



**ARBITRATION AWARD**

**In the matter of:**

**The Knowledge Academy Holdings  
Limited**

**Reflex, Cain Road**

**Bracknell Berkshire RG12 1HL  
United Kingdom**

**[Complainant]**

**-v-**

**Parshwa Shah**

**The Knowledge Academy**

**South Bopal, Ahmedabad,**

**Gujarat**

**[Respondent]**

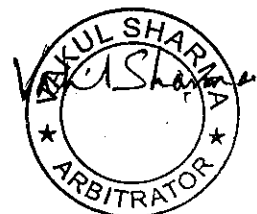
**Disputed Domain Name:**

**<theknowledgeacademy.net.in>**

**INDRP CASE No. 1649**

**1. The Complainant**

The Complainant is The Knowledge Academy Holdings Ltd and was incorporated on 14 July 2013. The Complainant is the holding company of The Knowledge Academy



Ltd which was incorporated on 1 April 2009 and which is a business and IT training company which operates globally, providing training solutions to corporate, public sector, multinational organisations, and private individuals.

## 2. The Respondent

The Respondent was until recently identified as Parshwa Shah, The Knowledge Academy, B 314, Orchid Center, Bopal, Ahmadabad, Gujarat having email ID: [shahrockyb15@gmail.com](mailto:shahrockyb15@gmail.com). The respondent registered the disputed domain name on November 10, 2022.

## 3. The Registrar

The Registrar with which the domain name is registered is: GoDaddy.com LLC

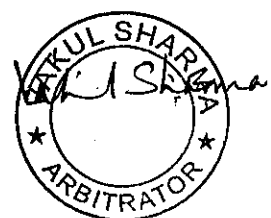
## 4. Disputed Domain Name

<THEKNOWLEDGEACADEMY.NET.IN>

## 5. Jurisdiction

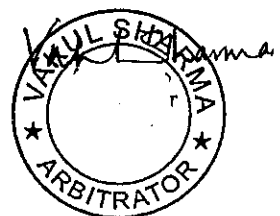
The Complainant by filing the Complaint under the aforesaid INDRP Rules of Procedure [Rules] has accepted the subject matter jurisdiction of the .IN Domain Dispute Resolution Policy -.INDRP [Policy].

In view of the above, this domain name dispute is properly within the scope of the Policy. The registration agreement, pursuant to which the disputed domain name was registered, incorporates the Policy. Disputes between Registrants, as they relate to domain name registrations, are governed by the Policy.



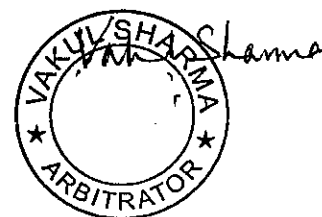
## 6. Procedural History

- (i) This Arbitration Proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (the "Policy"), adopted by the National Internet Exchange of India ("NIXI") and the INDRP Rules of Procedure (the "Rules"), which were approved on June 28, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By submitting to the Policy and the Rules, the Complainant agreed to the resolution of the disputes pursuant to the Policy and the Rules.
- (ii) Complaint was filed by the Complainant with NIXI against the Respondent. NIXI verified the Complaint and its annexures for conformity with the requirements of the Policy and the Rules.
- (iii) I submitted the statement of acceptance on January 5, 2023 and subsequently appointed by NIXI as an Arbitrator in the above matter [INDRP No. 1649] on January 5, 2023.
- (iv) Complainant submitted a Copy of the Complaint and Annexures to me as well as to the Respondent's email ID: [shahrockyb15@gmail.com](mailto:shahrockyb15@gmail.com) from its email ID in accordance with the Rules.
- (v) Complainant has vide email dated January 13, 2023 submitted a proof of service of hard copies of the Complaint and the Annexures to the Respondent. It further



affirmed that the complaint and the annexures have been sent to the Respondent email ID on January 5, 2023.

- (vi) In view of the completion of procedures related to Service of Complaint as mandated under the Rules, I issued a Notice dated January 14, 2023 to the Respondent to submit its reply to the above said complaint within 15 days from the date of the Notice failing which the Complaint shall be decided on merit.
- (vii) In the interest of justice, it was felt that the Respondent should be given another opportunity to file its Reply. I, therefore issued a Notice dated January 30, 2023 to the Respondent granting another seven days' time to submit its Reply, if any, failing which the Respondent right to file Reply stands closed and the Complaint shall be decided *ex-parte* based on merits of the Complaint.
- (viii) Despite giving a final opportunity, the Respondent has failed to submit any reply and hence vide notice dated February 7, 2023, I informed both the parties that *"the Respondent right to file Reply stands closed and the Complaint shall now be decided ex-parte on the basis of the merits of the Complaint."*
- (ix) The Arbitration Award is now pronounced on this day, i.e., March 10, 2023 after considering the contentions of the Complainant, evidence on record and the Policy framework under my signatures. This is an *ex-parte order* as the Respondent has failed to file their Reply despite being given adequate opportunity.



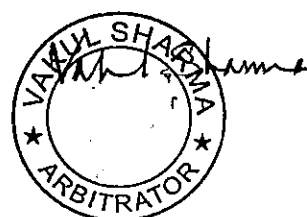
## 7. Contentions of the Complainant

Complainant in its complaint has made assertions to establish presence of each of the three elements required by paragraph 4 of the Policy.

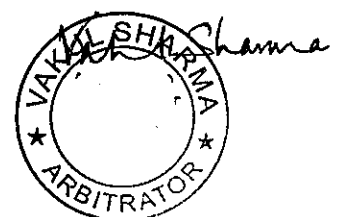
- I. **Whether the domain name <theknowledgeacademy.net.in> registered by the Respondent is confusingly similar to the trademark 'THE KNOWLEDGE ACADEMY' of the Complainant?**

The Complainant submits that:

- (a) The Complainant is The Knowledge Academy Holdings Ltd and was incorporated on 14 July 2013. The Complainant is the holding company of The Knowledge Academy Ltd which was incorporated on 1 April 2009 and which is a business and IT training company which operates globally, providing training solutions to corporate, public sector, multinational organisations and private individuals. Its primary focus is delivering training in a wide range of areas from IT technical, personal development, human resources and management courses to project, programme and IT service management.
- (b) The Complainant's group offers its services to the public through various channels, including through its website [www.theknowledgeacademy.com](http://www.theknowledgeacademy.com) (the "Website"), through eLearning courses, and face to face through its extensive network of highly experienced instructors.



- (c) The Complainant is the world's largest and most established provider of training courses globally, with the capability to deliver over 30,000 courses in over 1,000 locations across 190 countries. To date, the Complainant has successfully trained over 1 million delegates.
- (d) The Complainant has its Indian headquarters in offices in Bangalore in the state of Kanartaka. It employs over 280 people in India including in its offices at Ahmedabad in the state of Gujarat.
- (e) Such services are offered by reference to the Complainant's registered trade marks as set out above.
- (f) The Complainant has used the Registered Marks continuously across a range of products since it was registered. In addition, the Complainant has advertised goods and services bearing the Registered Marks both online through its websites and off-line in a variety of publications. As a result of the Complainant's activities it has built up substantial goodwill and gained a valuable reputation in the Registered Marks in relation to the goods and services to which they are registered with which the Complainant and no other is associated.
- (g) The goodwill associated with the name THE KNOWLEDGE ACADEMY is the property of the Complainant and cannot pass to any third party without a formal assignation. No such assignation in favour of the Respondent has taken place.

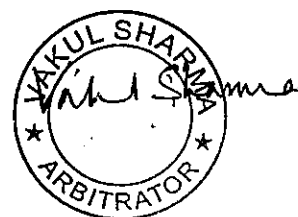


- (h) The Domain Name is identical to the Complainant's business and trading name and to the registered trademarks.
- (i) Given the international presence and associated reputation of the Complainant's name THE KNOWLEDGE ACADEMY, no party would choose the Domain Name unless with the intention to create a false impression of association with the Complainant in order to attract business from the Complainant or misleadingly to divert the public from the Complainant to the Respondent.

**II. Whether The Respondent has no rights or legitimate interests in respect of the domain name <theknowledgeacademy.net.in>?**

The Complainant submits that:

- (a) The Respondent registered the Domain Name on 10 November 2022.
- (b) The Domain Name was showing a parking page hosted by GoDaddy.com when screenshots were taken on 24 November 2022 (Annex 3).
- (c) The Respondent appears to have registered the Domain Name for the purpose of reselling it for a profit, colloquially known as "domain squatting".
- (d) Given the Domain Name in dispute, the Complainant considers it is reasonable to conclude that the Respondent registered the Domain Name knowing that it is likely to attract interest from internet users who are searching for the Complainant.



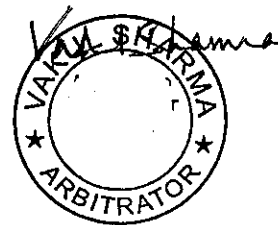


- (e) Given the Complainant's reputation in THE KNOWLEDGE ACADEMY, the Complainant considers it reasonable to conclude that the Respondent registered the Domain Name in the full knowledge of its activities and reputation.
- (f) The Complainant also considers that it is not possible for the Respondent to have acquired any legitimate right to use the Domain Name since its registration, or before.

**III. Whether the domain name <theknowledgeacademy.net.in> was registered or is being used in bad faith?**

The Complainant submits that:

- (a) Given the widespread use and reputation of the Complainant Marks, the Respondent must have been aware that in registering the Domain Name it was misappropriating the valuable intellectual property of the Complainant.
- (b) The Complainant considers it is reasonable to conclude that the Domain Name has been registered in bad faith for illegitimate purposes in order to infringe the Complainant's Marks; to deceive the public into believing that the goods and services offered by the Respondent are connected to the Complainant.
- (c) The Respondent will never be capable of using the Domain Name for a legitimate purpose as the notoriety and reputation of THE KNOWLEDGE ACADEMY is such that members of the public will always assume that there is an association between the Respondent and the Complainant.



## 8. Respondent's Contentions

Despite given adequate opportunities, Respondent has failed to submit any Reply.

## 9. Discussion and Findings

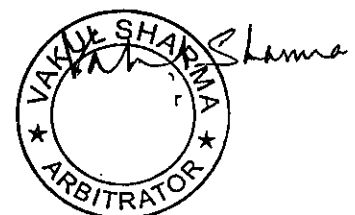
The Respondent has not filed any Reply to the Complaint. However, the Respondent's default does not automatically result in a decision in favour of the Complainant. The Complainant has to still establish each of the three elements required by Paragraph 4 of the Policy:

Under the Paragraph 4 clauses (a) – (c) of the Policy, the Complainant must prove that:

- (a) the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
- (b) the Registrant has no rights or legitimate interests in respect of the domain name; and
- (c) the Registrant's domain name has been registered or is being used in bad faith.

**The Complaint has to be decided on the basis of the provisions of INDRP, pleadings, including documentary evidence presented before me. The Complainant in order to succeed must satisfy the conditions laid down in Paragraph 4, clauses (a) – (c) of the Policy.**

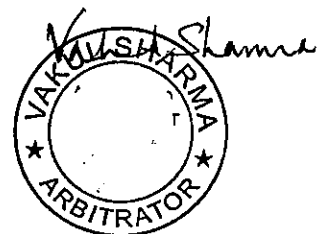
**I have considered the Complainant's pleadings, documentary evidence, conditions as laid down in the aforesaid Policy alongwith the relevant case law. My opinion is as follows:**



(a) Whether the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights?

The Complainant has placed on record details of its trademark 'THE KNOWLEDGE ACADEMY' across multiple jurisdictions [Annexure 2] as documentary evidence to highlight that 'THE KNOWLEDGE ACADEMY' is undisputedly a well-known trademark world-wide. From the documentary evidence as placed before me, it is quite evident that 'THE KNOWLEDGE ACADEMY', a well-known trademark is incorporated in its entirety by the Respondent in the disputed domain name <theknowledgeacademy.net.in>, which in my view is sufficient to establish that the Respondent's disputed domain name is identical or confusingly similar to Complainant's registered trademark. It is evident that the Complainant's interest in the disputed domain name is legitimate and is necessary to maintain and protect its exclusive and proprietary hold over its trademark.

I consider that there is a force in the arguments of the Complainant that the disputed domain name <theknowledgeacademy.net.in> is confusingly similar or identical to the Complainant's registered trademark. I found the concern of the Complainant genuine. Even a reasonable man would be confused between the disputed domain name and the Complainant's trademark 'THE KNOWLEDGE ACADEMY' as these are confusingly similar or identical. When I visited <theknowledgeacademy.net.in> I came across a web-page stating theknowledgeacademy.net.in is "*parked free, courtesy of GoDaddy.com*". The said web-page further provided clickable-links to different third-party websites. I am of the view that such an arrangement of diverting potential customer to a confusingly similar or identical domain name would be detrimental not only to the Complainant's



commercial but also goodwill, reputational interests and such mischievous practices cannot be accepted.

Furthermore, the Respondent has failed to observe the legal obligations as laid down in Paragraph 3 [Registrant's Representations] of the INDRP, which provides:

*By applying to register a domain name, or by asking a Registrar to maintain or renew a domain name registration, the Registrant hereby represents and warrants that:*

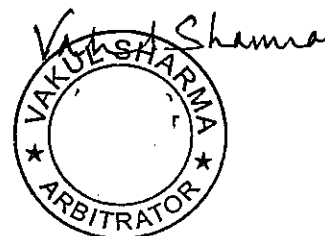
*(a) the credentials furnished by the Registrant for registration of Domain Name are complete and accurate;*

*(b) to the knowledge of registrant, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;*

*(c) the Registrant is not registering the domain name for an unlawful and malafide purpose; and*

*(d) the Registrant will not knowingly use the domain name in violation or abuse of any applicable laws or regulations.*

In my opinion, the Respondent has knowingly registered the Complainant's trademark in the form of virtual confusingly similar name <THEKNOWLEDGEACADEMY >, which is followed by a *suffix*, NET.IN [ccTLD] to complete the domain name string <THEKNOWLEDGEACADEMY.NET.IN>. I am inclined to accept the Complainant's submission that the Respondent's registration of domain name <THEKNOWLEDGEACADEMY.NET.IN> confusingly similar or to the Complainant's trademark with the sole purpose of unlawful gains. In this context, it is important to note that the Complainant has a presence in India. It employs over 280 people in India including in its offices at Ahmedabad in the state of Gujarat. Interestingly, the Respondent's has also been identified



by 'Ahmedabad' State of Gujarat as its address, which cannot be called as mere coincidence. There is a strong likelihood that the Respondent was aware of the Complainant's operations in Ahmedabad and by deliberate design registered the disputed domain name. It is to be noted that the Respondent has failed to deny the said evidence relied upon by the Complainant despite being given ample opportunities. I am of the opinion that the benefit under the circumstances lies with the Complainant. It is thus very clear that the Respondent violated the conditions as laid down in the Paragraph 3(a) – (d) of the policy as mentioned above. In view of the above, the requirement of the Policy as stated in Paragraph 4(a) is satisfied.

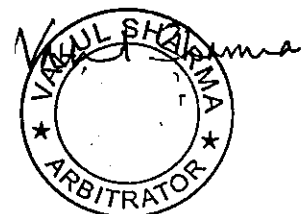
**(b) Whether the Registrant has no rights or legitimate interests in respect of the domain name?**

There is nothing on record to suggest that the Respondent is either licensee or authorised agent of the Complainant. In other words, the Respondent has no legal right or legitimate interests in the disputed domain name. I am of the view that the Complainant has been able to demonstrate clearly that the composition of the disputed domain name constitutes clear evidence that the Respondent has been successful in diverting users looking for the Complainant to the website at the disputed domain name, consisting of a pay-per-click page featuring several sponsored links, leading to third parties' commercial websites. This by no stretch of imagination can constitute legitimate non-commercial or fair use, further demonstrating a lack of legitimate interests regarding said domain name.

Also, Paragraph 6 of the INDRP provides:

*6. Registrant's Rights and Legitimate Interests in the Domain Name*

*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*



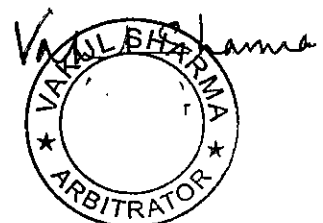
*demonstrate the Registrant's rights to or legitimate interests in the domain name for the purposes of Clause 4 (b) :*

*(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.*

I have evaluated the evidence on record and came to a conclusion that none of the aforesaid limbs as highlighted in the Paragraph 6 of the Policy above have been present to give the Respondent/Registrant any rights and legitimate interests in the disputed domain name. The Complainant has never authorized or licensed the Respondent to use 'THE KNOWLEDGE ACADEMY' trademark in any way or for any purpose. There is nothing on record to suggest that the Complainant had at any time granted any licensing rights or formed contractual association or affiliation with the Respondent. The Complainant has been able to establish a *prime facie* case of Respondent's lack of legitimate rights and interests in the domain name thus shifting the burden on the Respondent to show rights or legitimate interests [*Bulgari S.p.A. v DomainBook* [INDRP/1002], *Croatia Airlines d.d. v. Modern Empire Internet Ltd.* WIPO Case No. D2003-0455, *Belupo d.d. v. WACHEM d.o.o.* WIPO Case No. D2004-0110, *Sampo plc v. Tom Staver* WIPO Case No. D2006-1135, *Audi AG v. Dr. Alireza Fahimipour* WIPO Case No. DIR2006-0003.]. It is quite evident that the registration of the disputed domain name on the part of the Respondent falls in the category of domain squatting. It is to be noted that the Respondent has failed



to counter or deny assertion made by the Complainant. I am of the opinion that the *malafide* intent of the Respondent is quite evident from webpage/website hosted by the Respondent resolving into third party commercial links thereby clearly establishing the fact that the Respondent actions are neither *bonafide* nor fall in the category of legitimate non-commercial or fair use of domain name. This existence or hosting of a rogue webpage/website bearing the Complainant's trademark may never be called a legitimate activity on the part of the Respondent. In view of the above, the requirement of the Policy as stated in Paragraph 4 (b) is satisfied.

**(c) Whether the Registrant's domain name has been registered or is being used in bad faith?**

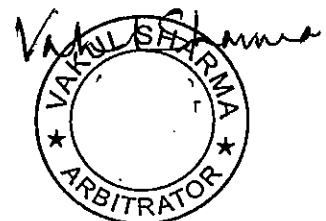
In the absence of any documentary evidence showing any legal arrangement with the Complainant, any use of the disputed domain name by the Respondent, when it has no legal rights to register the disputed domain name proves *malafide* intent on the part of the Respondent.

Further, Paragraph 7 of the policy provides:

**7. Evidence of Registration and use of Domain Name in Bad Faith**

*For the purposes of Clause 4(c), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:*

*(a) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of*



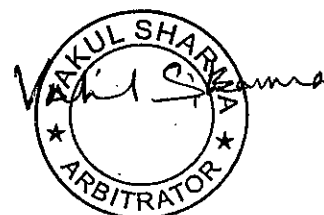
*the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or*

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

*(c) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.*

The documentary evidence placed on record by the Complainant clearly shows that the Respondent has indeed taken advantage of the Complainant's reputation, brand value and goodwill by registering the disputed domain name. The *malafide* intent is clear from the webpage/website exhibiting <THEKNOWLEDGEACADEMY.NET.IN> resolving into third party sponsored links. I am of the view that the webpage/website resolving into clickable links leading to third party websites underline the Respondent's intention to abusively benefit from Complainant's reputation and trademark to obtain commercial gains. The Respondent is taking unfair advantage of the Complainant's legal rights. The Complainant has been able to demonstrate that THE KNOWLEDGE ACADEMY trademark is only associated with the Complainant. The Respondent/Registrant in this case has been misappropriating the valuable intellectual property of the Complainant.

In view of the above factual legal matrix, I agree that the adoption of the said mark by the Respondent is dishonest and in bad faith.





Accordingly, having regard to the circumstances of this particular case, I hold that the Complainant has been able to prove that the Registrant's registered the disputed domain name in bad faith. In view of the above, the requirement of the Policy as stated in Paragraph 4 (c) is satisfied.

#### 10. Decision

For the foregoing reasons, in accordance with the Policy and Rules, I direct NIXI to transfer the disputed domain name <THEKNOWLEDGEACADEMY.NET.IN> to the Complainant.

There is no order as to costs.

The original copy of the Award is being sent alongwith the records of the proceedings to the National Internet Exchange of India (NIXI) for its record and a soft copy of the Award is being sent to both the parties thru email for their information and record.



(Sole Arbitrator)

Dated: March 10, 2023