection with a web site on which it provides link to third-party web sites including web sites of the Complainant's competitors. Thus, the Registrant is generating revenue or attempting to generate revenue through consumers who visit this web site. This is evidence of the Registrant's bad faith registration and use.

#### **5) Respondent**

The Respondent has not filed any response to the Complaint though they were given an opportunity to do so. Thus the complaint had to be decided based on submissions on record and analyzing whether the Complainant has satisfied the conditions laid down in paragraph 3 of the policy.

#### **6) Discussion and Findings:**

The submissions and documents provided by Complainant in support of use and registration of the mark 'MORGAN STANLEY IQ' leads to the conclusion that the Complainant has superior and prior rights in the mark 'MORGAN STANLEY IQ'. Thus it can be said a) the web users associate the word 'MORGAN STANLEY IQ' with the goods and services of the Complainant b) the web users would reasonably expect to find the Complainant's products and services at the [www.morganstanleyiq.in](http://www.morganstanleyiq.in) and c) they may believe it is an official website of the Complainant and the services being offered/ advertised are associated or licensed by the Complainant.

Based on the elaborate submission and documents, I'm satisfied that the Complainant has established the three conditions as per paragraph 4 of the policy which are listed below. Further the Respondent has not contested the claims therefore deemed to have admitted the contentions of the Complainant.

- (1) the Respondent's domain name is identical or confusingly similar to the trademark in which he has rights;

It has been established by the Complainant that it has common law rights, and rights on account of prior and longstanding use of the mark 'MORGAN STANLEY IQ'. The Complainant has in support submitted substantial documents. The disputed domain name contains or is identical to the Complainant's 'MORGAN STANLEY IQ' mark in its entirety. The mark is being used by the Complainant to identify its business. The mark has been highly publicized by the Complainant and has earned a considerable reputation in the market.

- (2) the Respondent has no rights or legitimate interests in respect of the domain name;

The Complainant has not authorised the Respondent to register or use the 'MORGAN STANLEY IQ' domain name. Further, the Respondent has never used the disputed domain name for legitimate business services.

The Respondent has not rebutted the contentions of the Complainant and has not produced any documents or submissions to show his interest in protecting his own rights and interest in the domain name. Further, the Respondent has not used the domain name or a name corresponding to the disputed domain name in connection with a bonafide offer of goods or services.

The above leads to the conclusion that Respondent has no rights or legitimate interest in respect of the disputed domain name 'www.morganstanleyiq.in'.


- (3) the domain name has been registered in bad faith.

It may be mentioned that since the Respondent did not file any response and rebut the contentions of the Complainant, it is deemed to have admitted the contentions contained in the Complaint. As the Respondent has not established its legitimate rights or interests in the domain name, an adverse inference as to their adoption of domain name has to be drawn.

Based on the documents filed by the Complainant, it can be concluded that the domain name/mark 'MORGAN STANLEY IQ' is identified with the Complainant's products, therefore its adoption by the Respondent shows 'opportunistic bad faith'.

#### **7. Decision:**

In view of the foregoing, I am convinced that the Respondent's registration and use of the domain name 'www.morganstanleyiq.in' is in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name. In accordance with the Policy and Rules, the arbitrator directs that the disputed domain name 'www.morganstanleyiq.in' be transferred from the Respondent to the Complainant.



**RACHNA BAKHRU  
SOLE ARBITRATOR  
NIXI  
INDIA**

**September 24, 2015**