



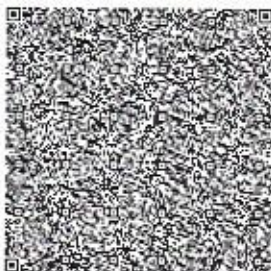
सत्यमेव जयते

# INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

## e-Stamp

Certificate No.	: IN-DL48407152869446P
Certificate Issued Date	: 15-Feb-2017 03:39 PM
Account Reference	: IMPACC (IV)/ dl921303/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL92130397276171369382P
Purchased by	: SANJAY KUMAR SINGH ARBITRATOR
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: SANJAY KUMAR SINGH ARBITRATOR
Second Party	: Not Applicable
Stamp Duty Paid By	: SANJAY KUMAR SINGH ARBITRATOR
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line.....

BEFORE SHRI SANJAY KUMAR SINGH, SOLE ARBITRATOR  
NIXI  
IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)  
NATIONAL SECURITIES DEPOSITORY LIMITED --- Complainant  
SU PRATIK BASU  
--- RESPONDENT

Sanjay Kumar Singh  
05/04/17

### Statutory Alert:

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**BEFORE SHRI SANJAY KUMAR SINGH, SOLE ARBITRATOR,**  
**NATIONAL INTERNET EXCHANGE OF INDIA**  
**IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)**

**National Securities Depository Limited**

Trade World, 'A' Wing, 4th Floor,  
Kamala Mills Compound,  
Senapati Bapat Marg, Lower  
Parel (West) Mumbai - 400013, India

**COMPLAINANT**

**Vs.**

**Supratik Basu**

64/11/L, Suren Sarkar Road  
Kolkata - 700010  
West Bengal, India

**RESPONDENT**

**I. THE PARTIES**

**A. THE COMPLAINANT:**

1. The Complainant no.1 in this administrative proceeding is **National Securities Depository Limited**, Trade World, 'A' Wing, 4th Floor, Kamala Mills Compound, Senapati Bapat Marg, Lower, Parel (West) Mumbai - 400013, India through its authorized representative Mr. Shantanu Sood, Quest IP Attorneys, A-1/232 LGF, Safderjung Enclave, New Delhi-110029. E-mail: [email@questip.com](mailto:email@questip.com).

The Complainant's preferred method of communications directed to the Complainant in the administrative proceedings is as follows:

Electronic-only material

Method: E-mail

E-mail: [email@questip.com](mailto:email@questip.com).

Material including hardcopy

Method: Courier/RegisteredAD/Email

Quest IP Attorneys, A-1/232 LGF,  
Safderjung Enclave, New Delhi-110029.

E-mail: [email@questip.com](mailto:email@questip.com)

Contact: Shantanu Sood

**B. THE RESPONDENT**

The Respondent (amended) in this administrative proceeding is

*Sanjay Kumar Singh*  
*05/04/17*



**Supratik Basu**

64/11/L, Suren Sarkar Road

Kolkata – 700010, West Bengal, India

E-mail: [supratik.basu@yahoo.com](mailto:supratik.basu@yahoo.com)

**II. THE DOMAIN NAME :**

This dispute concerns the domain name identified below:

**"nsdlbank.co.in"**

**III. Factual and legal Grounds:**

**The complainant's contentions:**

1. The complainant has submitted that the present Complaint has been filed by the complainant on account of the corporate name and its trademark NSDL. The complainant National (NSDL) is a company based in Mumbai. It was established as a company under Companies Act 1956 in December 1995 and after the enforcement of the Depositories act 1996 it established the depository business and commenced operations after it received the commencement certificate in October 1996 from the Securities and Exchange Board of India (SEBI).
2. The complainant has submitted that complainant developed and created a national infrastructure to handle most of the securities held and settled in dematerialized ("demat") form in the Indian market. In the depository system, securities are held in depository account, which are similar to holding funds in bank accounts. Transfer of ownership of securities is done through simple account transfers. NSDL has established a national infrastructure of international standards that handles most of the settlement of securities in dematerialized form in the Indian capital market.
3. The complainant has submitted that NSDL is the largest depository in India and is amongst the top ten largest depositories in the world. It is promoted by some of the biggest public and private sector banks and institutions of the national stature responsible for economic development of the country. It holds over 14.6 million demat accounts of Indian customers and institutions and facilitates settlement of securities valued at around US\$ 2 billion daily. All accounts are serviced by NSDL through depository participants, which provide services from

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more than 9,800 offices/locations in 1036 towns/cities in India. Consequently, NSDL is very well known and recognized financial institutions in India and is primarily known and recognized across the length and breadth of India by its corporate acronym and trademark NSDL. The name and NSDL logo is immediately recognized by the Indian public to refer to NSDL and its group companies.

4. The complainant has submitted that the financial importance of the complainant and its business to the Indian market and governmental institutions is immense. In November 2015, the total value of the securities held in its custody exceeded US\$ 1.75 trillion. In view of the vital nature of complainant's business, it can be easily concluded that NSDL functions as a quasi-governmental financial institutions of national importance that acts as the intermediary between consumer /institutions, the Securities and Exchange Board of India and companies. NSDL has its primary website at [www.nsdl.co.in](http://www.nsdl.co.in) from where the customer can transact. In addition, NSDL has launched mobile phone applications for customer access and these apps are available for both Android and IOS platforms. The apps are sold under mark- NSDL.
5. The complainant has submitted that it initiated and undertook a variety of other financial projects of the Indian government and public sector enterprises such as Tax Information Network (TIN) for the Income Tax Department; introduction of 'warehouse receipts' for the Multi-Commodity Exchanges and Ware House ; EASIEST project for the Indian Customs and Excise Department; amongst many others. SEBI directed that NSDL's depository business should be separated from its non-depository business so NSDL e-Gov was established through vertical split in business to perform vital e-Governance functions for the Government of India. It presently offers a diverse variety of services such as; registration and monitoring of permanent Account Numbers (PAN) (similar to social security numbers) that are mandatory under Indian law for conducting financial and property transactions, filing taxes, etc; development and management of the Tax Information Network (TIN) for the central Board of Direct Taxes (CBDT), Ministry of Finance, Government of India; registration and management of Unique Identification (UID) database for the Indian Government; establishment of Central Record Keeping Agency (CRA) for the New Pension System

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(NPS) on behalf of the Pension Fund Regulatory and Development Authority (PFRDA), etc. NSDL, e-Gov provides its services under the NSDL corporate name and trade mark. Its main website is located at [www.egov-nsdl.co.in](http://www.egov-nsdl.co.in). In addition, NSDL has launched mobile phone applications for customer access and these apps are available for both Android and IOS platforms. These apps are sold under the mark – NSDL. Both NSDL and NSDL e-Gov have identical shareholders and ownership and by virtue of originally being a part of the same entity, history dates back to 1995.

6. The complainant has submitted that NDML was established in 2004 to provide the benefit of the technologies expertise, physical network and management experience of the NSDL Group to such projects and sectors of the industry, which are of national importance in India. NDML works closely with various Indian Government agencies for designing managing and implementing e-Governance Projects and has been involved with a number of projects for the Indian government such as National Payment Services Platform, National Skill Registry, National Insurance Policy Repository, etc. Its services are also offered under the NSDL trademark. Its primary website is located. The complainant has annexed copy of some representative extracts of the complaint's website as ANNEXURE-3.
7. The complainant has submitted that its mark NSDL feature as the predominant portion in the corporate names of the complainant's group companies, and is exclusively associated with complainant's group. The Mark has been in use since 1996 and has been exclusively used by the complainant's group across the length and breadth of India. In addition, the mark has attained international recognition by virtue of the complainant's prominence as India's largest depository and its interactions and association with similar institutions and jurisdictions. For example, the complainant has signed co-operative agreements with depositories in Sri Lanka, South Africa, Russia, Japan, Euroclear (EU), DTCC (US Depository), Iran etc. the complainant is a member of Asia Pacific Central Securities Depository Group (ACG) and hosted the 14<sup>th</sup> ACG meeting in Mumbai in December 2010.
8. The complainant has submitted that its renowned, reputation and fame as a premier financial institution in India is easily ascertained by the

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various newspaper reports, articles and media mentions in various forms over the last 20 years. Some representative articles from 2011-2016 has been annexed by the complainant as Annexure-4. These articles and reports establish the extent of the Complainant's recognition in India and abroad, and the particular association of the Mark-NSDL with the complainant and its group Companies.

9. The complainant has submitted that Consumers around India and the world exclusively associate the Mark with the complainant's Group and specific services offered by them. The degree of recognition and association of the Mark "NSDL" with the Complainant is evidenced by the fact that GOOGLE searches for NSDL" predominantly reveal links to the Complainant and its group companies. Screen shot of the search results are annexed as Annex 5. Searches on other search engines such as YAHOO and BING also predominantly yield links to the complainant. The complainant has annexed screenshots of these searches as Annexure-6.
10. The complainant has submitted that it's exclusive and extensive use of the mark, its advertising, marketing establish its Indian & worldwide reputation and goodwill under common law.
11. The complainant has submitted that apart from common law rights in the mark, the complainant has also acquired statutory rights in the Mark in part through registration of the trademark NSDL in India in the complainant or its group companies' names. Examples of the complainant's trademark registrations include:

S. NO.	MARK	REG. NO.	DATE OF REG.
1.		808364	June30, 1998.
2.	NSDL	2566579	July 18, 2013

The complainant has annexed copies of registration certificates/extracts from the Indian IP Office Website as Annex7. The registration are owned within the group by NSDL e-Gov for technical reasons, and it has provided the complainant and other group entities the requisite permission to use the NSDL marks for their businesses including the

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right to the complainant to operate the payments Bank under the NSDL mark and to register the company-NSDL Payments Bank Ltd.

The complainant has submitted that it has significant presence on the worldwide web, and through its group Company NSDL, e-Gov, the group also owns a number of top level and country top level domains containing the mark. These domains are used for important government functions and, consequently, their misuse would potentially threaten the economic security of India. Some examples of the complainant's domain registrations are:

- a) www.nsdl.com
- b) www.nsdl.co.in
- c) eservices.nsdl.com
- d) edpm.nsdl.com
- e) dpmsmr.nsdl.co.in
- f) www.evoting.nsdl.com
- g) www.edocs.nsdl.com
- h) www.indiabondinfo.nsdl.com
- i) www.fpi.nsdl.co.in
- j) Steadyassist.nsdl.com
- k) www.casmicrosite.nsdl.com
- l) www.epass.nsdl.com
- m) egov-nsdl.com
- n) www.tin-nsdl.com
- o) cra-nsdl.com
- p) ndml.in
- q) sezone-nsdl.com
- r) sezone-ndml.com
- s) npscra.nsdl.co.in

12. The complainant has submitted that the earliest registration for nsdl.com dates back to July 9, 1998. Printouts of some registration details for these domains from www.whois.com ("WHOIS") are annexed as annex 8.
13. The complainant has submitted that the foregoing information establishes that the complainant and its group companies are exclusively associated with the same and mark "NSDL" and that they

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own prior rights in the Mark – NSDL in India. Complainant's ownership and priority is well established.

14. The complainant has submitted that with respect to the disputed domain, it is pertinent to point out that apart from the respondent's lack of legitimate interests in the Mark as shown herein below, the timing and choice of domain name for registration also unequivocally confirm that it is nothing more than a case of domain hijacking or cybersquatting. The registration of the disputed domain is in violation of the respondent's undertakings under the .IN domain registration policy as the respondent has blatantly registered the domain consisting of the complainant's well-known mark in contravention of the express undertaking provided in the registration agreement that the domain does not infringe another's trade mark rights under sections 3(b) and 3 (c) of the INDRP Policy.
15. The complainant has submitted that in July 2014, the Reserve Bank of India (India's Central Bank, hereinafter "RBI") issued guidelines allowing for the institution of small payments banks and invited applications from eligible private institutions to obtain licenses. In response to the RBI's notification, the complainant applied for the license to establish a payments bank. The complainant's application was favourably considered by the RBI, and on June 2, 2015, (See, 02062015 article in Annex 4) it was widely reported in Indian news media that the complainant was one of 11 Indian entities that was likely to be granted a license to establish and operate a payments bank. Subsequently, the complainant was granted approval by the RBI in August 2015 to establish the payments bank and has already taken steps to commence business by registering a company by the name of 'NSDL' Payments Bank Limited' with the Indian Ministry of Corporate Affairs. A screenshot of the companies' website evidencing the new company name has been annexed by the complainant as Annex 9.
16. The complainant has submitted that it is no coincidence that the respondent registered the disputed domain on June 15, 2015, shortly after media reports regarding the complainant's likely approval to establish a payments bank surfaced. The choice of name for the domain – nsdlbank- also points to the respondent's bad-faith intent to confuse and divert traffic away from the complainant's legitimate website to the

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respondent's illegitimate website. The respondent also registered other highly similar domains: 1) nsdlbank.com and 2) nsdlbank.in on the same day. The complainant has already instituted domain dispute proceedings with WIPO with respect to <nsdlbank.com> bearing dispute proceeding NoD2016-2257 and is also filing another domain complaint against the other infringing domain registration <nsdlbank.in> before the Indian Registry. None of the three domains have been put to sue but are all listed for sale. Copies of WhoIS details of the foregoing domains, and pages from their websites are annexed as Annex 10.

17. The complainant has submitted that the timing and manner of registering "nsdlbank" formative domain names immediately after media reports of the complainant's likely grant of banking license, coupled with the fact that the respondent appears to be an Indian resident and citizen and is very likely to be aware of the complainant and its business, strongly implies the primary motive for registration was to cyber squat. Based on the facts disclosed, since banking inter alia requires regulatory control and approval in India, it is established that the respondent has no demonstrable interests in the disputed domain and that the registration is in bad faith to illegitimately profit either from trafficking the domain or from conducting fraudulent activities by confusing and deceiving unsuspecting visitors. It is submitted that, based on the disclosed facts, there can be no plausible actual or contemplated active use of the domain name by the respondent that would not be infringe the complainant's rights in the Mark. Quite simply, banking is not an activity permitted to be undertaken at will, and the respondent's registration of the disputed domain could not serve a legitimate banking purpose as such activities require a huge amount of capital investment along with various regularly approvals and Government/ RBI clearances.
18. The complainant has submitted that in addition, because the Mark achieved notoriety and significant transnational reputation and goodwill, it is very likely that Internet consumers, in particular consumer/visitors searching for the complainant's banking services would believe that there is a real connection between the disputed domain and the complainant. In fact, as disclosed below, it is apparent

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that the respondent banked on the likelihood of such consumer confusion to profit from the disputed domain.

**IV. This complaint is based on the following grounds:**

**A. The domain name is identical or confusingly similar to trademark or service mark in which the complainant has rights:**

The complainant has submitted that the disputed domain comprises the complainant's prior and well known mark in its entirety. As disclosed above, the complainant's adoption, use and registration of the Mark are well prior the registration of the disputed domain.

The complainant has submitted that pertinently, the mark – NSDL and had achieved immense reputation and goodwill well prior to the registration of the disputed domain and is readily and exclusively associated with the complainant in India and around the world. The respondent resides in India and has registered the domain on false undertaking/ representation in contravention of Sections 3 (b) and 3(c) of the INDRP.

The complainant has submitted that the disputed domain incorporates the Mark in its entirety and was registered as soon as news broke the complainant likely license to set up a payments bank under the payments bank scheme in India. Thus, the disputed domain <nsdlbank.com.in> clearly implied and will be expected by consumers to resolve to the complainant's payments bank website.

The complainant has submitted that the prefix 'NSDL' is the predominant part of the disputed domain and 'bank' forms the descriptive secondary element. Consumers would associate the disputed domain with the complainant on account of the predominant prefix NSDL, more so now that the complainant has been granted approval to establish its own bank. Under the circumstances, it is submitted that the disputed domain is confusingly similar to the complainant's Mark.

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The complainant has submitted that there is a high likelihood of confusion between disputed domain and the complainant's Mark since the public would mistakenly assume that the respondent's services originate from the same source as, or are associated with, the services of the complainant. Further, it is established that respondent chose the disputed domain name precisely because of its commercial value in identifying complainant's banking goods and services, and such choice further accentuates the confusing similarity in the names.

The complainant has submitted that Many INDRP and WIPO decisions have affirmatively held that incorporation of the trademark/trade name of the complainant in its entirety is sufficient to establish that a domain name is identical or confusingly similar to complainant's registered mark. The addition of merely generic, descriptive, or geographical wording to a trademark in a domain name would itself normally be insufficient in itself to avoid a finding of confusing similarity, and under the particular circumstances of this case, even less so. See, INDRP case No.726 November, 7, 2015 <airtelbank.co.in> Bharti Airtel Limited V. Somasundaran annexed as Annex 11.

The complainant has submitted that many decisions have affirmatively held that incorporation of the trademark/trade name of the complainant in its entirety is sufficient to establish that a domain name is identical or confusingly similar to complainant's registered mark. See. INDRP case No.148 Sept 27, 2010 <gingerhotels.co.in> Indian Hotels Company Limited vs. Mr. Sanjay Jha; WIPO Case No.D2010-1059, Rapid Share AG, Christian Schmid V. InvisibleRegistration.com, Domain Admin, WIPO Case NO.D2005-0288, Accor v. Everlasting Friendship Trust, and WIPO case No.D2006-1307, eBay Inc. v. ebayMoving/Izik Apo annexed here as Annex 12.

The complainant has further submitted that, for purposes of comparison, the country code top-level suffix (ccTLD) in the disputed domain i.e. ".co.in" should be disregarded because the same is a necessary requirement to register and use the disputed domain and would not be considered the distinctive element of the disputed domain by Internet consumers. Previous Panels have ruled that the specific top

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level of a domain name such as ".in", ".co.in", ".com", etc. does not serve to distinguish the domain name from the trademark. See, for e.g., INDRP case No.156, October 27, 2010 Morgain Stanley.v. Bharat Jain; WIPO Case NO.D2000-0834 CBS Broadcasting Inc. V. Worldwide Webs. Inc. annexed here as Annex 13.

The complainant has submitted that the dispute domain should be considered identical/confusingly similar to the complainant's Mark and name NSDL.

**B. The respondent has no rights to legitimate interest in respect of the domain.**

The complainant has submitted that the respondent does not have any prior or legitimate right in the disputed domain. The primary portion of the disputed domain – NSDL is the complainant's invented trade mark, which has no other reference than to identify the complainant. The respondent has no rights therein. The use of this Mark either by itself or with slight variations or in conjunction with any other word/extension does not serve any purpose for the respondent, rather it causes confusion and deception.

The complainant has submitted that in addition, because the Mark is a well-known mark, it is highly likely that Internet consumers would believe that there is an inevitable connection between the disputed domain and the complainant. In fact, as disclosed below, it is apparent that the respondent banked on the likelihood of such consumer confusion to profit from the disputed domain. There has been no legitimate attempt by the respondent to use the disputed name and, indeed such use is not permitted by government regulations. The respondent is not permitted to establish and run a bank, and any suggestion otherwise is simply an attempt to commit fraud. Further the propensity to commit fraud with the disputed domain is very high. The respondent is easily able to represent himself as the complainant and enter into fraudulent transactions or contracts with third parties under the veil of being associated with the complainant resulting in inherent monetary loss and tarnishing of goodwill of the complainant.

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The complainant has submitted that the disputed domain is illegitimate and directed to cybersquatting and trafficking. It is being passively held containing a parked page with paid advertising links and is offered for sale by the respondent. The concept of 'passive holding' typically implies complete inaction on the part of the respondent characterized by a failure to direct the domain name under dispute to any active website or purpose. Such inaction demonstrates the lack of legitimate rights in the domain.

The complainant has submitted that it is also pertinent to point out that shortly after the complainant instituted the domain dispute proceedings before WIPO in relation to the domain <nsdlbank.com> also registered by the respondent, the complainant's attorney received multiple calls from the respondent's mobile no.+918648848482 in the week from November 7, 2016 to November 13, 2016, whereby the respondent repeatedly offered to sell the disputed domains to the complainant for INR 8,00,000/- (Rupees Eight Lakhs). The respondent claimed he was in the business of registering and trafficking domains and that the offer sale price was fair, since the complainant would need the disputed domains for running its website related to its Payments Banks. On being asked to relay the offer for sale via email, the respondent refused stating that he was well versed with trafficking and would not put any offer down in writing. Indeed, as described herein below the respondent has previously been involved with the attempt to traffic the domain <gsbankusa.com>, which incorporated the well-known trade mark acronym of Goldman Sachs Bank. It is clear that the respondent's primary aim for registering domains is to cyber-squat and traffic domains using others' trade marks for profit, and panels have consistently held such activities to be illegitimate and unlawful under the policy.

The complainant has submitted that the respondent is neither affiliated with the complainant nor has he obtained any authorization or license to register or use any domain name incorporating the Mark. In addition, the respondent does not have any legitimate interest in the Mark - NSDL.

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The complainant has submitted that the above facts establish that the respondent's registration is not inadvertent or innocent but instead intentional with a view to cyber squat, divert legitimate business away from the complainant, and traffic the domain for vast sums. The evidence furnished by the complainant proves hoarding and squatting of the same by the respondent, which by itself could have serious repercussions to the detriment of the complainant.

The complainant has submitted that the respondent's interests in registering the disputed domains are established to be two fold - 1) to ultimately traffic the disputed domain for significant sums of money on account of its identity with the complainants' Mark and banking business; and 2) in the interim to disrupt the complainants' business by relying on probable consumer confusion (consumers mistaking the disputed domain for the complainants) to earn revenue through pay-per click links hosted on the holding page of the disputed domain, and possibly even by launching a phishing attack to commit financial fraud. Screen shots of the parking page at the disputed domain taken on April 11, 2016, November, 7, 2016 and November 25, 2016 annexed as Annex 14, establish that the domain was registered to cyber squat because of its recognition as the complainant's proposed bank under its trade mark, and not for any legitimate purpose the screenshots also show that the disputed domain is offered for sale and it is pertinent to note that the respondent now removed the 'for sale' offer after he was alerted to the complainant's WIPO complaint against <nsdlbank.com>.

The complainant has submitted that the respondent's lack of legitimate rights in the disputed domain are established because a) the respondent is not authorized to run a bank of any kind in India; b) the use of the domain for an advertising page containing an offer for sale and advertising links is not a bona-fide offering of goods or services; c) the respondent is neither known by the disputed domain nor has it been licensed by the complainant; and d) there has been no apparent effort to make non-commercial/fair use as the presence of pay-per click advertising links negates the possibility that the disputed domain is used for non-commercial or fair purposes.

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The complainant has submitted that many INDRP and WIPO decisions have affirmatively held that the existence of the foregoing elements is sufficient to conclude the lack of legitimate rights in a disputed domain. Specifically, decisions have generally recognized that use of a domain name to post parking and landing pages or PPC links does not confer rights or legitimate interests arising from a "bona fide offering of goods or services" or from "legitimate non-commercial or fair use" of the domain name, especially where resulting in a connection to goods or services competitive with those of the complainant or where such links are based on trademark value. Such practices are viewed as unfair use resulting in misleading diversion. See, for e.g. WIPO Case NO.D2007-0267, Express Scripts, Inc. v. Windgather Investments Ltd./Mr. Cartwright, Annexed as Annex 15.

The complainant has submitted that in addition, where, as here, the respondent is neither a Licensee of the complainant, nor has it otherwise obtained authorization of any kind whatsoever, to use the complainant's mark, the respondent's lack of rights or legitimate interest is strongly indicated, in previous decisions, such as WIPO case No.D2003-0098 Six Continents Hotels, Inc. V. Patrick Ory, the Panel concluded that in the absence of any commercial relationship between the parties entitling the respondent to use the complainant's mark, the respondent could not be thought to have any legitimate right or interest in the disputed domain comprising the complainant's mark. A copy of the decision is annexed as Annex 16. A similar conclusion should be reached in the instant case as the respondent's sole motive to register the domain appears to be to trade off the immense recognition of the Mark.

The complainant has submitted that the complainants have established the respondent has no rights or legitimate interest in the disputed domain.

**C. The domain name(s) was/were registered and is/are being used in bad faith.**

The complainant has submitted that the facts support the conclusion that the domain registration is illegitimate. One of the respondent's

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main motives of registering the disputed domain name was to traffic it by selling it for valuable consideration in excess of legitimate costs. As stated above, the respondent has contacted the complainant's attorney over the phone offering to sell the domain for INR 8,00,000 (Rupees Eight Lakhs), which is far in excess of the legitimate fees paid to register and maintain the domain. The Complainant has placed reliance on Annex 14. Offering the domain for sale at exorbitant prices indicates the speculative intent on the respondent's part to profit from the trade mark significance of the disputed domain.

The complainant has submitted that the facts also support the conclusion that the respondent has registered the domain with predatory intent. The respondent's intent is clearly designed to intentionally mislead Internet users for commercial gain. It is highly likely that the respondent is waiting for the complainant to operationalize its payments bank and then use the disputed domain to confuse and mislead legitimate customers looking to access the complainant's banking services and transact therein. The respondent's intent appears to commit financial fraud on unsuspecting customers through phishing and other such fraudulent activities, which will undoubtedly disrupt and cripple the complainant's banking business causing immense damage to the complainant's goodwill and reputation. Furthermore, the respondent's registration of the disputed domain and two other highly similar domains, immediately after news of the complainant's payments bank license surfaced, and his use of the disputed domain to host an advertising page strongly implies bad faith because it demonstrates that the respondent was aware of the commercial significance of the domain and clearly intended to hijack and cyber squat. Such passive holding of domains and their illegitimate use to disrupt the complainant's business amounts to bad faith registration and use.

The complainant has submitted that in sum, the facts demonstrate that the respondent's actions are nothing more than an attempt to inter alia profiteer from domain grabbing, fraudulent conduct, illegal predation and amounts to bad faith registration and use under the INDRP and UDRP.

*Singhania High.*  
*05/04/17.*



The complainant has submitted that the respondent has previously been involved in similar UDRP proceedings where it registered a domain name comprising Goldman Sachs trademark/name for the domain 'gsbankusa.com' in its entirety and then offered the said domain for sale while also placing strategic advertising links on the website to disrupt the trade mark holder's business and to derive profits from pay-per-click advertising links resolving to the trade mark holder's competitors' websites. The Panel decided in favour of the complainant and ordered the domain to be transferred as requested. A Copy of the NAF decision <Claim Number: FA1508001633381, Goldman, Sachs & Co. V. SUPRATIK BASU> is annexed as Annex 17. It is submitted that the complainant's case here is highly similar to the aforesaid proceedings.

The complainant has submitted that respondent registered another payment bank domain name - <reliancepaymentbank.com> - immediately after it was announced Reliance would be given a license as well. The respondent is also listed as the owner of another domain <icicibanklogin.com>, which incorporates the name of one of the India's largest banks, and as the name suggests, the domain appears to target legitimate users of ICICI Bank's internet users. The respondent is also the registered owner of the other conflicting domains such as <goldmansachsloans.com>, <mpesabank.com>, amongst other domains comprising names of famous business houses/businessmen such as <adityabirlapower.com>, <pawanmunjal.com>, etc. Copies of Who IS records of these registrations with domain parking pages are annexed as Annex 18.

The complainant has submitted that the foregoing record establishes the respondent has a track record of targeting banking institutions, famous business houses and registering identical/ confusingly similar domain in bad-faith. Prior actions demonstrate pattern bad-faith registrations. Many WIPO panels have held past patterns to be demonstrative of bad-faith intent and registration. See, WIPO Case NO.D2001-0046, Telstra Corporation Limited v. Ozurls. A copy of the decision has been annexed by complainant as Annex 19.

Sargany K. Singh  
05/04/17

## **V. PROCEDURAL HISTORY:**

1. This arbitral proceeding commenced in accordance with IN Dispute Resolution Policy (INDRP) and rules framed there under.
2. The complainant submitted his complaint in the registry of NIXI against the respondent in respect to the respondent's Domain name <nsdlbank.co.in>.
3. I was appointed as Sole Arbitrator in the matter by NIXI.
4. The complainant submitted the said complaint under In Domain Name Dispute Resolution Policy (INDRP).
5. A copy of complaint was sent to me by the NIXI for arbitration in accordance with Dispute Resolution Policy (INDRP). The copy of the complaint along with annexures/exhibits was forwarded to me and to the respondent by .In Registry of NIXI.
6. On 29-12-2016, I informed the respective parties to the complaint, about my appointment as an arbitrator. Accordingly, I called up on the parties to file their counter/ reply and rejoinder with the supportive document/evidence within ten days of the receipt of the notice. However the respondent did not file any reply to the complaint nor did he file any supportive document /evidence despite the notice duly served on the respondent at his e-mail address.
7. On 29-12-2016 the respondent made a request for extension of time.
8. On 29-12-2016 the respondent's request for extension of time was considered and I extended the time to file reply to 15 days.
9. On 12-01-2017 the respondent filed his response along with annexes.
10. On 19-01-2017 the complainant sent the rejoinder along with the annexes.
11. On 02-02-2017, the complainant sent the award passed in respect to other domain name <nsdlbank.in>.

## **VI. Response of the Respondent to Statements and Allegations Made in Complaint:**

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- i. The respondent has submitted that the Complaint and allegation made by the Complainant, National Securities Depository Limited, against the Respondent, Mr. Supratik Basu is absolutely baseless, self-contradictory, false and ill intended. The Respondent had no idea what National Securities Depository Limited is and what they do before receiving this complaint, moreover the Respondent deals in Tour & Travel business (Annex 3) not in Securities which is the Complainant's nature of business understandable from the complaint details. The Complainant doesn't have any Trademark, Service mark on NSDLBANK word evident from the Annex 7 of the complaint.
- ii. The respondent has submitted that the Complainant's NSDL payments bank limited is incorporated on 17/08/2016 (Annex 9 of the complaint) and the registration of the Respondent's domain was on 15/06/2015 (Annex 10 of the complaint), more than one year before the incorporation.
- iii. The respondent has submitted that the allegation of the Complainant, the Respondent's domain name registration was based on media reports regarding the Complainant's likely approval to establish a payments bank surfaced isn't correct in nature as the Respondent doesn't own any domain like NSDL PAYMENTS BANK which is mentioned in different articles (Annex 4 of the complaint).
- iv. The respondent has submitted that the Complainant alleges that the Respondent is the owner of another domain icicibanklogin.com which incorporates the name of one of India's largest banks, and as the name suggests, the domain appears to target legitimate users of ICICI Bank's internet users. But the Complainant provides false and forged Whois document (Annex 17 of the complaint) of icicibanklogin.in which is available for registration (Annex 5) to malign the Respondent to the Panel and the Respondent also doesn't own icicibanklogin.com.
- v. The respondent has submitted that the Complainant's claim of NSDLBANK.com is on sale is not only false rather a pure case of forgery. The domain is parked at Sedo Parking but was never on sale but the doctored document 11042016 (Annex 13 of the

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complaint) has been produced to influence the decision of the Panel. Annex 2 is an example how any domain offered for sale on Sedo.com looks like. Any domain parked and offered on sale on Sedo.com shows "BUY THIS DOMAIN The domain (domain name.com) may be for sale by its owner!" on the parking page (Annex 1). But "Buy this domain – This domain nsdlbank.co.in may be for sale by its owner!" is missing in the document 26102016 (Annex 13 of the complaint), so it proves again NSDLBANK.co.in was not on sale.

- vi. The respondent has submitted that the webpage NSDLBANK.co.in is generated by Sedo parking and the Respondent has no connection with the third-party Advertiser. Moreover, displayed Ads (Document 26102016 of Annex 13 of the complaint) on it is not connected to goods or services competitive with those of the Complainant, as claimed by the Complainant.
- vii. The respondent has submitted that the Complaint against ORANGEWEBSITE.com in Wipo case no. D2016 -1434, Orange Brand Services Limited v. Whois Privacy Corp., Henri Vilmi, (Annex 7) has been denied instead of the Complainant's Trademark on the word mark ORANGE is similar in nature of the National Securities Depository Limited's claim on NSDLBANK.co.in Complaint against TOTALPACKERS.com in Wipo case no. D2016 -1455, Green Bay Packers, Inc v. Moniker Privacy Services / Montgomery McMahon, (Annex 7) has been denied instead of the Complainant's Trademark on the word mark PACKERS is similar in nature of the National Securities Depository Limited's claim on NSDLBANK.co.in

The Respondent has responded to the statements and allegations in the Complaint and has prayed to the Administrative Panel to deny the remedies requested by the Complainant.

A. Whether the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

- i. The Complainant does not have any Trademark or Service mark on NSDLBANK word. Neither any Common-Law mark generates on NSDLBANK word as the complainant's newly from entity is called NSDLPAYMETSBANKLIMITED (Annex 9 of the complaint) and they never used and promoted NSDLBANK word by any means till date.

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- ii. Arguments made by the Complainant concerning the manner in which the domain name is allegedly identical or confusingly similar to a trademark or service mark in which the Complainant claims it has rights is absolutely baseless and ill intended to forcefully grab the disputed domain name.
- iii. The Complainant does not have any Trademark or Service mark on NSDLBANK word, neither any Common-Law mark generates on NSDLBANK word as the complainant's new entity is called NSDLPAYMETSBANKLIMITED and incorporated on 17/08/2016 (Annex 9 of complaint) more than one year after NSDLBANK.co.in registration on 15/06/2015.

B. Whether the Respondent has rights or legitimate interests in respect of the domain name;

- i. The respondent is having his own Travel Business website <http://travel365.in/> (Annex 3) operational and active on web, he registered different domain names like BTCZILLA.com, CONNECTEDCARINDIA.com, THEHOLYLANCE.COM etc. (Annex 6) for possible legitimate future use and it's not illegal to register domain names and there isn't any Trade or Service mark on the disputed domain name.
- ii. Moreover, domain buying and selling is also a legitimate business (Annex 8).
- iii. Before the Respondent received any notice of the dispute the domain has been parked the domain at Sedo Parking for legitimate future use of the domain name.
- iv. The Respondent as an individual intend to legitimately use the domain in the future and parked it at Sedo parking like BTCZILLA.com, CONNECTEDCARINDIA.com, THEHOLYLANCE.COM etc. (Annex 6) other domains he has for future use.
- v. The Respondent parks domains on different parking services, there is no commercial gains to the Respondent for that and if anything displayed on the parked page that's discretion of the parking service provider be it Sedo parking service or Godaddy parking

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service (Annex 6) and the Complainant doesn't have any Trademark or Service mark on NSDLBANK word and the ads displayed on the parked page doesn't conflict with the Complainant's nature of business.

C. Whether the domain name has been registered and is being used in bad faith.

- i. The respondent has submitted that the Complainant does not have any Trademark or Service mark on NSDL BANK word, neither any Common-Law mark generates on NSDL BANK word as the term NSDL BANK never been used by the Complainant in any form till date.
- ii. The respondent has submitted that the the Complainant's new entity is called NSDL PAYMENTS BANK LIMITED, incorporated on 17/08/2016 (Annex 9 of complaint) more than one year after NSDLBANK.co.in registration on 15/06/2015.
- iii. The respondent has submitted that the the Complainant couldn't even produce any Trademark or Service mark on NSDL BANK also, neither have they used NSDL BANK word in any form of promotion.
- iv. The Respondent registered the domain randomly like BTCZILLA.com, CONNECTEDCARINDIA.com, THEHOLYLANCE.com (Annex 6) etc.
- v. The respondent has submitted that he has never tried to sell, rent or transfer NSDLBANK.com to the Complainant who isn't the owner of NSDLBANK trademark or service mark or to a competitor of the Complainant for any consideration or to any third party.
- vi. The respondent has submitted that the NSDLBANK.co.in was registered randomly and there is no Trade or any Mark claim of the Complainant to exhibit on it.
- viii. The respondent has submitted that the Complainant National Securities Depository Limited is engaged in business of Securities

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and the Respondent is engaged in Tour & Travel business named TRAVEL365.in (Annex 3), those two business types are absolutely not similar in nature.

- ix. The respondent has submitted that NSDLBANK.co.in was registered randomly by the Respondent and parked, which doesn't resolve to the Respondent's active Tour & Travel business website <http://travel365.in/> in any way.

The respondent has submitted to the Panel to look into claim of the Complainant an intention of Reverse Domain Name Hijacking to acquire NSDLBANK.co.in forcefully from the Respondent though they don't have any Trademark or any Mark rights or any legitimate right on it.

#### **VII. REJOINDER TO RESPONSE FILED BY RESPONDENT:**

##### **PRELIMINARY SUBMISSIONS BY COMPLAINANT:**

- 1) The Complainant has submitted that its domain complaint before WIPO relating to the other domain <nsdlbank.com> that was also illegally registered by the Respondent along with the subject domain has been decided in the Complainant's favour. The complainant has annexed as Annex CR1, a copy of the decision issued on January 5, 2017 ordering the transfer of the said domain to the Complainant. It is pertinent to point out that the facts in the aforesaid dispute are identical to the subject dispute <nsdlbank.co.in>, to the point where the Respondent's response in the said proceeding was also identical to the response filed herein. The Ld. Arbitrator in the said proceeding, after careful consideration of the facts has validly concluded that:
  - a. The Complainant's prior rights and ownership of the NSDL mark has been validly established;
  - b. The mark NSDL is widely known;
  - c. The disputed domain featuring <nsdlbank> is confusingly similar to the Complainant's mark. The disputed domain name reproduces the mark in its entirety along with the term "bank". The term "bank" is insufficient to distinguish the disputed domain name from

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- the mark as the Complainant is a financial institution that has interests in the bank business, and adds to the association of the disputed domain name with the mark;
- d. The Respondent's registration was illegitimate;
  - e. The registration and use was in bad faith as the Respondent had no reasonable explanation for choosing the Complainant's mark, and further in view of the evidence establishing a pattern of misconduct by the Respondent, there was no doubt as to bad faith registration and use by the Respondent.
- 2) The complainant has submitted that the foregoing decision succinctly captures the essence of the Respondent's illegal registration of domains using the Complainant's mark – NSDL and the Ld. Arbitrator rightly orders transfer of the domain to the Complainant.
  - 3) The complainant has submitted that the preponderance of uncontroverted evidence provided by the Complainant amply establishes the Respondent's mala-fides in registering domains based on the Complainant's mark – NSDL. The Respondent's claim that he is unfamiliar with the mark NSDL is false and completely implausible given the fact that the Respondent is an Indian citizen and the Complainant is responsible for a wide variety of activities on behalf of the Indian Government such as the issuance of PAN cards, TAN, Income Tax portals, etc. – all activities that normal law abiding citizens of India necessarily use. Respondent's blatant denial is a deliberate falsehood, which highlights his mala-fides and dishonesty.
  - 4) The complainant has submitted that the Respondent has failed to provide any justification for the registration of the disputed domain <nsdlbank.co.in>, and furthermore has also failed to provide any evidence of his alleged travel business or the relevance thereto to the disputed domain. It is submitted that the evidence on record, and the Respondent's own submissions and admissions conclusively establish that the Respondent is simply an Opportunistic cyber squatter who registers domains using popular marks/brands, in the hope of profiting therefrom. The Respondent has no legitimate business interest in the registered domains and

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the sole purpose of the registration has been to prevent the Complainant from registering the said domains, in the hope that the Complainant would purchase the domain from the Respondent at exorbitant amount – INR 8 lakh as stated in the complaint. It is submitted that registration of domains using others' trademarks/brands is an express violation of Clause 3 of the INDRP policy and makes the Respondent liable for deliberate false statements.

- 5) The complainant has submitted that the evidence on record along with prior precedents establishes the Respondent's prior pattern of registering confusingly similar domains using popular names and trademarks. The uncontroverted evidence of other registrations has been annexed as Annex CR2 with the Complaint along with a reverse whois printout which establishes the Respondent's cybersquatting operations. Further, the complainant has submitted that the Respondent demanded exorbitant amounts from the Complainant for transferring the disputed domain, all of which establish bad faith registration.
- 6) The complainant has submitted that it is pertinent to point out that the Respondent has not controverted the Complainant's submissions and facts, all of which are deemed admitted and hence construed against the Respondent.
- 7) The complainant has submitted that based on the foregoing submissions the Complainant has made out a valid case in its favour, enabling the Ld. Arbitrator to grant the reliefs claimed.

**Rejoinder to the Response of the respondent:**

- 8) The complainant has submitted that the contents of the Respondent's response are deliberately false and denied in their entirety. The Respondent is deliberately attempting to manufacture and concoct facts to mislead the Ld. Arbitrator, and such conduct itself disentitles the Respondent. The complainant has given a point wise response to the response is as follows:
  - a. The Respondent's claim that he is unaware of NSDL is blatantly false and denied. As disclosed above, it is inconceivable for an Indian citizen or business to be unaware of NSDL when critical everyday functions relating to taxation, etc. are performed by the

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Complainant under the NSDL mark for the Government of India. By his own admission, the Respondent claims to be running a travel business, which would require registration of PAN/TAN, etc. Therefore, Respondent's claims can only mean his purported lack of knowledge is false, unless the Respondent wishes to state on record that he has been evading taxes in India.

- b. The allegation that Complainant does not have a trade mark or service mark NSDLBANK is false and denied. As stated hereinabove, the disputed domain includes the Complainant's mark in its entirety and the addition of the term 'bank' to the Complainant's mark does not detract from the fact that the prominent element of the domain is the arbitrary acronym – NSDL. The term "bank" is insufficient to distinguish the disputed domain name from the mark as the Complainant is a financial institution that has interests in the bank business, and adds to the association of the disputed domain name with the mark.
- c. The Respondent's registration of the disputed domain along with <nsdlbank.com> and <nsdlbank.in> immediately after news reports of the Complainant's likely license to run a payments bank, itself establishes the Respondent's mala fide and dishonest intent, registration and use.
- d. The Complainant states that the Respondent was the owner of the domain <icicibanklogin.in> until February 8, 2016. The said domain was registered by him on February 8, 2015, as evidenced by the reverse whois data annexed as Annex CR3. That the said domain is not currently registered is merely eyewash to cover the fact that the Respondent had indeed registered the same without justification. The data establishes the Respondent's pattern of registering prominent domains using names of established financial institutions to cyber squat and illegally profit through consumer confusion and other illegal activity. The Respondent has also registered domains using names of other banks such as <finopaybank.com>, etc. annexed as Annex CR4, which along with the prior Goldman Sachs decision annexed with the Complaint establishes the pattern of Respondent's misconduct with respect to cyber-squatting and domain hijacking.

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- e. The Respondent has not offered a single explanation as to why he registered the disputed domain or the names of other banks, when he admittedly claims to be in the travel industry. There is also no explanation for registering the names of prominent personalities, etc. as domains. Further, the fact that the Respondent extorted money from the Complainant sufficiently establishes bad faith.
- f. The Respondent's claim of alleged forgery by the Complainant is false and denied. The screenshots taken at different dates reflect the status on those dates and establish the lack of bona fide use of the domain in question. The claim of forgery is frivolous and false to the Respondent's knowledge who is merely trying to create the illusion of forgery where none exists.
- g. The Respondent's claims regarding SEDO parking are false and denied. The fact is that the domain creates a false association with the Complainant through illegal use of the Complainant's trade mark – NSDL. Trying to create a false association with the Complainant's trademark, when none exists for commercial gain is recognized as bad faith registration and use of the disputed domain name. It is likely to be widely assumed by the public and Internet users that the trademark used in the disputed domain name, is associated with the Complainant or is sponsored, affiliated with or endorsed by the Complainant, the legitimate owner of the trademark. Moreover, it has been consistently found in multiple decisions that the Respondent responsible for the content appearing on the website associated with the domain name and cannot claim innocence once a Complaint has been lodged.
- h. The cases cited by the Respondent have no relevance in these proceedings as the domains at issue and the facts were completely dissimilar.
- i. The Respondent admits that he trades in domain names. Registering domain names using other's trademarks, especially widely used trademarks, for purposes of trade or profit has been consistently held to be a violation of trade mark rights giving rise to the cancellation/ transfer of the said domain to legitimate owners. Such is the case here.

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- j. The Respondent's reverse domain name hijacking claim is false, irrelevant and denied. The Respondent's claim is completely unsupported in law or fact.
- 9) In sum, it is submitted that the Complainant has satisfied the requirements of Clause of the INDRP policy whereas the Respondent has failed to satisfy his burden of proof under the Policy in all respects. The Complainant's prior rights in NSDL, the Respondent's illegitimate and bad faith registration and use have been successfully established.
10. The Complainant prayed for transfer of the domain to the Complainant.

#### **VIII. OPINION AND FINDINGS ON MERITS:**

##### **A) Whether the domain name is identical or confusingly similar to a trademark in which complainant has right.**

It has been held in Indian decision M/s Satyam Infoway Ltd. Vs. M/s Sifynet Solution (P) Ltd. JT. 2004 (5) SC 541, that Domain name has all characteristics of trademark. As such principles applicable to trademark are applicable to domain names also. In the said case the words, 'Sify' & 'Siffy' were held to be phonetically similar and addition of word 'net' in one of them would not make them dissimilar. It was held that Domain name has trademark in it entirely and as such they are identical. In the present case the domain name is 'nsdlbank.co.in' and trademark is 'NSDL'. They are phonetically, similar and they both consist of similar 'letters or words'. The domain name also contains trademark in entirety. They are also similar in appearance. As such they both are identical and confusingly similar.

The other aspect is that the spheres of user of trademark and domain name, and the manner in which they are used or sought to be used. It is held in Indian case JT.2004 (5) SC 541, that in modern times domain name is accessible by all internet users and thus there is need to maintain it as an exclusive symbol. It is also held that it can lead to confusion of source or it may lead a user to a service, which he is not searching.

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Thus conclusion is that domain name and trademark, which may be used in different manner and different business or field, or sphere can still be confusingly similar or identical.

Thus the conclusion is that the domain name of respondent is identical and confusingly similar to the trademark of complainant.

Now the other important aspect that needs consideration is, as to whether the complainant has right in the trademark. It is important to mention here that as per the claim of the complainant prefix NSDL is the predominant part of the disputed domain name and the respondent has no trademark on the said domain name whereas the trademark "NSDL" was registered by the complainant in July 18, 2013 vide Reg. no. 2566579. Thus the trade mark "NSDL" was in existence at time of registration of domain name by the Respondent. The trademark of complainant is 'NSDL'.

This principle is settled in Indian cases and referred case JT 2004(5) SC 541 and 2004(5) SCC 287.

Thus the conclusion is that the domain name 'nsdlbank.co.in' is identical and confusing similar to the trademark of complainant 'NSDL'.

**B) Whether the respondent has no right or legitimate interest in the domain name got registered by him**

As already stated that paragraph 4(ii) and 7 of INDRP are to be read together. Their combined effect is that, onus to prove the ingredients of these paras is prima facie on complainant. The onus is not very weak and prima facie, but it heavily shifts on respondent. Respondent can discharge the onus by direct congest and positive evidence which are in his special knowledge and power. The complainant has made positive assertions that respondent has no legitimate right in domain name. The complainant has made positive assertions regarding the fact that respondent has got registered various other domain names, in the .IN Registry for which the respondent has no right or trademark. As such in above circumstance it is clear that the complainant has

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prima facie discharged the initial onus cast upon him by virtue of paragraph 4(ii) and 7 of INDRP.

The assertion of complainant is that the respondent at time of registering his domain knew or ought to have known about his trademark and so he has violated complainant's right and the respondent has also violated paragraph no.3 of INDRP and clause 8.1 of registration agreement.

Thus the conclusion is that respondent has no right or legitimate interest in the domain name.

**C. Whether the respondent's domain name has been registered or is being used in bad faith**

It is to be seen as to whether the domain name has been got registered in bad faith. The paragraph no.4 (iii) and 6 are relevant and as already stated, the onus is primarily upon complainant. The complainant has alleged that the respondent has got registered the domain name for selling it and that he also hijacks domain name to sell it for a profit.

The complainant has submitted that the facts support the conclusion that the domain registration is illegitimate. One of the respondent's main motives of registering the disputed domain name was to traffic it by selling it for valuable consideration in excess of legitimate costs. As stated above, the respondent has contacted the complainant's attorney over the phone offering to sell the domain for INR 8,00,000 (Rupees Eight Lakhs), which is far in excess of the legitimate fees paid to register and maintain the domain. The Complainant has placed reliance on Annex 14. Offering the domain for sale at exorbitant prices indicates the speculative intent on the respondent's part to profit from the trade mark significance of the disputed domain.

The complainant has submitted that the facts also support the conclusion that the respondent has registered the domain with predatory intent. The respondent's intent is clearly designed to intentionally mislead Internet users for commercial gain. It is

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highly likely that the respondent is waiting for the complainant to operationalize its payments bank and then use the disputed domain to confuse and mislead legitimate customers looking to access the complainant's banking services and transact therein. The respondent's intent appears to commit financial fraud on unsuspecting customers through phishing and other such fraudulent activities, which will undoubtedly disrupt and cripple the complainant's banking business causing immense damage to the complainant's goodwill and reputation. Furthermore, the respondent's registration of the disputed domain and two other highly similar domains, immediately after news of the complainant's payments bank license surfaced, and his use of the disputed domain to host an advertising page strongly implies bad faith because it demonstrates that the respondent was aware of the commercial significance of the domain and clearly intended to hijack and cyber squat. Such passive holding of domains and their illegitimate use to disrupt the complainant's business amounts to bad faith registration and use.

The complainant has submitted that in sum, the facts demonstrate that the respondent's actions are nothing more than an attempt to inter alia profiteer from domain grabbing, fraudulent conduct, illegal predation and amounts to bad faith registration and use under the INDRP and UDRP.

Thus from above discussion it's clear that the parking of domain name for making money by luring customers to the website and tricking them into clicking on Ads etc. are relevant factors in presuming or judging the intention of respondent of selling, renting or transferring etc. of domain name and his intention to prevent owner of trademark or service mark from reflecting the mark in corresponding domain name.

Keeping in view above facts and circumstances it is thus clear that the respondent has registered domain name and has not come forward and has neither provided any substantial evidence of using them for business or for offering of goods and services. Moreover respondent has contacted the attorney of the complainant over the

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phone and offered to sell the domain name to the complainant for INR 8,00,000 (Rupees Eight Lakhs) complainant's attorney. The obvious purpose for registering domain names is to sell, rent or transfer it or to prevent other owner of mark from reflecting it in corresponding domain name.

The complainant has forcefully contended National (NSDL) is a company based in Mumbai. It was established as a company under Companies Act 1956 in December 1995 and after the enforcement of the Depositories act 1996 it established the depository business and commenced operations after it received the commencement certificate in October 1996 from the Securities and Exchange Board of India (SEBI).

As stated above, the complainant has contended that the respondent has contacted the complainant's attorney over the phone offering to sell the domain for INR 8,00,000 (Rupees Eight Lakhs), which is far in excess of the legitimate fees paid to register and maintain the domain. This contention of the complainant has not been denied by the respondent.

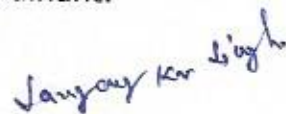
Thus the conclusion is that the respondent has got registered his domain name "nsdlbank.co.in" in bad faith.

#### **DECISION:**

The domain name of the respondent is identical and confusingly similar to trademark of complainant. The respondent also does not have right or legitimate interest in the domain name. He has got it registered in bad faith, as such he is not entitled to retain the domain name. The complainant is entitled to transfer of domain name to him, as he has established the bonafide rights in trademark as per facts of the complaint and law discussed above. The claim of the reverse hijacking of respondent also cannot be alleged in above circumstances. Hence the Domain name "nsdlbank.co.in" be transferred to the complainant.

Delhi

Date: 05-04-2017

  
(Sanjay Kumar Singh)

Arbitrator