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NATIONAL INTERNET EXCHANGE OF INDIA

B Wing, 9th Floor, Statesman House Building
148, Barakhamba Road,
New Delhi-110001

VISTEON CORPORATION

V/s
PRAHLAD S

Prahlad S

Statutory Alert:

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AWARD

1. THE PARTIES

The Complainant is Visteon Corporation, Address: One Village Centre Drive, Van Buren Township MI 48111 USA, by its authorized representative Mr. Julick Isaiah, of M/s. DePenning & DePenning, E-mail: domain@depenning.com Address: 120 Velachery Main Road, Guindy, Chennai-600032 Telephone: +91 44 4221 3444 Fax: +91 44 4221 3402.

The Respondent is Prahlad S, Address: Pradhan Nagar, Siliguri, west Bengal-734003 India.

2. THE DOMAIN NAME AND REGISTRAR:

This Arbitration pertains to a dispute regarding the Domain name www.visteon.in

The disputed Domain name is www.visteon.in

The abovesaid domain registered particulars in detail is provided along with the complaint.

Registrar Name: GoDaddy.com, LLC

IANA ID : 146

Date of creation: 27.03.2018

Date of Expiry : 27.03.2028

Registrant Client ID : CR-363532582

Registrant ROID: C4BA11D9430754BADADFF82E12F02AD09-IN

Email: pinki.sharma1992a@gmail.com

Phone: +91 9832033087

3. PROCEDURAL HISTORY

(a) The Complainant has filed a complaint on 01.04.2022 with the NATIONAL INTERNET EXCHANGE OF INDIA. The Complainant made the registrar verification in connection with the Domain name at issue. The annexures received with the complaint are **Annexure-A to H**. The exchange verified the complaint, satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the 'Policy') and the Rules framed thereunder.

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- (b) The NIXI has appointed Sh. R.K. Kashyap, Advocate as the Sole Arbitrator in this matter vide mail dated 08.04.2022. The Arbitrator has submitted his Statement of acceptance and Declaration of Impartiality and Independence on 08.04.2022, as required by the Exchange.
- (c) The Arbitrator, as per the INDRP Policy and the Rules, has duly issued the notice on 11.04.2022 and directed the complainant to serve the Respondent with a copy of the Complaint alongwith annexures on the given e-mail as well as on physical address. In the Notice, it has also been mentioned that the respondent to file the reply/response within 10 days from the receipt of notice. The direction of the arbitrator to serve the respondent has duly been complied with and the complainant sent the notice to the respondent, through respondent e-mail on 13.04.2022 and through courier dated 12.04.2022 which is duly being mentioned in his mail dated 13.04.2022 and 23.04.2022, till date the respondent has not filed any reply/response within the stipulated time, hence, the respondent proceeded Ex-parte and Ex-parte Award is being passed.

4. **Factual Background:**

The following information has been derived from the Complaint and the various supporting annexure to it, the Arbitrator has found the following facts:

Complainant's Activities

- i) The complainant (i.e., **VISTEON CORPORATION**) is a technology company dedicated to creating enjoyable and safe driving experience. The complainant's platform leverages on proven, scalable hardware and software solutions that enables evolution of global innovative automotive electronic and connected solutions for the world's major vehicle manufacturers.
- ii) The Complainant is a global leader in cockpit electronic products including digital instrument clusters, information displays, infotainment, head up displays, telematics, smart core cockpit Domain Controllers, the Drive Core advanced safety platforms, battery management systems and has international network of manufacturing operations, technical centers and joint venture operations dedicated to the design, development, manufacture and support of its products offerings to global customers. That over the years, its operations have expanded to more countries worldwide i.e., Mexico, Bulgaria, Portugal, Germany, India and China. Therefore, the Complainant has been using continuously and extensively the mark **VISTEON** as its trade name, trade mark and service mark and enjoys market reputation

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that has percolated world-wide.

- iii) The Complainant owns significant intellectual property, including a number of patents, copy rights, proprietary tools and technologies and trade secrets, and is involved in numerous licensing arrangements, which play an important role in maintaining its competitive position.
- iv) The Complainant further states that since its inception it has used the mark **VISTEON** as a trade/service mark and as its trade name extensively. The Complainant's annual turnover in the year 2019 – 2020 was US \$ 2.5 billion (approx). The Complainant's advertisement expenditure for the promotion of its goods and services is around 22000 USD/per year (approx).
- v) The Complainant has been presented various awards and has received accolades, the details are as under:-
 - a. In the year 2019, the Complainant was awarded Top Suppliers Award from Tencent in China.
 - b. For the year 2019, the Complainant won the honors the top Global Suppliers at awards ceremony in United States.
 - c. In 2020, New Vision Display awarded "Best Customer Focus Product Launch (Asia Region) the Complainant.
- * The aforesaid entire detail of the Complainant is available in '**Annexure D**'
- vi) The Complainant states that by virtue of priority in adoption, long, continuous, uninterrupted and extensive usage of the mark **VISTEON** since at least the year 2000, the Complainant has acquired substantive common law rights to use the **VISTEON** mark in multiple jurisdictions including India. On account of its unique adoption, coupled with the distinctiveness acquired by the mark **VISTEON** by virtue of its use, the mark **VISTEON** has become exclusively and solely associated with the Complainant. The promotional efforts of the Complainant have resulted in the **VISTEON** mark becoming a trade/service mark of the Complainant.
- vii) The entire details of world wide registrations of the trade mark Visteon of the complainant is available in the complaint, is also duly registered in India since 29.04.1997, vide registration number 774288, the registration certificate are available in '**Annexure E**'

The grant of the aforementioned trademark registrations in favour of the Complainant for the trademark **VISTEON** in several international

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jurisdictions including India is in itself adequate recognition of the Complainant's proprietary rights in the trademark **VISTEON**.

5. DISCUSSION AND FINDINGS:

The Rules instructs this Arbitrator as to the Principles to be used in rendering its decision. It says that, "a panel shall decide a Complaint on the basis of the statements and documents submitted by the parties in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any Rules and Principles of Law that it deems applicable".

According to the Policy, the Complainant must prove that:-

- a) The Registrant's Domain name is identical or confusingly similar to a name, Trademark or Service mark in which the Complainant has rights;
- b) The Registrant's has no rights or legitimate interests in respect of the Domain name that is the subject of Complaint; and
- c) The Registrant's Domain name has been Registered or is being used in bad faith.

(A). Identical or Confusingly Similar:

- i. The Respondent's domain name www.visteon.in is identical to the Complainant's trademark **VISTEON**. The Complainant has overwhelming common law as well as statutory rights in its trade/service marks **VISTEON** in multiple jurisdictions including India. Therefore, the Complainant is the sole legitimate owner of the trade/service mark **VISTEON**.
- ii. Respondent's registration and use of the domain www.visteon.in is bound to induce members of the public and trade to believe that the Respondent has a trade connection, association, relationship or approval of the Complainant, when it is not so.
- iii. The distinctive and the dominant element in the Respondent's domain is the word **VISTEON** hence, the domain www.visteon.in is identical to the trade/service mark **VISTEON** in which the Complainant has statutory and common law rights.

The disputed domain name clearly incorporates the famous trademark **VISTEON** of the Complainant in its entirety. Such use

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of the disputed domain name is considered evidence of bad faith registration and use under the INDRP. In this regard, refer INDRP/642 MOZILLA FOUNDATION Vs Mr. CHANDAN.

(B). Rights or Legitimate Interests :

- i) The Complainant is the sole legitimate owner of the trade mark **VISTEON**. The Complainant neither licensed nor permitted the Respondent to use trade/service mark **VISTEON** or to apply for any domain name incorporating the said trade/service marks.
- ii) The Respondent has not made any legitimate use of the domain name www.visteon.in since the date of its registration and is prejudicially blocking the domain register. It is pertinent to note that the impugned domain name is a mere copy of the Complainant's trademark **VISTEON**. The malafide intent of the Respondent to infringe the Complainant's trade mark rights is apparent. Further, in view of the popularity of the Complainant's trade mark **VISTEON**, the disputed domain name www.visteon.in is bound to induce members of the public and trade to believe that the Respondent has trade connection, association, relationship or approval of the Complainant. The respondent wants to misappropriate and usurp the reputation and goodwill of the Complainant's trademark **VISTEON**.

(C). Registered and Used in Bad Faith:

The Respondent has fraudulently provided links to various third party e-commerce sites under the domain name www.visteon.in. It is obvious that the Respondent is making monetary gains by attracting unwary customers by misrepresenting an association with the Complainant. Further, considering the incessant use, reputation and the well-known brand of the Complainant's marks, the illegitimate registration and use of the impugned domain name amounts to brand dilution which cannot be compensated monetarily. Hence, it becomes critical that unscrupulous individuals are not allowed usurp renowned trademarks and domain names to unfairly benefit from such act.

The very use of a domain name by someone with no connection with the Complainant suggests opportunistic bad faith, refer INDRP case No. 1167.

6. DECISION

On the basis of the averments in the complaints, citation, documentary evidence and other substantiating points, the arbitrator has reached to the

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following conclusions:-

- a.) The disputed Domain name contains registered trade/service mark of the Complainant in its entirety and is totally identical or confusingly similar to a name, trademark in which the Complainant has legitimate rights and interests.
- b.) The Respondent has no rights or legitimate interests in respect of the domain name. He has not been authorised, licensed/ permitted to use the said domain name, nor has he been known individually or by his business by the name of disputed domain name or any closely resembling term to it.
- c.) The disputed domain name is registered in bad faith by the Respondent and allowing him to continue to own the same would make injustice and loss to the Complainant as also it may pose serious threats to innocent people anywhere in the world.
- d.) Allowing a stranger to trade on someone else's goodwill or reputation is injustice on legitimate person having spent efforts and money in building his brand, goodwill and reputation, because it results in allowing unscrupulous persons to gain monetarily to the disadvantage of the person who is legitimately entitled to it.

AWARD

In light of the foregoing findings on issues, foregoing discussions, conclusions and as per the remedies requested by the complainant, the Sole Arbitrator passes the following Award:-

The disputed domain name www.visteon.in, be transferred to the complainant

This award is passed at New Delhi on this 06th day of MAY, 2022.



R. K. KASHYAP
SOLE ARBITRATOR