

தமிழ்நாடு தமிழ்நாடு TAMILNADU
Sridharan
Chennai

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23/1/17

BG 690134
R. RAGUPATHI
STAMP VENDOR, L/No. C3/4839/83,
No. 37, VILLAGE ROAD, NOW KNOWN AS
No. 79/91, VALLUVARKOTTAM HIGH ROAD,
NUNGAMBAKKAM, CHENNAI-600 034.
PHONE: 9445114347

BEFORE S SRIDHARAN, SOLE ARBITRATOR
OF NATIONAL INTERNET EXCHANGE OF INDIA

ARBITRATION AWARD

DATED: 22nd January 2017

National Securities Depository Limited
Mumbai

...

Complainant

Versus

Supratik Basu
Kolkata

...

Respondent

Sridharan

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1. The Parties

- 1.1 The Complainant, National Securities Depository Limited (NSDL) is a company incorporated under the Companies Act 1956, having its registered office at Trade World, 'A' Wing, 4th Floor, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West) Mumbai – 400013. The Complainant is represented by its attorney Mr. Shantanu Sood, of Quest IP Attorneys at A-1/232 LGF, Safdarjung Enclave, New Delhi – 110029, India
- 1.2 Respondent is Supratik Basu at 64/11/L, Suren Sarkar Road, Kolkata – 700010, West Bengal, India.

The Domain Name and Registrar

- 1.3 The disputed domain name < www.nsdlbank.in > created on 15.06.2015 is registered with the registrar, GoDaddy.com LLC (R101-AFIN).

2. Procedural History

- 2.1 On 23rd December 2016, NIXI asked me about my availability and consent to take up the Complaint for arbitration. On the same day, I informed my availability and consent. I also informed NIXI that I had no conflict of interest with either of the parties and could act independently and impartially. I sent signed declaration of independency and impartiality to NIXI.
- 2.2 On 28th December 2016, NIXI by email informed the parties about the appointment of me as the arbitrator in the above dispute. In the same email, NIXI has also provided the contact details of the arbitrator.
- 2.3 On 31st December 2016, I received hard copy of the Complaint from NIXI.
- 2.4 On 31st December 2016, I issued by email a Notice to the Respondent setting forth the relief claimed in the Complaint and directing him to file his reply to the Complaint within 15 days. I also sent an email about my appointment to arbitrate the complaint to the Complainant and asked the Complainant to send a soft copy of the complaint in *MS-Word* format to me.
- 2.5 On the same day, Respondent made a request for extension of time. I asked him to inform me the reason for seeking extension and the period of extension sought.
- 2.6 On 14th January 2017, I received soft copy of response from the Respondent.
- 2.7 On 19th January 2017, I received soft copy of Rejoinder from the Complainant.

Sridharan

- 2.8 Email is the medium of communication of this arbitration and each email is copied to all, Complainant, Respondent and NIXI.
- 2.9 I have returned to NIXI by courier all pleadings / documents that I received from it. I have not received any pleadings / documents by courier/post from the Parties.

3. **Factual Background**

A **Complainant**

- 3.1 The Complainant is the principal company of the NSDL group of companies in India comprising:
- 1) the Complainant - National Securities Depository Limited ("NSDL"); and
 - 2) NSDL e-Governance Infrastructure Limited – Complainant's sister company ("NSDL e-Gov"); and
 - 3) NSDL Database Management Limited ("NDML") – Complainant's sister company.
- 3.2 The Complainant is an Indian central securities depository based in Mumbai, India. It was established in December 1995 and, after the enforcement of the Depositories Act, 1996 in August, 1996, it established the depositories business and commenced operations after it received the commencement certificate on October 31, 1996 from the Securities & Exchange Board of India (SEBI). The Depositories Act, 1996 was enacted by the Indian Government to regulate depositories in securities.
- 3.3 The Complainant developed and created a national infrastructure to handle most of the securities held and settled in dematerialized ("demat") form in the Indian capital market. In the depository system, securities are held in depository accounts, 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 Indian capital market.
- 3.4 The Complainant 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 other institutions of 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 more than 9,800 offices/locations in 1036 towns/cities in India. Complainant is a very well-known and recognized financial institution in India and is primarily known and recognized across the length and breadth of India by its corporate acronym and trade mark NSDL. The NSDL Mark is immediately recognized by the Indian public to refer to the Complainant and its group companies.
- 3.5 The financial importance of the Complainant and its business to the Indian markets and governmental institutions is immense. In November 2015, the total value of securities held in its custody exceeded US\$ 1.75 trillion. In view of the vital nature of the Complainant's business, it can be easily concluded that the Complainant functions as a quasi-governmental financial institution of national importance that acts as the intermediary between consumers/institutions, the Securities Exchange Board of India and Companies. The Complainant has its primary website at www.nsdl.co.in from where customers can transact. In addition, Complainant 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.
- 3.6 The Complainant also initiated and undertook a variety of other financial projects for the Indian Government and public sector enterprises such as the 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 Complainant's depository business should be separated from its non-

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depository businesses so NSDL e-Gov was established through a vertical split in business to perform vital e-governance functions for the Government of India. NSDL e-Gov presently offers a diverse variety of services such as: registration and monitoring of Permanent Account Numbers (PAN) 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 the Unique Identification (UID) database for the Indian Government; establishment of a Central Recordkeeping Agency (CRA) for the New Pension System (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 NSDL Mark. Its main website is located at www.egov-nsdl.co.in. In addition, the Complainant 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, their history dates back to 1995.

- 3.7 NDML - NSDL Database Management Limited - was established in 2004 to provide the benefits of technological 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 Payments Service Platform, National Skills Registry, National Insurance Policy Repository, etc. Its services are also offered under NSDL Mark. Its primary website is located at www.ndml.in. Complainant has filed copies of some representative extracts of the Complainant's websites.
- 3.8 NSDL Mark features as the predominant portion in the corporate names of the Complainant's group companies, and is exclusively associated with the Complainants' 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 interaction and association with similar institutions in other 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.
- 3.9 The Complainant is a member of the Asia Pacific Central Securities Depository Group (ACG) and hosted the 14th ACG meeting in Mumbai in December 2010.
- 3.10 The Complainant's renown, reputation and fame as a premier financial institution in India is easily ascertained by the various newspaper reports, articles and media mentions in various forms over the last 20 years. Complainant has filed some representative articles from 2011-2016. These articles and reports establish the extent of Complainant's recognition in India and abroad, and the particular association of the Mark – NSDL with the Complainant and its group companies.
- 3.11 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. Complainant has filed screen shots of the search results. Similar searches on other search engines such as YAHOO and BING also predominantly yield links to the Complainant. Complainant has filed screenshots of these searches.
- 3.12 The Complainant's exclusive and extensive use of the Mark, its advertising, marketing establish its Indian & worldwide reputation and goodwill under common law.
- 3.13 Apart from the significant common law rights in the mark, the Complainant has also acquired statutory rights in the Mark, in part through registration of the trade mark NSDL in India in the

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Complainant or its group companies' names. The Complainant has the following registrations in India for its Marks.

- (a) Registration No.808364 - Date of Registration June 30, 1998
- (b) Registration No.2566579 - Date of Registration July 18, 2013

- 3.14 Copies of the registration certificates/extracts from the Indian IP Office website are annexed as Annex 7. The registrations are owned within the group by NSDL e-Gov for technical reasons, and it has provided the Complainant and other group entities the requisite permissions to use the NSDL marks for their businesses including the right to the complainant to operate the Payments Bank under the NSDL mark and to register the company - NSDL Payments Bank Ltd.
- 3.15 The Complainant has a significant presence on the World Wide 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 of the Complainant's domain registrations are:
www.nsdl.com ; www.nsdl.co.in ; eservices.nsdl.com ; edpm.nsdl.co.in ; dpmshr.nsdl.co.in ; www.evoting.nsdl.com ; www.edocs.nsdl.com ; www.indiabondinfo.nsdl.com ; www.fpi.nsdl.co.in ; steadyassist.nsdl.com ; www.casmicrosite.nsdl.com ; www.epass.nsdl.com ; egov.nsdl.com ; www.tin-nsdl.com ; cra-nsdl.com ; ndml.in ; sezonline-ndml.co.in ; sezonline-ndml.com ; npscra.nsdl.co.in ;
- 3.16 The earliest registration for nsdl.com dates back to July 9, 1998. The Complainant has filed printouts of some registration details for these domains from www.whois.com ("WHOIS").
- 3.17 The foregoing information establishes that the Complainant and its group companies are exclusively associated with the name and Mark "NSDL" and that they own prior rights in the Mark – NSDL in India. Complainant's ownership and priority is well established.
- 3.18 With respect to the disputed domain, 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.
- 3.19 Briefly, 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 favorably 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. Complainant has filed a screenshot of the companies' website evidencing the new company name.
- 3.20 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 Complainants' legitimate website to the



Respondent's illegitimate website. The Respondent also registered other highly similar domains: 1) nsdlbank.com and 2) nsdlbank.co.in on the same day. The Complainant has already instituted domain dispute proceedings with WIPO for <nsdlbank.com> bearing dispute proceeding no. D2016-2257 and is filing concurrent domain complaint against the other infringing domain registration <nsdlbank.co.in> before the Indian Registry. None of the three domains have been put to use but are all listed for sale. The Complainant has filed copies of WhoIS details of the foregoing domains, and pages from their websites.

- 3.21 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 regulatory approvals and Government/RBI clearances.
- 3.22 In addition, because the Mark achieved notoriety and significant transnational reputation and goodwill, it is very likely that Internet consumers, in particular consumers/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 that the Respondent banked on the likelihood of such consumer confusion to profit from the disputed domain.

- 3.23 The Complainant has filed Annexure 1 to 19 in support of its Complaint. The Complainant has filed Annex CR1 to CR4 along with its Rejoinder.

B Respondent

- 3.24 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.
- 3.25 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 not in Securities which is the Complainant's nature of business understandable from the complaint details.
- 3.26 The Complainant doesn't have any Trademark, Service mark on NSDLBANK word evident from the Annex 7 of the complaint.
- 3.27 The Complainant's NSDL payments bank limited is incorporated on 17/08/2016 and the registration of the Respondent's domain was on 15/06/2015, more than one year before the incorporation.
- 3.28 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 filed by the Complainant.
- 3.29 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 of icicibanklogin.in which is available for registration to malign the Respondent to the Panel and the Respondent also doesn't own icicibanklogin.com.

- 3.30 The Complainant's claim of NSDLBANK.in 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 has been produced to influence the decision of the Panel.
- 3.31 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. But "Buy this domain – This domain nsdlbank.in may be for sale by its owner!" is missing in the document 26102016 (Annex 13 of the complaint), so it proves again NSDLBANK.in was not on sale.
- 3.32 The webpage NSDLBANK.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.
- 3.33 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 wordmark ORANGE is similar in nature of the National Securities Depository Limited's claim on NSDLBANK.in
- 3.34 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 wordmark PACKERS is similar in nature of the National Securities Depository Limited's claim on NSDLBANK.in
- 3.35 The Respondent has filed Annexure 1 to 8 in support of his Response.

4. Parties Contentions

A Complainant

- 4.1 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 to the registration of the disputed domain. Pertinently, the Mark 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.
- 4.2 The disputed domain incorporates the Mark in its entirety and was registered as soon as news broke of the Complainant's likely license to set up a payments bank under the payments bank scheme in India. Thus, the disputed domain <nsdlbank.in> clearly implies and will be expected by consumers to resolve to the Complainant's payments bank website.
- 4.3 It is 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, the disputed domain is confusingly similar to the Complainant's Mark.
- 4.4 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

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Complainant's banking goods and services, and such choice further accentuates the confusing similarity in the names.

- 4.5 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. (INDRP Case No. 726 November 7, 2015 <airtelbank.co.in> Bharti Airtel Limited v. Somasundaran)
- 4.6 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. (INDRP Case No. 148 Sept 27, 2010 <gingerhotels.co.in> Indian Hotels Company Limited vs Mr Sanjay Jha; WIPO Case No. D2010-1059, RapidShare 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).
- 4.7 Further, 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 level of a domain name such as ".in", ".co.in", ".com", etc. does not serve to distinguish the domain name from the trademark. (INDRP Case No. 156, October 27, 2010 Morgan Stanley. v. Bharat Jain; WIPO Case No. D2000-0834 CBS Broadcasting Inc. v. Worldwide Webs, Inc.).
- 4.8 Accordingly, the disputed domain should be considered identical/confusingly similar to the Complainants' Mark and name NSDL.
- 4.9 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.
- 4.10 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.
- 4.11 It is submitted that the disputed domain is illegitimate and directed to cyber squatting 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.



- 4.12 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.
- 4.13 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
- 4.14 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 name by the Respondent, which by itself could have serious repercussions to the detriment of the Complainant.
- 4.15 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. Screenshots of the parking page at the disputed domain taken on April 11, 2016, November 7, 2016 and December 8, 2016, 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 the Respondent now removed the 'for sale' offer after he was alerted to the Complainant's WIPO complaint against <nsdlbank.com>.
- 4.16 In view of the foregoing, 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.
- 4.17 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 noncommercial 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. (WIPO Case No. D2007-0267, Express Scripts, Inc. v. Windgather Investments Ltd. / Mr. Cartwright).

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- 4.18 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 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.
- 4.19 In view of the facts stated above, the Complainants have established that the Respondent has no rights or legitimate interest in the disputed domain name.
- 4.20 The facts support the conclusion that the domain registration is illegitimate. One of 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. 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.
- 4.21 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 Complainants' business amounts to bad faith registration and use.
- 4.22 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.
- 4.23 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 favor of the Complainant and ordered the domain to be transferred as requested. (Claim Number: FA1508001633381, *Goldman, Sachs & Co. v SUPRATIK BASU*). The Complainants' case here is highly similar to the aforesaid proceedings.
- 4.24 It is also relevant to point out that the 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 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 other conflicting domains such as <goldmansachsloans.com>.

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<mpesabank.com>, amongst other domains comprising names of famous business houses/businessmen such as <adityabirlapower.com>, <pawanmunjal.com>, etc.

- 4.25 The foregoing record establishes the Respondent has a track record of targeting banking institutions, famous business houses and registering identical/confusingly similar domains 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. (WIPO Case No. D2001-0046, Telstra Corporation Limited v. Ozurli).
- 4.26 In view of the foregoing, the Respondent's bad faith registration and use is established. Accordingly, the Complainant submits that it has established a strong case for a favorable decision.

B Respondent

- 4.27 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.
- 4.28 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.
- 4.29 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.
- 4.30 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 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.
- 4.31 Moreover, domain buying and selling is also a legitimate business.
- 4.32 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. 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. other domains he has for future use.
- 4.33 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 service 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.
- 4.34 The term NSDL BANK has never been used by the Complainant in any form till date.
- 4.35 The Respondent has never tried to sell, rent or transfer NSDLBANK.in 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.
- 4.36 NSDLBANK.in was registered randomly and there is no Trade or any Mark claim of the Complainant to exhibit on it.



- 4.37 The Complainant National Securities Depository Limited is engaged in business of Securities and the Respondent is engaged in Tour & Travel business named TRAVEL365.in, those two business types are absolutely not similar in nature.
- 4.38 NSDLBANK.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.

C Rejoinder by Complainant

- 4.39 The Complainant submits 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 favor. The facts in the aforesaid dispute are identical to the subject dispute <nsdlbank.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 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.
- 4.40 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.
- 4.41 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.
- 4.42 The Respondent has failed to provide any justification for the registration of the disputed domain <nsdlbank.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 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

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domains using others' trade marks/brands is an express violation of Clause 3 of the INDRP policy and makes the Respondent liable for deliberate false statements.

- 4.43 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 as annexed with the Complaint along with a reverse whois printout annexed herewith as Annex CR2 establishes the Respondent's cybersquatting operations. Further, the Respondent demanded exorbitant amounts from the Complainant for transferring the disputed domain, all of which establish bad faith registration.
- 4.44 The contents of the Respondent's response are deliberately false and denied in their entirety. It is clear that the Respondent is deliberately attempting to manufacture and concoct facts to mislead the Ld. Arbitrator, and such conduct itself disentitles the Respondent. 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 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.co.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 cybersquatting and domain hijacking.
 - 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.
 - 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.
- 4.45 In sum, it is submitted that the Complainant has satisfied the requirements of Clause 4 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.

5. Discussion and Findings

- 5.1 The Complainant in order to succeed in the Complaint must establish under Paragraph 4 of .IN Domain Name Dispute Resolution Policy (INDRP) the following elements:
- (I) Respondent's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
 - (II) Respondent has no rights or legitimate interests in respect of the domain name; and
 - (III) Respondent's domain name has been registered or is being used in bad faith.
- 5.2 Each of the aforesaid three elements must be proved by a Complainant to warrant relief.

Disputed domain name is identical or confusingly similar to a trade mark of the Complainant.

- 5.3 The Complainant is the proprietor of the trade mark NSDL along with its logo. The Complainant and its group companies have been using the mark NSDL since 1996. The Complainant has registered its NSDL marks and its first registration under Application No. 808364 dates back to 30.6.1998. The Complainant also owns several domain names involving NSDL. The Complainant's domain name www.nsdl.com was created on 09.07.1998. The disputed domain name < nsdlbank.in > was created on 15.06.2015. Obviously, the Complainant is the prior adopter of the Mark NSDL. The above facts have established that the Complainant has statutory and common law rights in respect of their NSDL mark.



- 5.4 NSDL mark has attained international recognition by virtue of the Complainant's prominence as India's largest depository and its interaction and association with similar institutions in other jurisdictions. It is established 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.
- 5.5 In the disputed domain name, NSDL is the predominant and distinguishing factor and the expression Bank is a common and generic expression and is devoid of any distinguishing capacity. While comparing, the expressions ".in", ".com" etc need to be discarded. 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. Thus, it is obvious that the disputed domain name < nsdlbank.in > wholly incorporates the prior trade mark NSDL of the Complainant. Further, the disputed domain name < nsdlbank.in > is similar to the domain name www.nsdl.com of the Complainant.
- 5.6 I, therefore, find that:
- (a) The Complaint has common law and statutory rights in respect of their NSDL Mark.
 - (b) The disputed domain name < nsdlbank.in > is similar to the Complainant's prior registered NSDL Mark, and the domain name www.nsdl.com .

Respondent has no rights or legitimate interests in respect of the disputed domain name

- 5.7 It is already seen that:
- (a) The Complainant is the prior adopter and user of NSDL Mark. The Complainant's NSDL mark is well known in many countries across the globe including India.
 - (b) The Complainant's NSDL Mark was adopted in 1996. The Indian registration for the mark NSDL was obtained on 1998. The Complainant's domain name www.nsdl.com was created on 09.07.1998. The disputed domain name < nsdlbank.in > was created on 15.06.2015.
- 5.8 According to Respondent, he is in Travel Business. In support of his right to the disputed domain name, the Respondent has contended that the Complainant's NSDL Payments Bank limited is incorporated on 17/08/2016 and the registration of the Respondent's domain was on 15/06/2015 more than one year before the incorporation. Moreover, the Complainant does not have any Trademark or Service mark on NSDLBANK word.
- 5.9 The Respondent's argument cannot be accepted for the following reasons.
- a) In the expression, NSDLBANK, NSDL is predominant and is the distinguishing factor. NSDL is the Complainant's mark. The expression BANK is generic and is denoting banking arm of the Complainant. NSDL mark had attained well known status even before the adoption of disputed domain name by the Respondent. It is unlikely that the Respondent was unaware of existence of Complainant's trademark rights and domain name rights domain name before registering the disputed domain name < nsdlbank.in >.
 - b) The Respondent is in Travel Business and has no license to run a bank. He has not come out with any explanation for registering the disputed domain name involving "bank".
 - c) The Respondent registered the disputed domain name along with < nsdlbank.com > and < nsdlbank.co.in > immediately after news reports of the Complainant's likely license to run a payments bank.



- 5.10 I visited the web site of the Respondent under the disputed domain name nsdlbank.in on 22nd January 2017 using Edge Browser. It resolved into a web page informing me that the domain is parked by the owner. The very act of parking indicates without any doubt that the domain name is not used by the owner. I understand from the pleadings that from the date of registration / creation till this date, the disputed domain has all along been parked. The Respondent is currently in travel business and has not expressed any intention to do banking business in near future. Thus the Respondent has no justification whatsoever for adopting the expression "BANK" in the disputed domain name. Already we have seen that the Respondent has no right to the expression "NSDL". Therefore, it is clear that the Respondent has no intention at all to use the disputed domain name. The Respondent has registered the disputed domain name only with an intention to sell it for substantial monetary gain.
- 5.11 The Respondent did not particularly and specifically deny the allegation of the Complainant 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.
- 5.12 The Respondent's silence has clearly established that the Respondent is a cyber squatter and has registered the disputed domain name solely with an intention to sell it for commercial gain.
- 5.13 I agree with the contentions of the Complainant.
- 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 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. 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.
 - 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
 - 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 name by the Respondent, which by itself could have serious repercussions to the detriment of the Complainant.



- e) 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;

5.14 Therefore, I have no hesitation to hold, for the above reason that the Respondent has no right or legitimate interest in respect of the disputed domain name <nsdlbank.in>.

Respondent's domain name has been registered or is being used in bad faith.

5.15 The Complainant is the proprietor of NSDL Mark. Complainant has been using NSDL Mark continuously since 1996. The Indian registration for the mark NSDL was obtained on 1998. The Complainant's domain name www.nsdl.com was created on 09.07.1998. The disputed domain name <nsdlbank.in> was created on 15.06.2015. The Respondent could not have ignored, rather actually influenced by, the well-known NSDL Mark of the Complainant at the time he acquired the disputed domain name <nsdlbank.in>.

5.16 Respondent's arguments on his right to the disputed domain name and other contentions have been dealt with elaborately under Paras 5.7 to 5.14 above and I rejected all his contentions. Respondent has not come up with any justification for the adoption of the disputed domain name.

5.17 I agree with the contentions of the Complainant as below:

(a) One of 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. 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.

(b) 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.

(c) 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.

5.18 Thus it is clearly established that Respondent registered the disputed the disputed domain name <nsdlbank.in> in bad faith.



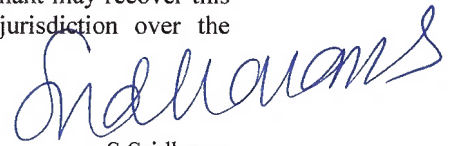
5.19 The actions of the Respondent should not be encouraged and should not be allowed to continue. The conduct of the Respondent has necessitated me to award costs of the Complaint to and in favour of the Complainant.

6. Decision

6.1 For all the foregoing reasons, the Complaint is allowed as below.

6.2 It is hereby ordered that the disputed domain name <nsdlbank.in> be transferred to the Complainant.

6.3 Respondent is ordered to pay the Complainant a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) towards costs of the proceedings. If the Respondent fails to pay, the Complainant may recover this amount by initiating execution proceedings in the Civil Court having jurisdiction over the Respondent in India.



S.Sridharan
Arbitrator