



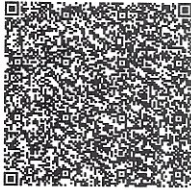
सत्यमेव जयते

# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

Certificate No. : IN-DL68538498307778R  
Certificate Issued Date : 06-Apr-2019 12:04 PM  
Account Reference : IMPACC (SH)/ dlshimp17/ SAKET/ DL-DLH  
Unique Doc. Reference : SUBIN-DLDSLHIMP1742795440793368R  
Purchased by : VISHESHWAR SHRIVASTAV  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : VISHESHWAR SHRIVASTAV  
Second Party : Not Applicable  
Stamp Duty Paid By : VISHESHWAR SHRIVASTAV  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



Please write or type below this line

**VISHESHWAR SHRIVASTAV**

SOLE ARBITRATOR

IN

[www.zellepc.in](http://www.zellepc.in)

between

EARLY WARNING SERVICES, LLC

...COMPLAINANT

AND

CHEN ZE QIANG

...RESPONDENT

AWARD

1

#### Statutory Alert:

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

1. This Arbitral Tribunal was constituted by nomination of undersigned as the Arbitrator in the aforesaid proceeding vide communication by NIXI and accordingly this Tribunal issued notice to the parties on 08/03/2019. This Tribunal was in receipt of an email from NIXI dated 06/03/2019 showing the dispatch of the complaint vide Overnite Express Courier. On tracking the said courier this Tribunal found that it is in transit. Since, the Respondent was already in receipt of the soft copy of the complaint by email sent by NIXI hence, vide the aforesaid communication this Tribunal directed the Respondents to send their Statement of Defense by 18/03/2019.
2. This Tribunal on 18/03/2019 received an email from NIXI stating non delivery of the Complaint sent by Overnite Express Courier stating ***"The said shipment is undelivered due to no one available at the time of delivery and no response on given contact number"***. This Tribunal finds that NIXI has tried to effect service of the complaint on the Respondent's last known address but without any success. However, it is noticed



that the emails sent by this Tribunal to the Respondents have not bounced back and thus it cannot be presumed that Respondent is unaware of the present proceedings.

3. This Tribunal vide order dated 20/03/19 directed the Complainants to file their Evidence by way of Affidavit in support of their Complaint by 30/03/2019.
4. The Complainants vide email dated 25/03/19 requested for extension of time for filing their affidavit hence vide order dated 20/03/19 this Tribunal granted time till 06/04/19 for filing their Evidence by way of Affidavit.
5. The Complainants on 03/04/2019 sent the soft copy and the hard copy of their Evidence by way of Affidavit. The award was reserved vide order dated 03/04/ 2019.

#### **CLAIM**

6. The claim as put forward by the complainant is briefly as under:
  - A. It is claimed that the Complainant, Early Warning Services, LLC, is a developer of innovative payment and risk

management solutions for financial institutions (FIs), government entities, and payment companies, as well as consumers in the United States of America and has been in this business for more than 25 years. It is further claimed that the Complainant serves a diverse network of approximately 2,500 financial institutions, government entities and payment companies and that its product solutions enable real-time funds availability for a variety of payment types through its payments network.

- B. It is claimed that in 2016, the Complainant announced a consumer-facing app for person-to-person (P2P) payments with a new and faster payment network under the primary name/brand **ZELLE** which as per the claim the Complainant had *“revolutionized the mode of sending and receiving money by consumers and businesses in United States of America”*.
- C. It is further claimed that the Complainant under its instant payment service under the **ZELLE** brand in 2017, is backed by



some of the U.S.' largest banks including Wells Fargo, JP Morgan, Capital One and Bank of America.

- D. It is claimed that the Complainant has been continuously expanding its business and product/service portfolio, and accordingly owns and uses the website [www.zellepay.com](http://www.zellepay.com) in respect of its payment application **ZELLE** – which as per the complainant is an easy way to quickly and safely send and receive money directly between almost any U.S. bank accounts. As per the Complainant they offer their partners with
- i) **payment solutions** [providing a simple framework to enable person-to-person payments and disbursements solutions through one recognizable, consistent consumer brand];
  - ii) **Network security** [by complementing payment security measures with its authentication, risk management and fraud protection services]
  - iii) **Nationwide Network** [with millions of consumers who can experience the Complainant's Zelle services through the mobile banking apps of the Zelle Network participant banks].



E. It is claimed that the Complainant's website at [www.zellepay.com](http://www.zellepay.com), provides exhaustive information on the details of services and products offered under the Complainant's Marks **ZELLE / ZELLEPAY** and other **ZELLE-**formative Marks to buttress their contention the complainants rely upon **Annexure 3** of the complaint.

F. The complainants have given a list of their registrations in different Countries for their ZELLE mark and the same is given as under:

Quote

Trademark	Jurisdiction	Registration No.	Registration Date	Specification of Goods & Services
ZELLE. THIS IS HOW MONEY MOVES.	USA	5488183	05-Jun-2018	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests
ZELLE   THIS IS HOW MONEY MOVES	USA	5298235	26-Sep-2017	<b>Class 36:</b> Financial Transaction Services, Namely,





				Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests; Payment Processing Services, Namely, Debit Card, And Banking Account Transaction Processing Services; Merchant Services, Namely, Payment Transaction Processing Services
<b>zelle</b> <small>THIS IS HOW MONEY MOVES</small>	USA	5303203	03-Oct-2017	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests; Payment Processing Services, Namely, Debit Card, And Banking Account Transaction Processing Services; Merchant

*Handwritten signature*

				Services, Namely, Payment Transaction Processing Services
ZELLE NETWORK	USA	5302986	03-Oct-2017	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests
ZELLE	USA	5449234	17-Apr-2018	<b>Class 9:</b> Computer Software, Namely, Computer Software For Making Payment Requests And For Providing Payment Notifications And Messages; Voice-Controlled Computer Software For Receiving Voice Commands For Payment Requests
ZELLE	USA	5449233	17-Apr-2018	<b>Class 38:</b> Communication And Telecommunication Services, Namely, Delivery



				Of Messages By Electronic Transmission, Over Local Or Global Communications Networks, Including The Internet, Intranets, Extranets, Mobile Communication, Cellular And Satellite Networks
<b>zelle</b>	USA	5312400	17-Oct-2017	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests
ZELLE	USA	5277307	29-Aug-2017	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests
ZELLE NETWORK	Canada	TMA1002994	17-Aug-2018	<b>Class 36:</b> Financial Transaction Services, Namely,

				Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests
<b>ZELLE. THIS IS HOW MONEY MOVES</b>	United Kingdom	3288757	11-May-2018	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests.
<b>zelle</b> <small>THIS IS HOW MONEY MOVES</small>	United Kingdom	3216857	26-May-2017	<b>Class 9:</b> Computer Software, Namely Computer Software For Making Payment Requests And For Providing Payment Notifications And Messages; Voice-Controlled Computer Software For Receiving Voice Commands For Payment Requests.  <b>Class 36:</b> Financial Transaction



			<p>Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests; Payment Processing Services, Namely, Credit Card, Debit Card, And Banking Account Transaction Processing Services; Financial Services, Namely, Electronic Payment Services Involving Electronic Processing Of Payroll Payments; Merchant Services, Namely, Payment Transaction Processing Services.</p> <p><b>Class 38:</b> Communication And Telecommunication Services, Namely, Delivery Of Messages By Electronic Transmission, Over Local Or Global</p>
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				Communications Networks, Including The Internet, Intranets, Extranets, Mobile Communication, Cellular And Satellite Networks.
ZELLE	United Kingdom	3211399	28-Apr-2017	<p><b>Class 9:</b> Computer Software, Namely Computer Software For Making Payment Requests And For Providing Payment Notifications And Messages; Voice-Controlled Computer Software For Receiving Voice Commands For Payment Requests.</p> <p><b>Class 36:</b> Payment Processing Services, Namely, Credit Card, Debit Card, And Banking Account Transaction Processing Services; Financial Services, Namely, Electronic Payment Services Involving Electronic</p>



				<p>Processing Of Payroll Payments; Merchant Services, Namely, Payment Transaction Processing Services.</p> <p><b>Class 38:</b> Communication And Telecommunication Services, Namely, Delivery Of Messages By Electronic Transmission, Over Local Or Global Communications Networks, Including The Internet, Intranets, Extranets, Mobile Communication, Cellular And Satellite Networks.</p>
ZELLE NETWORK	United Kingdom	3189368	06-Jan-2017	<p><b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests.</p>
<b>Zelle</b>	United Kingdom	3175596	14-Oct-2016	<p><b>Class 36:</b> Financial</p>

				Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests.
ZELLE	United Kingdom	3175570	14-Oct-2016	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests.
ZELLEPAY	United Kingdom	3175595	14-Oct-2016	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment and Money Transfer Options and Permitting Account Holders to Make Payment Requests.
ZELLE. THIS IS HOW MONEY MOVES.	European Union	17792417	31-May-2018	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer



				Options And Permitting Account Holders To Make Payment Requests.
	European Union	16434193	20-Jun-2017	<p><b>Class 09:</b> Computer Software, Namely Computer Software For Making Payment Requests And For Providing Payment Notifications And Messages; Voice-Controlled Computer Software For Receiving Voice Commands For Payment Requests.</p> <p><b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests; Payment Processing Services, Namely, Credit Card, Debit Card, And Banking Account Transaction</p>


				<p>Processing Services; Financial Services, Namely, Electronic Payment Services Involving Electronic Processing Of</p> <p>Payroll Payments; Merchant Services, Namely, Payment Transaction Processing Services.</p> <p><b>Class 38:</b> Communication And Telecommunication Services, Namely, Delivery Of Messages By Electronic Transmission, Over Local Or Global Communications Networks, Including The Internet, Intranets, Extranets, Mobile Communication, Cellular And Satellite Networks.</p>
ZELLE	European Union	16327009	02-Jun-2017	<p><b>Class 09:</b> Computer Software, Namely Computer Software For Making Payment</p>



			<p>Requests And For Providing Payment Notifications And Messages; Voice-Controlled Computer Software For Receiving Voice Commands For Payment Requests.</p> <p><b>Class 36:</b> Payment Processing Services, Namely, Credit Card, Debit Card, And Banking Account Transaction Processing Services; Financial Services, Namely, Electronic Payment Services Involving Electronic Processing Of Payroll Payments; Merchant Services, Namely, Payment Transaction Processing Services.</p> <p><b>Class 38:</b> Communication And Telecommunication Services, Namely, Delivery</p>
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				Of Messages By Electronic Transmission, Over Local Or Global Communications Networks, Including The Internet, Intranets, Extranets, Mobile Communication, Cellular And Satellite Networks.
<b>ZELLE NETWORK</b>	European Union	15887631	25-Jan-2017	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests.
<b>ZELLE</b>	European Union	15321292	05-Jan-2017	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests.
<b>zelle</b>	European Union	15321318	12-Jan-2017	<b>Class 36:</b> Financial Transaction Services, Namely,



				Providing Secure Payment And Money Transfer Options And Permitting Account Holders To Make Payment Requests.
ZELLEPAY	European Union	15321301	12-Aug-2016	<b>Class 36:</b> Financial Transaction Services, Namely, Providing Secure Payment and Money Transfer Options and Permitting Account Holders to Make Payment Requests.
	USA	5476070	22-May-2018	<b>Class 36:</b> Financial transaction services, namely, providing secure payment and money transfer options and permitting account holders to make payment requests.

Unquote

[Reliance is placed on **Annexure 4 & 5**]

G. It is stated that the Complainant owns the domain name **<zellepay.com>** and operates its corresponding primary



website at [www.zellepay.com](http://www.zellepay.com), through which it conducts a significant portion of its business and where information about the said business is easily accessible and available to millions of internet users, who may be current or potential consumers and the same in its entirety incorporates its registered trademarks **ZELLE / ZELLEPAY**, which establishes their proprietary rights in the said marks which as per complaint have been registered and renewed since 8<sup>th</sup> March, 2016. [Reliance is placed on **Annexure 6.**]

- H. Further, the Complainant claim to be the owner of over 250 domain names, the most prominent amongst them being **<zellepay.com>**, which includes **ZELLE / ZELLEPAY** Mark and the said Mark **ZELLE** forms a prominent part of the domain names owned by the Complainant. To foster their claims the Complainant have given a list of their domain name having the mark Zelle in the same and the same are reproduced as under:





### List of Domain Names

zellenetwork.com  
zellepay.com  
zelle.agency  
zelle.blog  
zelle.business  
zelle.capital  
zelle.career  
zelle.careers  
zelle.cash  
zelle.claims  
zelle.community  
zelle.company  
zelle.credit  
zelle.creditcard  
zelle.directory  
zelle.download  
zelle.enterprises  
zelle.exchange  
zelle.finance  
zelle.financial  
zelle.fund  
zelle.global  
zelle.guide  
zelle.help  
zelle.host  
zelle.how  
zelle.industries  
zelle.info  
zelle.legal  
zelle.marketing  
zelle.network  
zelle.online  
zelle.org  
zelle.partners  
zelle.protection  
zelle.report  
zelle.security

zelle.services  
zelle.social  
zelle.software  
zelle.solutions  
zelle.support  
zelle.systems  
zelle.tech  
zelle.technology  
zellefie.net  
zellefie.online  
zellefie.org  
zellefie.solutions  
zellenetwork.com  
zellenetwork.agency  
zellenetwork.blog  
zellenetwork.business  
zellenetwork.capital  
zellenetwork.career  
zellenetwork.careers  
zellenetwork.claims  
zellenetwork.community  
zellenetwork.company  
zellenetwork.directory  
zellenetwork.download  
zellenetwork.enterprises  
zellenetwork.exchange  
zellenetwork.help  
zellenetwork.host  
zellenetwork.how  
zellenetwork.industries  
zellenetwork.legal  
zellenetwork.marketing  
zellenetwork.net  
zellenetwork.org  
zellenetwork.partners  
zellenetwork.protection  
zellenetwork.report  
zellenetwork.security



zellenetwork.services  
zellenetwork.software  
zellenetwork.solutions  
zellenetwork.support  
zellenetwork.systems  
zellenetwork.tech  
zellenetwork.technology  
zellenetwork.us  
zellepay.agency  
zellepay.blog  
zellepay.business  
zellepay.capital  
zellepay.career  
zellepay.careers  
zellepay.cash  
zellepay.claims  
zellepay.community  
zellepay.company  
zellepay.credit  
zellepay.creditcard  
zellepay.directory  
zellepay.download  
zellepay.enterprises  
zellepay.exchange  
zellepay.finance  
zellepay.financial  
zellepay.fund  
zellepay.global  
zellepay.guide  
zellepay.help  
zellepay.host  
zellepay.how  
zellepay.industries  
zellepay.legal  
zellepay.marketing  
zellepay.me  
zellepay.money  
zellepay.net

zellepay.network  
zellepay.online  
zellepay.org  
zellepay.partners  
zellepay.protection  
zellepay.report  
zellepay.security  
zellepay.services  
zellepay.social  
zellepay.software  
zellepay.solutions  
zellepay.support  
zellepay.systems  
zellepay.tech  
zellepay.technology  
zellepay.us  
zelle-bites.biz  
zelle-bites.com  
zelle-bites.info  
zelle-bites.net  
zelle-bites.org  
zelle-bites.us  
zellebites.biz  
zellebites.com  
zellebites.info  
zellebites.net  
zellebites.org  
zellebites.us  
zelle.co  
zelle.mobi  
zelle.rocks  
zelle.tips  
zelle.website  
zellebusinesspay.com  
zellebusinesspayments.com  
zelleforbusiness.com  
zellenetwork.com  
zellepay.biz



zellepay.info  
zellepay.io  
zellepay.mobi  
zellepayment.com  
zellepayments.com  
zellepays.biz  
zellepays.com  
zellepays.info  
zellepays.mobi  
zellepays.net  
zellepays.org  
zelling.net  
zelling.us

- I. By relying on **Annexure 7**, it is further claimed that the Complainant marks have a prominent presence on major social and professional networking websites such as LinkedIn, Twitter, Instagram and YouTube.
- J. It is stated that the Complainant regularly issues press releases on their website [www.zellepay.com](http://www.zellepay.com), [Reliance placed on **Annexure 8**].
- K. It is claimed that the Complainants have recently learnt of Respondent's registration of the Disputed Domain Name i.e.

<zellepe.in>. The corresponding URL [www.zellepe.in](http://www.zellepe.in) [Reliance placed on **Annexure 9**].

- L. It is claimed that the Complainant have recently filed an INDRP Complaint (INDRP Case No: 1066) against another similar domain name <zellepay.in> which is pending adjudication. The Complainants claim that they with *bona-fide* intentions have tried to gather credible information of the Respondent (Radhika Prasad, Lucknow) in the INDRP Case No: 1066, and they conducted an investigation into the business of the said Respondent in the said INDRP proceedings and during the course of the said investigation it came to light that one Mr. Pankaj Kumar Mishra, son of Radhika Prasad Mishra has registered several domain names viz. <zellepe.com>, <**zellepe.in**>, <zellepe.org> and <zellepay.in> similar to those of the Complainant and during discreet inquiries, Mr. Pankaj revealed that he is the owner of the aforementioned domain names, including <**zellepe.in**> and





offered to sell it for Rs. 10 crores (approx. 100 million dollars) – which establishes cyber-squatting.

- M. It is stated that in December 2018, the Complainant issued a Legal Notice to the Respondent (INDRP Case No: 1066) calling upon him to cease his illegal activities prior to initiating INDRP Case No: 1066 proceedings. However, despite awareness and knowledge of Complainant's prior rights in the **ZELLE / ZELLEPAY** trademarks, the Respondent in the INDRP Case No: 1066 concealed its details on WHOIS record subsequently. In fact the said Respondent has now audaciously registered the Disputed Domain Name <zellepe.in> which is the subject matter of the present proceedings. It is claimed that the Respondent herein also appears to have concealed its name and other details on the WHOIS records [Ref. **Annexure 2**] to mislead the Complainant as well as the public in general. The above signifies that the Respondent has been attempting to secure undeserved rights in a series of domain names confusingly similar to those of the Complainant, intending to

cash in on Complainant's hard-earned reputation and credibility.

- N. It is claimed by the Complainant who states that while the URL www.zellepe.in reflects a webpage where a PPC website is being operated, the URL zellepe.in (without prefix 'www') is being redirected to the website www.zellepe.com – wherein the unauthorized use of Complainant's Marks such ZELLE, ZELLEPAY and Z (Logo Design) as well as use of Complainant's copyright is shown. Further, this landing webpage is being used for offering identical services in relation to a payment platform for its users to send and receive money having bank accounts with a deliberate intent to deceive visitors / users into divulging sensitive personal data such as personal identifying information, usernames, passwords, or financial data because those consumers believe they are dealing with Complainant when in reality they are being deceived and defrauded into providing this sensitive information to the Respondent which as per the complainants amounts to



phishing which is likely to confuse and deceive the public at large. As per the Complainant, a review of the aforementioned landing webpage reveals that similar domain names such as <zellepe.com>, <**zellepe.in**> and <zellepe.org> are all owned by the same proprietor as indicated clearly therein under 'contact' details, thus confirming the connection between the domain names <zellepe.com> and <**zellepe.in**>. Reliance is placed on **Annexure 10**. The Complainants point out that although the name and details of Respondent herein suggests that the Respondent is an individual having Hong Kong origin, however, the fact that the URL zellepe.in (without prefix 'www') is being redirected to a website www.zellepe.com which indicates details of the proprietor operating its business from an address in Mumbai, India, this clearly indicates that the Respondent has deliberately registered the Disputed Domain Name with incorrect details to deceive / confuse the Complainant as well as the public in general. Reliance is placed on **Annexure 11**.



- O. The Complainant alleges that the Disputed Domain Name is identical with the Complainant's **ZELLE** Marks as it incorporates the Complainant's registered trademark **ZELLE** in its entirety and also contains the word 'ZELLEPE' which is identical to the Complainant's registered trademark **ZELLEPAY** which is likely to cause confusion and deception.
- P. The Complainant are relying on the following cases to substantiate their allegation
- **Six Continent Hotels, Inc. v. The Omnicorp, WIPO Case No. D2005-1249.**
  - **Britannia Building Society v. Britannia Fraud Prevention, WIPO Case No. D2001-0505**
  - **PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS) - WIPO Case No. D2003-0696;**
  - **Hoffmann-La Roche AG v. Andrei Kosko, WIPO Case No. D2010-0762;**
  - **Farouk Systems, Inc. v. QYM, WIPO Case No. D2009-**



**1572;**

- **Orange Personal Communications Services Ltd. v. Luttringer Alexander, WIPO Case No. D2008-1979**
- **Philip Morris USA Inc. v. Andy McMillan / Registration Private, Domains by Proxy, LLC WIPO Case No. D2016-1278**

**Q.** By relying on **Annexure 12**, the Complainant is trying to establish that it has been continuously and extensively using the registered trademark **ZELLE / ZELLEPAY** in commercial world internationally and thus its rights in the **ZELLE** Marks is established beyond doubt. It is pertinent to note that the Disputed Domain Name has only been registered since January 07, 2019 and is subsequent to the Complainant's adoption, usage and statutory rights in the **ZELLE** Marks globally. Reliance is placed on **Annexure 12**.

**R.** Thus as per the Complainants the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name



and he has registered the disputed domain name in bad faith as per paragraph 7 of INDRP.

- S. It is further pointed out that the Complainant has not assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or make use of its registered **ZELLE** Marks, including **ZELLE** and **ZELLEPAY** accordingly, 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.
- T. It is alleged that the inclusion of the words '**ZELLE**' and '**ZELLEPE**' are nearly identical to the Complainant's Mark **ZELLEPAY** and hence the intention of the Respondent is to deceive the public into believing that some association between the Complainant and the Respondent.
- U. It is further alleged that the Respondent has never been commonly known by the Disputed Domain Name and has never acquired any trademark or service mark rights in the Disputed





Domain Name and hence the present case is covered by the cited case of **Alpha One Foundation, Inc. vs. Alexander Morozov, NAF Case No. 766380.**

- V. It is again pointed out by the Complainant that the nature of services offered by the Complainant necessitates usage of personal and sensitive data of its user/consumers, the adoption, use and registration of the Disputed Domain Name by the Respondent can be termed as a clear scam which would severely tarnish the Complainant's goodwill and reputation. It is further alleged that the Respondent is not making a legitimate non-commercial or fair use of, and has no rights or legitimate interests in, the Disputed Domain Name. [The Complainant relies on **Facebook, Inc. vs. Domain Admin, Whois Privacy Corp. WIPO Case No. D2016-1832** ] and [The Dow Chemical Company v. Hwang Yiyi, WIPO Case No. D2008-1276].
- W. It is further pointed out by relying on [**Potomac Mills Limited Partnership vs. Gambit Capital Management, WIPO Case No. D2000-0062**], [**Orange Brand Services Limited vs.**

Ancient Holdings, LLC, Wendy Webbe, WIPO Case No. D2014-0397] and [ Deutsche Telekom AG v. Phonotic Ltd. (WIPO Case No. D2005-1000)] that the Respondent's mere registration of the Disputed Domain Name does not establish rights or legitimate interests in a domain name so as to avoid the application of paragraph 4(a)(ii) of the Policy.

- X. Further reliance has been placed on **William Grant & Sons Limited v. Ageesen Sri, Locksbit Corp. / Who is Guard Protected, WhoisGuard, Inc. (WIPO Case No. D2016-1049)**, to show that the Respondent has not used, nor made any demonstrable preparations to use, the Disputed Domain Name in connection with a *bonafide* offering of services or goods.
- Y. By relying on **Annexure 13** it is shown by the Complainant that it enjoys exclusive rights in the word '**ZELLE**' / '**ZELLEPAY**' qua its specific services and products and that the word '**ZELLE**' / '**ZELLEPAY**' does not indicate in any manner services or goods relating to the financial industry and accordingly the Complainant's registered trademark **ZELLE** /



**ZELLEPAY** which [as per the complainant] is an inherently distinctive trademark.

- Z. It is claimed that there can be no doubt that the Respondent was aware of the Complainant's **ZELLE** Marks when it registered the Disputed Domain Name, which clearly suggests "*opportunistic bad faith*" and reliance is placed on **Morgan Stanley v. M/s Keep Guessing, INDRP/024** and **Orange Brand Services Limited v. Anshul Agarwal / Orange Electronics Pvt. Ltd. <orangeindia.in> INDRP/579.**

- AA. It is prayed that the Disputed Domain Name was registered and is being used in bad faith and if the Respondent is not restrained from using the Disputed Domain Name and the same is not transferred to the Complainant, an unsuspecting public will be defrauded and deceived resulting in loss and hardship to Complainant's actual and potential consumers and damage to Complainant.



## ORDER

7. This Tribunal has perused the complaint / Evidence and the documents relied upon by the complainants and the same has not been rebutted or challenged by the Respondents despite opportunity being given to them by this Tribunal. Hence, in view of the un-rebutted evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name www.zellepe.in, hence this Tribunal directs the Registry to transfer the domain name www.zellepe.in to the complainants.
8. The Complainants too are free to approach the Registry and get the same transferred in their name.
9. There is no order as to the cost as no details of the cost / damages have been specified / detailed in the complaint nor have the complainants disclosed their revenue figures.
10. The original copy of the Award is being sent along with the records of this proceedings to National Internet Exchange of





India (NIXI) for their record and a copy of the Award is being sent to both the parties for their records.

Signed this 15<sup>th</sup> day of April, 2019.

NEW DELHI  
15/04/2019



V. SHRIVASTAV  
ARBITRATOR