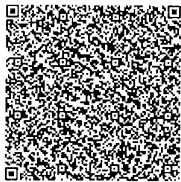


# Government of National Capital Territory of Delhi

Certificate No.	: IN-DL64215926585806V
Certificate Issued Date	: 16-Feb-2023 02:43 PM
Account Reference	: IMPACC (IV)/ dl717303/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDL71730301147619612593V
Purchased by	: AJAY GUPTA ARBITRATOR
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: AJAY GUPTA ARBITRATOR
Second Party	: OTHERS
Stamp Duty Paid By	: AJAY GUPTA ARBITRATOR
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



INDRP ARBITRATION CASE No.1661  
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION  
SOLE ARBITRATOR: AJAY GUPTA

STARBUCKS CORPORATION

Vs.

LE TRAN TRI

DISPUTED DOMAIN NAME: **"TEAVANA.CO.IN"**

1. The authenticity of this Stamp certificate should be verified at [www.shoelstamp.com/](http://www.shoelstamp.com/) or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.

2. The onus of checking the legitimacy is on the users of the Certificate. In case of any discrepancy, please inform the Company immediately.

AJAY GUPTA ARBITRATOR.AJAY GUPTA ARBITRATOR AJAY GUPTA ARBITRATOR AJAY GUPTA ARBITRATOR AJAY GUPTA ARBITRATOR AJAY GUPTA ARBITRATOR AJAY GUPTA ARBITRATOR

Amogh

INDRP ARBITRATION CASE No.1661  
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION  
SOLE ARBITRATOR: AJAY GUPTA

STARBUCKS CORPORATION

Vs.

LE TRAN TRI

DISPUTED DOMAIN NAME: **"TEAVANA.CO.IN"**

A handwritten signature in black ink, appearing to read 'Ajay Gupta', with a horizontal line drawn underneath it.

INDRP ARBITRATION CASE NO.1661  
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION  
SOLE ARBITRATOR: AJAY GUPTA

STARBUCKS CORPORATION  
2401, Utah Avenue South  
Seattle, Washington 98134  
[United States of America].

... Complainant

VERSUS

LE TRAN TRI  
250, Nguyen THAI Binh  
Buon Me thaut  
Dak Lak 750000  
[VIETNAM].

... Respondent

Disputed Domain Name: **"TEAVANA.CO.IN"**



## **1. THE PARTIES**

- 1.1 The Complainant, Starbucks Corporation, in this arbitration proceeding, is a lifestyle brand company and its contact address is 2401 Utah Avenue South, Seattle, Washington 98134 (United States of America).
- 1.2 The Complainant's Authorized Representative in this administrative proceeding is Arpit Kalra & Pranit Biaswas S.S. Rana & Co., Advocates, registered office at 317, Lawyers Chambers, High Court of Delhi, New Delhi-110003 (INDIA).
- 1.3 In this arbitration proceeding, the Respondent is **Le Tran Tri**, Nguyen Thai Binh Buon Me Thuat, Dak Lak 750000 (VIETNAM) as per the details given by the WHOIS database maintained by the National Internet Exchange of India (NIXI).

## **2. THE DOMAIN NAME AND REGISTRAR**

- 2.1 The disputed domain name is "**TEAVANA.CO.IN**" and the Registrar with which the disputed domain name is registered is NameCheap, Inc.

## **3. PROCEDURAL HISTORY [ARBITRATION PROCEEDINGS]**

- 3.1 This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy [INDRP], adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure [the Rules] were approved by NIXI on 28<sup>th</sup> June 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes under the .IN Dispute Resolution Policy and Rules framed thereunder.
- 3.2 The history of this proceeding is as follows :
  - 3.2.1 In accordance with Rules 2(a), NIXI on 08.02.2023 formally notified the Respondent of the complaint along with a copy of



the complaint & annexures/documents, and appointed Ajay Gupta as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Resolution Policy and the Rules framed thereunder. That the Arbitrator submitted the Statement of Acceptance & Declaration of Impartiality and Independence dated 09.02.2023 to NIXI.

3.2.2 That commencing the arbitration proceedings an Arbitration Notice Dated 09.02.2023 was emailed to the Respondent on 09.02.2023 by this panel under Rule 5(c) of INDRP Rules of Procedure with direction to file a reply of the complaint, if any, within 10 days.

3.2.3 That this panel vide its mail dated 10.2.2023 directed the Complainant to update the complaint with Respondents details as requested by NIXI. The Complainant complying with the directions of this panel furnished the updated complaint to this panel on 10.02.2023, and mailed the same to all including the Respondent. The Complainant sent the updated complaint to the respondent through mail as well as courier and also furnished the proof of service to this panel.

3.2.4 This panel vide its Arbitration Notice dated 09.02.2023 directed the Respondent to file the reply of complaint, if any, within 10 days of the notice and therefore Respondent was supposed to file the reply of the complaint by 18.02.2023.

3.2.5 However, since the Respondent failed to file the reply of Complaint, within time i.e. by 18.02.2023 as directed by this panel, this panel again in the interest of justice vide its mail dated 20.02.2023 granted a further period of 05 days i.e. by 24.02.2023 to file the reply of the complaint. The Respondent, despite the receipt of Notice Dated 09.02.2023 and reminder dated 20.02.2023 of this panel neither replied to the Arbitration notice nor filed a reply of complaint in time. The respondent however, sent a mail dated 24.02.2023 addressed to the



complainant with CCs to all but failed to file the formal reply to the complaint despite repeated opportunities; hence, on 25.02.2023 the Respondent was proceeded ex-parte.

#### **4. THE RESPONDENT'S DEFAULT**

- 4.1 The Respondent failed to reply to the notice and the complaint. It is a well-established principle that once a Complainant makes a prime facie case showing that a Respondent lacks rights to the domain name at issue; the Respondent must come forward with proof that it has some legitimate interest in the domain name to rebut this presumption. The disputed domain name in question is **"TEAVANA.CO.IN"**.
- 4.2 The INDRP Rules of Procedure require under Rule 8(b) that the arbitrator must ensure that each party is given a fair opportunity to present its case. Rule 8(b) reads as follows :
- "In all cases, the Arbitrator shall ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case."*
- 4.3 The Respondent was notified of this administrative proceeding as per the Rules. The .IN discharged its responsibility under Rules paragraph 2(a) to employ reasonably available means calculated to achieve actual notice to the Respondent of the complaint.
- 4.4 The panel finds that the Respondent has been given a fair opportunity to present his case. The Respondent was given direction to file a reply of the complaint if any, but the Respondent neither gave any reply to notice nor to the complaint despite repeated opportunities. The 'Rules' paragraph 12 states, "In the event, any party breaches the provisions of INDRP rules and/or directions of the Arbitrator, the matter can be decided ex parte by the Arbitrator and such arbitral award shall be binding in accordance to the law." In the circumstances, the panel's decision is based upon the Complainant's assertions, evidence, inferences, and merits only



as the Respondent has not replied to the complaint despite repeated opportunities given in this regard and was proceeded ex parte.

**5. Background of the Complainant & its Submissions about the trademark "TEAVANA", its statutory and common law rights Adoption :**

5.1 The Complainant, in the present arbitration proceedings to support their case, has relied and placed on records documents as Annexures and made the following submissions:

5.1.1 The Complainant submits that the Complainant is a corporation organized and exists under the laws of the State of Washington (USA) and is a lifestyle brand company with significant presence globally including in India. The Complainant submits that the Complainant first made entry into India on October 12, 2012 by opening stores in Mumbai and now has stores in many other cities of India.

5.1.2 The Complainant submits that in addition to Complainant's **STARBUCKS** coffee stores, they also sells **STARBUCKS** branded products through third-party food service locations, hotels, universities, hospitals, offices, cruise lines, airports, and grocery stores as well as catering to various airlines.

5.1.3 The Complainant submits that the Teavana Corporation was founded in 1997 to introduce people to the aromas, textures, and beneficial qualities of fresh, high-quality teas. Thereafter, the Teavana Corporation was acquired by Starbucks Corporation on December 31, 2012 (hereinafter referred to herein as "**TEAVANA**"). The Complainant submits that Complainant is entitled to **TEAVANA's** trade marks by virtue of a Merger dated May 19, 2016, between **TEAVANA CORPORATION**, a company organized and existing under the laws of State of Georgia, having its principal office at 3630 Peachtree Road, NE, Suite 1480, Atlanta, Georgia 30326, United States of America, and **STARBUCKS CORPORATION**. The Complainant further submits that because of MERGER and ASSIGNMENT, the intellectual



property rights and goodwill in **TEAVANA**, and its variations thereof in various classes, including Class 30 (hereinafter, the "**TEAVANA MARKS**") now belong to **STARBUCKS**.

5.2 The Complainant submits that the Complainant sells freshly steeped Teavana teas, Ready-to-Drink (RTD) Teavana Craft Iced Tea Beverages, plus herbal and packaged teas, under the **TEAVANA MARKS** through its **STARBUCKS** stores (in its 221 stores in India as well as other thousands of Starbucks stores globally, e-commerce portals, and grocery stores. The Complainant submits that Complainant's **TEAVANA MARKS** are registered in over 181 countries and territories around the world in different classes in relation to their goods, services and business. The Complainant further submits that Complainant is the registered proprietor of many **TEAVANA MARKS** in **India**, the jurisdiction wherein the **.IN and CO.IN domain names** fall under, in various Indian languages across various classes, with the oldest registration dating back to **2009**.

5.3 The Complainant submits that Complainant also has active operations of Starbucks in Vietnam (i.e. the country where the Respondent/Registrant is purportedly located, as per the WHOIS records) and operates over **30 stores** across the country, and **TEAVANA** products are also available for sale through various e-commerce portals in Vietnam as well. The Complainant further submits that Complainant also owns **TEAVANA MARKS** and variations thereof, in **Vietnam** as well; the jurisdiction wherein the Registrant/ Respondent is purportedly located, as per the WHOIS records. The said trade mark registrations are valid and subsisting as on this date. Because of the aforesaid trade mark registrations, Complainant has exclusive statutory right to use the **TEAVANA MARKS** in respect of the goods and services for which they are registered.

5.4 The Complainant submits that the Complainant registered the top-level domain name [www.teavana.com](http://www.teavana.com) on November 8, 2000 wherein an active website has been operating for years. Further,





with the expansion of Complainant's international business, they have also registered various other **TEAVANA**-formative domain names.

- 5.5 The Complainant submits that the **TEAVANA MARKS** constitute invaluable intellectual property and the Complainant protects their trademarks, not only through worldwide registrations, but also through enforcement actions, which range from opposing trade mark applications for the same or similar trademarks, sending cease and desist letters to infringers of their trademarks and/or commencing legal action in a court of law.

## **6. SUBMISSIONS OF COMPLAINANT ABOUT THE RESPONDENT AND ITS USE OF THE DOMAIN NAME**

- 6.1 The Complainant submits that it was recently brought to the Complainant's notice that a domain name namely <**TEAVANA.CO.IN**> was registered on **April 29, 2022** by the Respondent/Registrant named "**Le Tran Tri**". An Internet search revealed that no content is being hosted at the said web page. The Complainant further submits that as the domain name <**TEAVANA.CO.IN**> incorporates the Complainant's registered trade mark **TEAVANA** in entirety; its domain names **teavana.com** and **teavana.in**, and its wholly owned subsidiary (erstwhile) name **Teavana Corporation**, the Complainant is constrained to file the present complaint, in order to safeguard its valuable Intellectual Property Rights.

## **7. THE ISSUES INVOLVED IN THE DISPUTE**

- 7.1 The Complainant in its complaint has invoked paragraph 4 of the INDRP, which reads :

*"Class of Disputes "*

*Any person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:-*



*The disputed domain name is identical or confusing similar to a trademark in which the Complainant has statutory/common law rights.*

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

*The disputed domain name has been registered or is/are being used in bad faith."*

- 7.2 The above-mentioned 3 essential elements of a domain name dispute are being discussed hereunder in light of the facts and circumstances of this complaint.

## **8. PARTIES' CONTENTIONS**

**The domain name <TEAVANA.CO.IN> is identical to a trade mark in which Complainant has rights.**

## **9. COMPLAINANT**

- 9.1 The Complainant submits that complainant is the registered proprietor of the trademark **TEAVANA** in many countries around the world, including in India and Vietnam, and has been continuously and exclusively using the same in relation to its business for many years. It is further submitted by the complainant that , prior to acquisition, the mark **TEAVANA** was used as part of their company name **The Teavana Corporation** in 1997, subsequent to which the Complainant had acquired them on **December 31, 2012** which is much prior to the date on which Respondent registered the domain **<TEAVANA.CO.IN>**. By virtue of long standing use and registration, Complainant's trademark **TEAVANA** qualifies to be a well-known mark and is bound to be protected.
- 9.2 The Complainant submits that the impugned domain name **<TEAVANA.CO.IN>** incorporates the Complainant's registered trademark **TEAVANA** in toto and is therefore phonetically, visually, deceptively and confusingly identical to the same, as envisaged in the Policy.



9.3 The Complainant submits that not only do the Complainant's trademark rights over the **TEAVANA Marks** by far predate the Respondent's registration of the impugned domain <**TEAVANA.CO.IN**>, which as per the WHOIS records, was only registered/created on August 18, 2022; but even the registrations of the TLD and ccTLD - <**TEAVANA.COM**> and <**TEAVANA.IN**> (registered/created on **March 14, 2008** and **November 08, 2000** respectively), predate the Respondent's registration of the disputed domain name <**TEAVANA.CO.IN**> by decades. Further, a generic TLD/ccTLD such as ".co.in" is a standard registration requirement and therefore cannot be said to distinguish the Respondent's domain name <**TEAVANA.CO.IN**> from the Complainant's registered trademark **TEAVANA** or their domains. The Complainant has also relied on prior panels deciding under the INDRP that there is confusing similarity where the disputed domain name wholly incorporates the Complainant's trade mark such as *Kenneth Cole Productions v. Viswas Infomedia INDRP/093*. The Complainant further submits that it has acquired rights in the trade mark **TEAVANA** by way of trademark registrations, and by virtue of use as part of their company and domain names since much prior to the date on which the Respondent created the disputed domain name <**TEAVANA.CO.IN**> incorporating the Complainant's identical trade mark **TEAVANA** in toto.

9.4 The Complainant therefore submits, that the conditions under the INDRP Paragraph 4(a) stand suitably established.

## **10. RESPONDENT**

10.1 The Respondent has not replied to Complainant's contentions.

## **11. PANEL OBSERVATIONS**

11.1 This Panel on pursuing the documents, records and submissions made by the Complainant observes that the Complainant is a lifestyle brand company with significant presence globally including India.



- 11.2 This panel observes that the Complainant i.e STARBUCKS after acquisition and merger of The Teavana Corporation has the intellectual property rights, goodwill in **TEAVANA** and now it belong to Complainant.
- 11.3 This panel further observe that the complainant has common law as well as statutory rights in its trade mark "TEAVANA". It is also observed by this panel that the Complainant has successfully secured registrations of TEAVANA in many countries including Indian and Vietnam. The Complainant has proved that it has trademark rights and other rights in the mark "TEAVANA" by submitting substantial details and documents in support of it.
- 11.4 This panel observe that the disputed domain name incorporates the Complainant's trademark "TEAVANA" in their entirety has the potential to cause consumer confusion and will cause the user to mistakenly believe that it originates from, is associated with or is sponsored by the Complainant. It is further observed by this panel that suffix "co.in" is not sufficient to escape the finding that the domain is confusingly similar to Complainant's trademark.
- 11.5 This panel, therefore, is of opinion that the disputed domain name "teavana.co.in" being identical/confusingly similar to the trademark of Complainant will mislead the public and will cause an unfair advantage to Respondent. The Panel is of the view that there is a likelihood of confusion between the disputed domain name and the Complainant, its trademark, and the domain names associated. The disputed domain name registered by the Respondent is confusingly similar to the trademark "TEAVANA" of the Complainant.
- 11.6 It is the responsibility of the Respondent to find out before registration that the domain name he is going to register does not violate the rights of any proprietor/ brand owner and the Respondent has miserably failed in following this condition.



- 11.7 This Panel, therefore, in light of the submission made by the Complainant concludes that the disputed domain name is confusingly similar to the Complainant marks. Accordingly, the Panel concludes that the Complainant has satisfied the first element required by Paragraph 4(a) of the INDR Policy.

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

## **12. COMPLAINANT**

- 12.1 The Complainant submits that Respondent has no rights or legitimate interests in the domain name <**TEAVANA.CO.IN**>. Complainant has not authorized, licensed or otherwise allowed Respondent to make any use of its registered trade mark and trade name **TEAVANA** and/or its phonetic equivalents/ variations, and Respondent does not have any affiliation or connection with Complainant or with Complainant's services under the name/mark **TEAVANA**. The Complainant submits that **TEAVANA** is a unique term coined by the Complainant, having no dictionary meaning, and the Respondent does not prima-facie have any reason, to use the Complainant's well-known trade name/trading style and registered trademark "**TEAVANA**".

- 12.2 The Complainant submits that the Respondent cannot assert that it has made or that it is currently making any legitimate non-commercial or fair use of the domain name, in accordance with Paragraph 7 of the .IN Policy and the same is also corroborated by the fact that no website is currently operational from the said domain. The Complainant submits that the Respondent is not making any legitimate or fair use of the impugned domain name. The Complainant further submits that any use of the domain name <**TEAVANA.CO.IN**> in the future by Respondent is likely to create a false association and affiliation with the Complainant and its well-known trade mark as well as corporate name **TEAVANA**. Therefore, it is submitted by the Complainant that Respondent has no rights or legitimate interests in respect of the impugned domain name and is incapable of making a



legitimate non-commercial or fair use of the domain name in accordance with Paragraph 7 of the .IN Policy.

12.3 The Complainant submits that the Respondent herein has registered the disputed domain <**TEAVANA.CO.IN**> approximately 22 years after the creation/registration of the domain name <**TEAVANA.COM**> by Complainant, and many years after the Complainant's trademark registrations. It is submitted by Complainant that under the circumstances of this case, Respondent's use of the disputed domain name is not "bona fide" within the meaning of Paragraph 7 (iii) of the .IN Policy since there is no apparent legitimate justification for Respondent's registration of the <**TEAVANA.CO.IN**> domain name, that is visually, phonetically, conceptually, deceptively and confusingly similar/identical to Complainant's trade name/mark.

12.4 The Complainant submits that the continued ownership of the disputed domain name <**TEAVANA.CO.IN**> by Respondent despite not having any legitimate or fair reason to do so, prevents Complainant from reflecting its trademark in the subject domain name. The Complainant has relied on *Motorola, Inc. vs NewGate Internet, Inc. (WIPO Case D2000-0079)*, wherein it was held that use of the trademarks not only creates a likelihood of confusion with Complainants' marks as to the source, sponsorship, affiliation or endorsement of its web site, but also results in dilution of the marks.

12.5 The Complainant therefore, submits that Respondent has no rights or legitimate interests in respect of the impugned domain name.

### **13. RESPONDENT**

13.1 The Respondent has not replied to Complainant's contentions.

### **14. Panel Observations**

A handwritten signature in black ink, appearing to read 'Arjun', is written over a horizontal line.

- 14.1 It is observed by this panel that the Respondent has failed to rebut the allegations of the complainant that respondent has no rights or legitimate interests in the domain name <**TEAVANA.CO.IN**> and Complainant has not authorized, licensed or otherwise allowed Respondent to make any use of its registered trade mark and trade name **TEAVANA** and/or its phonetic equivalents/ variations. The Respondent has failed to rebut the allegations that it does not have any affiliation or connection with Complainant or with Complainant's services under the name/ mark **TEAVANA**. The Respondent has also failed to rebut the allegation of the Complainant that the Respondent does not prima facie have any reason, to use the Complainant's well-known trade name/trading style and registered trademark "**TEAVANA**".
- 14.2 It is observed by this panel that the Respondent has also failed to rebut the allegation of the Complainant that respondent cannot assert that it has made or that it is currently making any legitimate non-commercial or fair use of the domain name and which is also corroborated by the fact that no website is currently operational from the said domain.
- 14.3 It is observed by this panel that the Respondent has failed to rebut the allegations of the Complainant that the Respondent has registered the disputed domain <**TEAVANA.CO.IN**> approximately 22 years after the creation/registration of the domain name <**TEAVANA.COM**> by Complainant, and many years after the Complainant's trademark registrations, and Respondent's use of the disputed domain name is not bona fide.
- 14.4 Whereas, it is observed by this panel that the Complainant by making submissions and placing documents/records and evidence in support of these submissions has been able to prove that the Complainant is doing its business under the mark 'TEAVANA' globally including India and Vietnam. The Complainant by virtue of its priority in adoption, goodwill, and long, continuous and extensive use of the mark, has acquired the



exclusive right to use the 'TEAVANA' mark in respect of its products.

14.5 Once the Complainant makes a prima facie case showing that the Respondent does not have any rights or legitimate interest in the domain name, the burden to give evidence shifts to the Respondent to rebut the contention by providing evidence of its rights or interests in the domain name. The Respondent has failed to place any evidence to rebut the allegations of the Complainant.

14.6 It is further observed by this panel that para 6 of the .IN Domain Name Dispute Resolution Policy (INDRP) states :

14.6.1 Any of the following circumstances, in particular, but without limitation, if found by the Arbitrator to be proved based on its evaluation of all evidence presented, shall demonstrate the Registrant's rights to or legitimate interests in the domain name for Clause 4 (b) :

(a) before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; (b) the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or (c) the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

14.7.2 This panel observe that the Respondent has failed to full fill any of the requirements as mentioned in Para 6 of INDRP Policy which demonstrates the Registrant's rights to or legitimate interests in the domain name.

14.7.3 This Panel therefore holds that the Complainant has proved that the Respondent does not have any rights or legitimate interests in the disputed domain name "teavana.co.in".

A handwritten signature in black ink, appearing to read 'Anish', with a long horizontal stroke extending to the right.



**The domain name was registered or is being used in bad faith**

**15. COMPLAINANT**

- 15.1 The Complainant submits that country code top level domains (ccTLD), such as ".in" or country code second-level domains (ccSLD) such as "co.in" are an essential part of a domain name. Therefore, it cannot be said to sufficiently distinguish the Respondent's domain name <**TEAVANA.CO.IN**> from the Complainant's registered marks **TEAVANA MARKS** or its various existing domain names comprising prominently of the name/mark **TEAVANA**.
- 15.2 The Complainant submits that in consideration of Complainant's reputation in India, where Complainant has extensive business operations as well as its reputation worldwide, and the ubiquitous presence of Complainant's mark **TEAVANA** on the Internet, Respondent must have been aware of Complainant's trademarks long prior to registering the domain name. The Complainant submits that the disputed domain name <**TEAVANA.CO.IN**> as registered by Respondent incorporates Complainant's trade name/trademark **TEAVANA** in toto.
- 15.3 The Complainant submits that the Respondent had no reason to adopt an identical name with respect to the disputed domain name except to create a deliberate and false impression in the minds of consumers and internet users that Respondent is somehow associated with or endorsed by Complainant, with the sole intention to ride on the massive goodwill and reputation associated with Complainant and to unjustly enrich from the same.
- 15.4 The Complainant submits that Paragraph 3 of the INDRP states that, "*it is the Registrant's responsibility to determine whether the Registrant's domain name registration infringes or violates someone else's rights.*" As held by the panel in *Lockheed Martin Corporation v. Aslam Nadia (INDRP/947)* <lockheedengineering.in>, since the Respondent failed to discharge such responsibility, the



panel concluded that the Complainant has satisfied the first element required by Paragraph 4 of the INDRP. The Complainant submits that in the present dispute as well, the Respondent, at the time of registering the disputed domain name, has clearly failed to reveal that the name/ mark **TEAVANA** and the rights subsisting therein vest exclusively with the Complainant, despite Complainant's reputation in India, thereby illustrating that the impugned domain name has been registered in bad faith.

15.5 The complainant further submits that given the disputed domain name <**TEAVANA.CO.IN**> as registered by the Respondent is currently inoperative, coupled with the fact that the name/mark **TEAVANA** is a unique coined term having no dictionary meaning, there is no plausible reason for the Respondent to adopt the domain name <**TEAVANA.CO.IN**>. It is submitted that in light of the immense reputation of the Complainant's mark **TEAVANA** worldwide, as well as its ubiquitous presence on the Internet, Respondent was, or should have been, aware of Complainant's trademarks long prior to registering the domain name. The Complainant submits that the Respondent had constructive notice of Complainant's mark **TEAVANA**. The Complainant has placed reliance on *Caesars World, Inc. v. Forum LLC* (WIPO Case No. D2005-0517), *HUGO BOSS TradeMark Management GmbH & Co. KG, HUGO BOSS AG v. Dzianis Zakharenka*, (WIPO Case No. D2015-0640).

15.6 The Complainant further submits that the fact that the Respondent has held the impugned domain for nearly four months despite having no legitimate interest in the name/mark **TEAVANA** coupled with the fact that Respondent has not used the same for any legitimate purpose, gives the impression that it is a case of passive holding and the same is tantamount to the fact that the Respondent does not hold interest in the domain name. The Complainant has placed Reliance on this panel's decision in *Flipkart Online Services Private Limited v. Azeem Ahmed Khan* wherein it was held that "parking of domain names incorporating someone else's trademark constitutes bad faith."



The Complainant has also placed reliance on *Instagram, LLC v. Contact Privacy Inc. / Sercan Lider (WIPO Case No. D2019-0419)* wherein it was held that "*passive holding can be sufficient to find bad faith use*".

15.7 The Complainant submits that **TEAVANA** is distinctive and well known, and it is inconceivable that Respondent did not have prior knowledge of Complainant's aforesaid mark at the time of registering the disputed domain name. Owing to the fame attached to Complainant's mark **TEAVANA**, which is a result of extensive use and promotion in relation to its world-renowned services, and the fact that Complainant's services are available all over the world, it is implausible for Respondent to have registered the domain name for any reason other than to trade off the reputation and goodwill of Complainant's mark **TEAVANA**.

15.8 The Complainant therefore submits that Respondent's domain name registration for <**TEAVANA.CO.IN**> is clearly contrary to the provisions of paragraph 4(iii) of the INDRP.

## **16. RESPONDENT**

16.1 The Respondent has not replied to Complainant's contentions.

## **17. PANEL OBSERVATION**

17.1 Paragraph 7 of the INDRP provides that the following circumstances are deemed to be evidence that Respondent has registered and used a domain name in bad faith :

*"(a) Circumstances indicating that the Respondent has registered or has acquired the domain name primarily for selling, renting, or otherwise transferring the domain name registration to the Complainant who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration over the Registrar's documented out of pocket costs directly related to the domain name; or*



*(b) the Respondent has registered the domain name to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or*

*(c) by using the domain name, the Respondent has intentionally attempted to attract internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its Website or location or a product or services on its website or location."*

17.2 This panel while going through the complaint and documents which are placed in the form of annexures has observed that the Respondent registered the disputed domain name in August 2022, by which time the Complainant has been using the mark "TEAVANA" for many years. It is observed by this panel that the Complainant has statutory and common law rights in the mark TEAVANA worldwide including in India and Vietnam. The Complainant is also using the TEAVANA mark on the internet, in other domain name, and as a trading name prior to registration of disputed domain name. It is observed by this panel that in view of the above-mentioned facts and circumstances, it is impossible to conceive that the Respondent could have registered the disputed domain name in good faith or without knowledge of the Complainant's rights in the mark TEAVANA.

17.3 It is further observed by this panel that the Respondent has failed to rebut the allegation of the Complainant, that the Respondent had no reason to adopt an identical name with respect to the disputed domain name except to create a deliberate and false impression in the minds of consumers and internet users that Respondent is somehow associated with or endorsed by Complainant, with the sole intention to ride on the massive goodwill and reputation associated with Complainant and to unjustly enrich from the same.

A handwritten signature in black ink, appearing to be 'Amey', written over a diagonal line.

17.4 It is further observed by this panel that the respondent has failed to rebut the allegation of the Complainant, that in light of the immense reputation of the Complainant's mark **TEAVANA** worldwide, as well as its ubiquitous presence on the Internet, Respondent was, or should have been, aware of Complainant's trademarks long prior to registering the domain name and that the Respondent had constructive notice of Complainant's mark **TEAVANA**.

17.5 The Complainant has thus rightly established that the Respondent has registered the disputed domain name in bad faith, and there is evidence that points to the existence of circumstances as mentioned in clause 7(a) of the INDRP Policy. The Respondent's domain name registration meets the bad faith elements outlined in para 4 (c) of the INDRP Policy. Therefore the Panel concludes that the registration by Respondent is in bad faith. Consequently, it is therefore established that Respondent has wrongfully acquired/registered the domain name in its favor in bad faith.

## **18. REMEDIES REQUESTED**

18.1 The Complainant has prayed to this Administrative Panel that the disputed domain **<TEAVANA.CO.IN>** be either canceled or transferred to the Complainant and costs of the proceedings be awarded in favor of Complainant and against the Respondent.

## **19. DECISION**

19.1 The following circumstances are material to the issue in the present case :

19.1.1 Through its contentions based on documents/ records and evidence, the Complainant has been able to establish that the mark "TEAVANA" is a well-established name in many countries including India and Vietnam. The Complainant has also established that the TEAVANA is popularly known exclusively



concerning the Complainant. The Complainant has also established that the trademark TEAVANA is inherently distinctive of the products, and business of the Complainant and has secured trademark protection for TEAVANA by registering trademarks in many countries including India and Vietnam.

19.1.2 The Respondent despite repeated opportunities given, however, has failed to provide any evidence that it has any rights or legitimate interests in respect of the domain name, and the Respondent is related in any way to the Complainant. The Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the Disputed Domain Name.

19.1.3 The Complainant has rather been able to establish that the Respondent has held the impugned domain for nearly four months despite having no legitimate interest in the name/mark **TEAVANA** coupled with the fact that Respondent has not used the same for any legitimate purpose which gives the impression that it is a case of passive holding and the same is tantamount to the fact that the Respondent does not hold interest in the domain name. It is therefore established that respondent in order to get monetary gain has registered the disputed domain name, rather than any bona fide offering for goods/services thereunder, which is evidence of bad faith. This panel while considering the complaint and records in the form of annexures submitted by the Complainant, has concluded that there exist circumstances as stated in para 7(a) of INDRP Policy.

19.1.4 This panel taking into account the nature of the disputed domain name and in particular, the "co.in" extension alongside the Complainant's mark which is confusingly similar, observe that it would also inevitably associate the disputed domain name closely with the Complainant's group of domains in the minds of consumers/internet users, and all plausible actual or contemplated active use of disputed Domain Name by the Respondent is and would be illegitimate.

19.1.5 The Respondent also failed to comply with Para 3 of the INDRP, which requires that it is the responsibility of the



Respondent to ensure before the registration of the impugned domain name by him that the domain name registration does not infringe or violate someone else rights. The Respondent should have exercised reasonable care and efforts to ensure there was no encroachment on any third-party rights.

19.1.6 This panel is of the view that it is for the Complainant to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name but the Respondent has failed to do that. The Respondent's registration and use of the domain name [teavana.co.in] are in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name and also the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

### **RELIEF**

Following INDRP Policy and Rules, this Panel directs that the disputed domain name [TEAVANA.CO.IN] be transferred from the Respondent to the Complainant; with a request to NIXI to monitor the transfer.

New Delhi, India  
Dated : 27<sup>th</sup> February, 2023

  
[AJAY GUPTA]  
Sole Arbitrator