

1. The Parties

The **Complainant** in this arbitration proceeding is **L'Oréal**, of the address *14 rue Royale, 75008 Paris France*.

The **Respondent** in this arbitration proceeding is one "**Domain Administrator**", of the address: *4 Akanbi Danmole Street off Ribadu Road, Ikoyi 101233, Lagos, Nigeria*.

2. The Domain Name, Registrar and Registrant

The present arbitration proceeding pertains to a dispute concerning the registration of domain name <**MDAYMATRIXPROFESSIONAL.IN**> with the .IN Registry. The Registrant in the present matter is "**Domain Administrator**", and the Registrar is **GoDaddy.com, LLC**.

3. Procedural History

The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI).

NIXI vide its email dated May 19, 2022, had sought consent of Mr. Vikrant Rana to act as the Sole Arbitrator in the matter. The Arbitrator informed of his availability and gave his consent vide email on the same date, and the Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure vide email on June 01, 2022.

NIXI had handed over the Domain Complaint and Annexures thereto the Arbitrator originally on May 31, 2022, however, Complainant's Counsel vide email dated June 01, 2022, had submitted an amended/ revised complaint and annexures, to reflect the complete details of the Registrant. Thereafter, Arbitrator acknowledged safe receipt of the amended complaint and documents vide email on the same day, i.e. June 01, 2022, and noted certain discrepancies in the documents as filed, and asked the Complainant's Counsel to provide the below documents - i) Power of Attorney/ Authorization from the Complainant authorizing the Counsel; and ii) Submit the annexures within the page limit prescribed in the INDRP Rules of Procedure, i.e. within 100 pages, and granted a time till June 09, 2022, to comply with the directions. In response thereto, the Complainant's Counsel submitted the abovementioned documents to the Arbitrator vide email on June 08, 2022.

Thereafter, the Arbitrator vide email dated June 09, had acknowledged receipt of the abovementioned documents, and directed the Complainant's Counsel to serve a full set of the domain complaint as filed, along with annexures, upon the Respondent by email as well as physical mode and provide proof of service on or before June 17, 2022. However, as the Arbitrator did not receive any response from the Complainant's Counsel by June 17, the Arbitrator vide email on the said date, noted the lack of compliance and granted additional time till June 22, 2022, to furnish the proof of service of the documents upon the Respondent.

In response to the above, the Arbitrator was in receipt of an email dated June 20, 2022, from the Complainant's Counsel, inter alia informing that the Complainant encountered some difficulties in sending hard copies to the Respondent, as the Complainant's local agent had

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purportedly visited the address (4 Akanbi Danmole Street off Ribadu Road, Ikoyi 101233, Lagos, Nigeria) but could not identify the Respondent at the said address, because of which the documents could not be delivered. In view of the above, the Complainant's Counsel expressed its hardship in carrying-out physical service of documents and requested to consider successful service of soft copy as adequate. In view of such prayer on part of Complainant's Counsel, the Arbitrator took due note of the Complainant's hardship and informed that the requirement of physical service can be waived off and consider service of soft copy as sufficient, provided proof of delivery of the same can be provided, and thus directed Complainant's Counsel to provide such proof-of-service no later than June 22, 2022. In response thereto, the Complainant's Counsel provided the necessary proof-of-service by email, vide email dated June 22, 2022, which showed that the documents were successfully served upon the Respondent via email on June 22, 2022.

In view of the above, the Arbitrator vide email dated June 23, 2022, deemed service of soft copy (by email dated June 22, 2022) on the Respondent by Complainant's Counsel as sufficient proof of service in respect of the present matter and accordingly waived the requirement of service by hard copy, and commenced arbitration proceedings in respect of the matter. Respondent was granted time till July 08, 2022 in order to submit their response. As no response was received from Respondent within the stipulated time period, Arbitrator, in the interests of justice, granted them an additional but non-extendable period of seven (7) days, i.e. till July 15, 2022, to submit a response to the domain complaint. Still having received no reply from Respondent, despite a few days having passed since the said stipulated date of July 15, 2022, Arbitrator concluded proceedings on July 25, 2022, and reserved the present award.

4. Factual Background/ Complainant's Contentions and Arguments

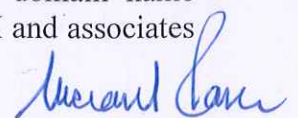
Counsel for the Complainant, on behalf of the Complainant in the present matter has submitted as follows:

That the Complainant, **L'Oréal**, created in 1909 by a French chemist by the same name, is a French industrial group specialized in the field of cosmetics and beauty and is the first cosmetics group worldwide, which at present employs 86,000 employees, and is present in 150 countries, whilst having a portfolio of 36 brands. In this regard, Complainant has provided screenshots from its website <Loreal.com>, as Annex 3.

Complainant has further submitted that it has a professional haircare and hair color company in the United States as a part of the L'Oreal USA's Professional Products Division, and the same is called "MATRIX". Complainant submits that the same is well-known globally including in India and its products are promoted on the official website <https://www.matrixprofessional.in/>.

Complainant has submitted that "MATRIX" was founded in 1980 by Arnie and Sydel Miller. Complainant has further submitted that the aforesaid Mr. Miller sold his business under the name "Ardell" in 1980 and decided to concentrate on building the "MATRIX" brand, which would market its products only to professional haircare buyers. Complainant has also submitted that at present, some of its products under the "MATRIX" brand are Biolage, Oil Wonders, Total Results, COLORINSIDER, SOCOLOR, Color Sync, Gloss Sync, Logics, LightMaster, V-Light, Vavoom, COLORGRAPHICS, Opti.Collection, Opti.Effects, Opti.Smooth and Style Wave.

Complainant has submitted that its attention was drawn to the disputed domain name <mdaymatrixprofessional.in> as it entirely reproduces its trademark MATRIX and associates



it with the letter "m" and generic terms "day" and "professional", which does not prevent any likelihood of confusion. Complainant has submitted that the extension ".IN" may lead internet users into believing that the domain name is endorsed by the Complainant or that it will direct them to an official website displaying Complainant's products intended for the Indian market. In this regard, the Complainant has submitted regarding the domain name that the same redirects Internet users towards a parking page displaying sponsored links related to hair products, directly targeting complainant's field of activity. For this, the Complainant has annexed PDF copies dated April 20, 2022, of the said web page, marked as Annex 1. Complainant has submitted that after conducting initial research, they established that the Registrant of the disputed domain name was "Sugarcane Internet Nigeria Limited", purportedly a well-known cyber squatter, whose details were purportedly later redacted for privacy. Complainant submits that as even though the registrant details were redacted, as the registration date and time of the disputed domain name remains the same, it leads to the conclusion that the Respondent is the same entity as the one reflected on the WHOIS search performed on July 29, 2021 (with the said WHOIS page being annexed as a part of Annex 1 of the Complaint). Complainant has further submitted that the email server mail.mailerhost.net 34.212.133.129 is configured on the domain name, which purportedly increases the risk of potential phishing activities.

Complainant has submitted that post identification of the Respondent, they, in an attempt to amicably resolve the matter, sent a Cease & Letter to the Respondent on July 30, 2021, via the Domain Registrar and its online contact form, as the domain is privacy-masked. Complainant submits that it sent several reminders as well through the said mode, but the only response received was the Registrar's automated messages. In this regard, the Complainant's Counsel has provided PDF copies of the said correspondence between them and the Domain Registrar as Annex 6.

Complainant submits that in view of the aforesaid, having exhausted all means available to resolve the matter, the Complaint was constrained to initiate the present INDRP proceedings to obtain the disputed domain name.

A. The Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

(Paragraph 4 (i) of the INDRP; Rules, para. 3(b)(vi)(1)

In support of the requirements under the captioned provisions of the INDRP (combined with the relevant Rules of Procedure) the Complainant has submitted that:

Complainant owns numerous MATRIX trademark registrations around the world, as well as in India, including:

- Indian trademark MATRIX n° 534128 dated July 26, 1990, duly renewed and covering goods in class 3;
- Indian trademark MATRIX WAVE SENSATION n° 2232311 dated November 11, 2011, duly renewed and covering goods in class 3;
- International trademark MATRIX no. 776942 dated February 20, 2002, duly renewed, designating inter alia Australia, China, Singapore, Tajikistan, covering goods in class 3.

Regarding the above claimed trademarks, the Complaint has annexed trademark registration certificates as well as status pages from WIPO's Madrid Monitor, as Annex 4.



Complainant has further submitted that it operates (directly or through its US subsidiary), among others, the following domain names reflecting its trademark in order to promote its services:

- <matrix.com> registered on April 13, 1990;
- <matrixprofessional.in> registered on March 24, 2016;
- <matrixprofessional.com> registered on June 29, 2012.

Regarding the above domain names, Complainant has submitted WHOIS pages of the said domain names, as Annex 5.

In view of the aforesaid, Complainant has submitted that the disputed domain name <mdaymatrixprofessional.in> is virtually identical or at least confusingly similar to Complainant's prior trademarks MATRIX and the official domain name <matrixprofessional.in>

In view of the above submissions, Complainant has relied on decisions of prior UDRP and INDRP panels WIPO Case No. D2013-0150 *Swarovski Aktiengesellschaft v. mei xudong*; INDRP Case No. INDRP/887 <colgate.in> decided on May 26, 2017, INDRP Case No. INDRP/741 <goodyear.in> decide on February 8, 2016), to further submit that the incorporation of Complainant's trademark MATRIX in its entirety in the disputed domain name, may be sufficient to establish that a domain name is identical or confusingly similar to Complainant's registered trademark. Complainant has further relied upon the prior UDRP/ INDRP decisions in WIPO Case No. D2011-1627, *L'Oréal, Lancôme Parfums et Beauté & Cie v. Jack Yang*, WIPO Case No. D2010-1059, *Rapidshare AG, Christian Schmid v. InvisibleRegistration.com*, Domain Admin and WIPO Case No. D2000-0113, *The Stanley Works and Stanley Logistics, Inc. v. Camp Creek Co., Inc.* as well as section 1.7 of the WIPO Jurisprudential Overview 3.0.

The Complainant has further submitted that the structure of the domain name <mdaymatrixprofessional.in> enhances the false impression that this domain name is somehow officially related to Complainant, as it may be perceived as the official domain name providing information about the products. In this regard, the Complainant has further submitted that the addition of generic terms to the well-known trademark does not prevent the risk of confusion between Complainants' trademark and the disputed domain name (*WIPO Case No. D2012-0047, Compagnie Générale des Etablissements Michelin and Michelin Recherche et Technique S.A. v. Ejiobara Obara*).

The Complainant has submitted that mere addition of the alphabet "m" and the generic words "day" and "professional", and the addition of the extension ".in", to the mark MATRIX, does nothing to mitigate possible confusion, and rather contributes to it, and that the addition of the term "professional" also strongly reminds consumers of Complainant's trademark "L'OREAL PROFESSIONAL". Complainant has also submitted that domain extensions such as .IN or .CO.IN should not be taken into account while assessing likelihood of confusion between a trade mark and a domain name, and for this, have relied on the cases of INDRP Dispute Decision n°L-2/1/R1 <Pepsico.in> decided on April 24, 2006; INDRP Dispute Decision n°L-2/1/R4 <Mothercare.in> decided on April 27, 2008 ; INDRP Dispute Decision n°L-2/9/R4 <sensex.in> decided on August 17, 2008.

Complainant has further submitted that as it uses its trademark MATRIX in connection with a wide variety of products and services around the world, in connection with a wide variety of

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products and services around the world and thus the public would reasonably assume that the disputed domain name belongs to Complainant or is at least, related to Complainant.

Further, Complainant has submitted that with the registration of the disputed domain name, Respondent created a likelihood of confusion with Complainant's trademarks and it is likely that the disputed domain name could mislead Internet users into thinking that this is, in some ways, associated with Complainant and thus may heighten the risk of confusion.

B. The Respondent has no rights or legitimate interests in respect of the Domain Name.

(Paragraph 4 (ii) and 7 of the INDRP; Rules, para. 3(b)(vi)(2))

In support of the requirements under the captioned provisions of the INDRP (combined with the relevant Rules of Procedure) the Complainant has submitted that:

Respondent is neither affiliated with Complainant in any way nor has he been authorised or licensed by Complainant to use and register its trademarks, or to seek registration of any domain name incorporating the previously mentioned trademark, and is also not known by the name of MATRIX. In this regard, Complainant has relied on the prior decisions in *WIPO Case No. D2013-0188, Groupe Auchan v. Gan Yu*; *WIPO Case No. D2010-0138, LEGO Juris A/S v. DomainPark Ltd*, *David Smith, Above.com Domain Privacy*, *Transure Enterprise Ltd, Host master* to submit that in absence of any license or permission from the Complainant to use such widely known trademarks, no actual or contemplated bona fide or legitimate use of the domain name could reasonably be claimed.

Complainant has submitted that Respondent has no prior rights or legitimate interests in the disputed domain name and that the registration of the MATRIX trademarks preceded the registration of the disputed domain name for years.

Complainant has also submitted that as the disputed domain name is virtually identical to the Complainant's MATRIX trademark and the official domain name <matrixprofessional.in>, the Respondent cannot reasonably pretend it was intending to develop a legitimate activity through the disputed domain name. Complainant has further submitted that the mere composition of the disputed domain name constitutes clear evidence that the Respondent wishes to give an overall impression that the disputed domain name is related to Complainant and misleadingly divert consumers for fraud or commercial gain, therefore, such composition cannot constitute fair use, further demonstrating a lack of legitimate interests regarding said domain name.

Further, the Respondent has not demonstrated use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, and the domain merely resolves to a parking page displaying commercial links relating to cosmetic products directly targeting Complainant's field of activity. Thus, it has been submitted by the Complainant that the Respondent has failed to show that the non-commercial intention or the fair use of the disputed domain name and it is most likely to be believed that Respondent has no legitimate interest or rights in the disputed domain name. Complainant has also pointed out the presence of pay-per-click (PPC) links on the webpage, which cannot be construed to amount to legitimate non-commercial or fair use of the disputed domain name (*WIPO Case No. D2009-1529, Société nationale des télécommunications, Tunisie Telecom v. Ismaël Leviste, INDRP Case No. INDRP/167 <lazard.in> decided on November 30, 2010*)).

Complainant has further submitted that it has never given any authorization to the Complainant for developing such website that will lead Internet users into wrongly believing it is endorsed



by Complainant. It has also been submitted that diversion of internet traffic to an illicit website in order to generate revenues, do not represent a use in connection with a bona fide offering of goods and services, and that the Respondent is not accurately disclosing its relationship with the trademark by falsely suggesting it is the trademark owner and its website is an official website, which is contrary to the Policy.

Complainant has also alleged that an email server has been configured on the disputed domain name thus, there might be a risk that Respondent is engaged in a phishing scheme, and suggests that the disputed domain name is not used in any type of legitimate business or services.

Complainant has also submitted that the Respondent never answered to Complainant's letter despite Complainant's reminders and best efforts, and prior panels have held that that when Respondents do not avail themselves of their rights to respond to Complainant, it can be assumed that Respondents have no rights or legitimate interest in the disputed domain name. Reliance has been placed on *WIPO Case No. D2010-1017, AREVA v. St James Robyn*; *WIPO Case No. D2003-0269, Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*.

Complainant has also asserted that it is not possible to conceive a plausible circumstance in which Respondent could legitimately use the disputed domain name, as it would invariably result in misleading diversion and taking unfair advantage of Complainant's rights.

C. The Domain Name was registered and is being used in bad faith.

(Paragraph 4 (iii) and 6 of the INDRP; para. 3(b)(vi)(3))

In support of the requirements under the captioned provisions of the INDRP (combined with the relevant Rules of Procedure) the Complainant has submitted that:

It is implausible that Respondent was unaware of Complainant at the time of registration of the disputed domain name, and that bad faith can be found where respondent "knew or should have known" of Complainant's trademark rights and, nevertheless registered a domain name in which he had no rights or legitimate interests. Reliance has been placed on *WIPO Case No. D2009-0320, Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*; *WIPO Case No. D2009-0113, The Gap, Inc. v. Deng Youqian*.

Complainant has submitted that it is well-known throughout the world, including Africa and India, and as disputed domain name reproduces entirely Complainant's trademark MATRIX (in addition to the alphabet "m" and the generic words "day" and "professional"), it is impossible that Respondent was not aware of Complainant's trademarks and activities at the time of the registration of the disputed domain name, especially as the same is virtually identical to Complainant's official domain name <matrixprofessional.in>. In this regard, Respondent has further submitted that bad faith has already been found where a domain name is so obviously connected with a well-known trademark that its very use by someone with no connection to the trademark suggests opportunistic bad faith, while placing reliance on *WIPO Case No. D2010-0494, LEGO Juris A/S v. Reiner Stotte*, *WIPO Case No. D2006-0303 Sanofi-Aventis v. Nevis Domains LLC*. Complainant has further submitted that a quick trademark search for the mark MATRIX would have revealed the Complainant's existence as well its trademarks, and failure to do so is a contributory factor to its bad faith (*WIPO Case No. D2008-0226, Lancôme Parfums et Beauté & Cie, L'Oréal v. 10 Selling*). A simple Google search ought to have revealed the said information, and in this regard, Complainant has annexed Google Search Results, showing search results originating on Google upon searching for "matrix professional", as Annex 7.

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Complainant has further submitted that in previous cases, knowledge of a corresponding trademark at the time of registration of the domain name suggests bad faith (*WIPO Case No. D2000-0270, Document Technologies, Inc. v. International Electronic Communications Inc.*, *WIPO Case No. D2006-0464, Caixa D'Estalvis I Pensions de Barcelona ("La Caixa") v. Eric Adam*; *WIPO Case No. D2008-0287, Alstom v. Domain Investments LLC*; *WIPO Case No. D2007-0077, NBC Universal Inc. v. Szk.com*).

Further, in the absence of license or authorization from Complainant to use such widely known trademarks, no actual or contemplated bona fide or legitimate use of the domain name can be construed, and in this regard, Complainant has relied on the prior decisions in *WIPO Case No. D2000-0055, Guerlain S.A. v. Peikang*; *WIPO Case No. D2008-0281, Alstom, Bouygues v. Webmaster*. Complainant has also submitted that it can be presumed that many Internet users attempting to visit Complainant's website may have found their way to the disputed domain name due to the claimed similarity (reliance placed on *WIPO Case No. D2012-1765, MasterCard International Incorporated ("MasterCard") v. Wavepass AS*; *WIPO Case No. D2006-1095, Edmunds.com, Inc. v. Triple E Holdings Limited*).

Due to the presence of PPCs on the webpage on the disputed domain name, Complainant has asserted that Respondent is intentionally attempting to attract Internet users to its domain name/website for commercial gain by creating likelihood of confusion with the Complainant's mark and official domain name. Further, Respondent's domain name may also prevent Internet users from accessing Complainant's official website by confusing prospective users.

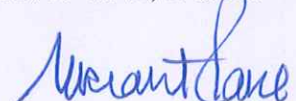
Complainant has also submitted that the clear inference to be drawn from the Respondent's activities is that its intention to abusively benefit from Complainant's reputation and trademarks. Complainant has again drawn attention to the fact that an email server has been configured on the disputed domain name and thus, there might be a risk that Respondent is engaged in a phishing scheme, and has submitted that such risk has been recognised in *WIPO Case No. D2017-1225, Accor SA v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Yogesh Bhardwaj*.

In view of the above, Complainant has submitted that it is more likely than not, that Respondent's primary motive in registering and using the disputed domain name was to capitalise on or otherwise take advantage of Complainant's trademark rights, through the creation of initial interest of confusion.

Complainant has also submitted that it is likely that the initial Respondent (Sugarcane Internet Nigeria Limited) is still the current owner of the disputed domain name, and that Sugarcane Internet Nigeria Limited is a well known cyber squatter, subject matter of various other UDRP proceedings. Complainant has also provided few examples of such UDRP cases involving Sugarcane Internet Nigeria Limited.

Complainant has further placed it on record that it has led multiple complaints against 10 additional domain names typosquatting its official domain name and presenting similar circumstances in which they were registered and used as the present disputed domain name, including their structure, registrant, direction and presence of email servers, proving Respondent has registered and used the disputed domain names in bad faith as it is not plausible it was not aware of the Complainant's trademark MATRIX.

In view of the aforesaid submissions, Complainant has stated that the Respondent registered the domain name to prevent Complainant from using its trademarks in the disputed domain name and that according to the prior panel in the case of *WIPO Case No. D2009-0242, L'oreal v. Chenxiansheng*, such conduct constitutes bad faith.



5. Other Legal Proceedings

The Complainant has submitted that they are unaware of any other legal proceedings that have been commenced or terminated in connection with the domain name <mdaymatrixprofessional.in>.

6. Reliefs claimed by the Complainant (Paragraph 10 of the INDRP read with Paragraph 3(b)(vii) of the INDRP Rules of Procedure)

The Complainant has requested that the domain name <mdaymatrixprofessional.in> be transferred to them.

7. Respondent's Contentions

As already mentioned in the Procedural History of the matter, despite having been duly served with a copy of the Domain Complaint as filed, and thereafter granted adequate time to respond to the same, the Respondent had not submitted any response thereto, or in fact any communication of any kind to either the Complainant, NIXI or the Arbitrator during pendency of arbitral proceedings in the matter.

8. Discussion and Findings

In a domain complaint, the Complainant is required to satisfy three conditions as outlined in Paragraph 4 of the .IN Domain Name Dispute Resolution Policy, i.e.:-

- i. The Registrant's domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights;
- ii. The Registrant has no rights and legitimate interest in respect of the domain name;
- iii. The Registrant's domain name has been registered or is being used in bad faith.

i. The Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights

(Paragraph 4(a) of the .IN Domain Name Dispute Resolution Policy)

The Complainant has established its rights in the trademark 'MATRIX', by virtue of its trademark registrations for the same in jurisdictions worldwide, including in India (wherein the application no. 534128 for the mark MATRIX in class 03 was filed on July 26, 1990. The Complainant has placed copies of the registration certificates of trademark registrations obtained by it in India on record, all of which pre-date the registration of the Respondent's domain name.

It is well established that trade mark registration is recognized as prima facie evidence of rights in a mark. The Complainant, by filing documents of its registered trademarks has established that it has prior statutory rights in the mark 'MATRIX' in jurisdictions around the world, including in India.

The Complainant has also submitted that it has registration of its own domains <matrix.com> (since 1990) and <matrixprofessional.com> (since 2012), as well as registration of its India-specific domain name, <matrixprofessional.in>, which was created / registered on and has been regularly renewed since **March 24, 2016**.

The Complainant has, in support of its arguments, further pointed out that the disputed domain name, <**mdaymatrixprofessional.in**>, incorporates its trademark 'MATRIX' in its entirety and may, therefore, be said to be identical/confusingly similar to the Complainant's aforementioned trademark. Complainant has also submitted that the disputed domain name <**mdaymatrixprofessional.in**> virtually identical to its prior registered domain names <**matrixprofessional.com**> and <**matrixprofessional.in**>. In view of this, the Arbitrator concurs with Complainant's assertions that addition of a generic word like 'DAY' and the alphabet "M" not only does nothing to alleviate from similarity in the domain name, but in fact exacerbates the likelihood of consumer confusion.

The Complainant has also submitted that mere addition of the alphabet "m" and the generic words "day" and "professional", and the addition of the extension ".in", to the mark MATRIX, does nothing to mitigate possible confusion, and rather contributes to it, and that the addition of the term "professional" also strongly reminds consumers of Complainant's trademark "L'OREAL PROFESSIONAL". Arbitrator concurs with this assertion.

The Complainant has also established that it did not at any time license or otherwise authorize the Respondent to register the disputed domain name comprising of the Complainant's trade mark.

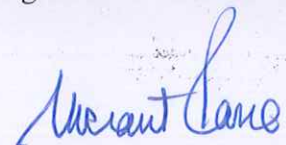
The Complainant has referred to several WIPO decisions as well as decisions by the National Arbitration Forum and Panel decisions under the INDRP, as has been mentioned above, in favour of its contentions and arguments.

The Complainant has also submitted annexures, as described above, to establish the availability, extent of use and popularity of its **MATRIX** marks in India as well as worldwide.

It may be stated that the disputed domain name <**mdaymatrixprofessional.in**> is confusingly similar to the Complainant's trade mark 'MATRIX' and completely incorporates the said trade mark of the Complainant. It has been held by prior panels deciding under the INDRP that there exists confusing similarity where the disputed name incorporates the Complainant's trade mark, such as *Kenneth Cole Productions v. Viswas Infomedia INDRP/093*, *Indian Hotel Companies Limited v. Mr. Sanjay Jha, INDRP/148* <Gingerhotels.co.in>, *Carrier Corporation, USA v. Prakash K.R. INDRP/238* <Carrier.net.in>, *M/s Merck KGaA v. Zeng Wei INDRP/323* <Merckchemicals.in>, *Colgate-Palmolive Company & Anr. v. Zhaxia INDRP/887* <Colgate.in> and *The Singer Company Limited v. Novation In Limited INDRP/905* <singer.co.in>.

It may further be stated that the disputed domain name <**mdaymatrixprofessional.in**> is also similar to Complainant's domain names/ websites <**matrixprofessional.com**> and <**matrixprofessional.in**>.

In view of the aforesaid, the Arbitrator accepts that the Complainant's rights in its trademark 'MATRIX' under Paragraph 4(i) of the INDRP has been established.



ii. **The Registrant has no rights and legitimate interest in respect of the domain name (Paragraph 4(ii) and Paragraph 6 of the .IN Domain Name Dispute Resolution Policy)**

The disputed domain name incorporates the mark 'MATRIX', in which the Complainant has statutory rights by virtue of having valid and subsisting prior trademark registrations in several jurisdictions around the world, including in India.

The Complainant has further contended, with substantiating arguments, that there is no credible or legitimate reason for the Respondent to have adopted a domain name deceptively similar to the Complainant's trademark **MATRIX** (as well its domain names <matrixprofessional.com> and <matrixprofessional.in>).

Complainant has also contended that the mere composition of the disputed domain name constitutes clear evidence that the Respondent wishes to give an overall impression that the disputed domain name is related to Complainant and misleadingly divert consumers for fraud or commercial gain, therefore, such composition cannot constitute fair use, further demonstrating a lack of legitimate interests regarding said domain name. Arbitrator accepts this contention, especially in light of the fact of the similarity between the Complainant's domain names <matrixprofessional.com> and <matrixprofessional.in> with the disputed domain name <mdaymatrixprofessional.in>, in addition to similarity with Complainant's registered trade mark **MATRIX**.

On the other hand, the Respondent has not submitted any registration certificates for the mark 'MATRIX' or variations or formatives thereof, or in fact any evidence of its rights to the aforesaid marks. It has not been able to establish any of the conditions pre-requisite for considering a registrant's rights and legitimate interests in a domain name as set out under Paragraph 6 of the INDRP.

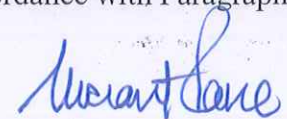
The Complainant has established a prima facie case of its rights in the mark 'MATRIX', and has referred to several Panel decisions as well as WIPO decisions in favour of its contentions and arguments. Therefore, in accordance with the holding of previous panels under the INDRP, the evidentiary burden shifted to the Registrant (Respondent) to rebut the showing by providing evidence of its rights or interests in the domain name, which it has failed to do in the current proceedings.

The Complainant has no relationship with the Respondent and has not permitted or licensed the Respondent to use or register the disputed domain name.

Use of such a confusingly and deceptively identical/similar domain name by the Respondent is likely to mislead and misrepresent to the general public and members of the trade as to the source, sponsorship, affiliation or association of the activity being carried on through the website.

Further, the Respondent did not supply any response to the Complainant's attempts to amicably resolve the matter, thereby not showing any legitimate use of the domain name.

In view of the aforesaid, the Arbitrator accepts the Complainant's claim that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with Paragraph 4(ii) and 6 of the INDRP.



iii. **The Registrant's domain name has been registered or is being used in bad faith (Paragraph 4(iii) and Paragraph 7 of the INDRP)**

The Respondent is not making any fair and non-commercial use of the disputed domain name as on date. The disputed domain name in fact merely resolves to a parking page displaying commercial links relating to cosmetic products directly targeting Complainant's field of activity, and is consequently likely to lead to actual confusion among the lay public and consumers as well as members of the trade. The Respondent's use of the disputed domain name, therefore, does not appear to be bona fide and appears intended to deceive the lay public and trade off on the Complainant's reputation.

It is pertinent to mention, also, that the Respondent has not submitted any reply nor rebuttal to the Complainant's contentions, or evidence in support of its bona fide use of the disputed domain name.

Furthermore, the Arbitrator notes the Complainant's assertion that the disputed domain name is using PPCs and said links pertain to cosmetic products (i.e. directly targeting Complainant's field of activity), and finds the same to be evidence of bad faith as well. Based on the above, it prima facie appears that the Respondent is engaged in conduct enumerated in paragraph 7(c) of the Policy, namely "*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*".

In view of the aforesaid, and in the absence of any rebuttal from the Respondent, the Arbitrator concludes that the Complainant has satisfactorily proved the requirements of Paragraph 4(iii) and Paragraph 7 of the INDRP.

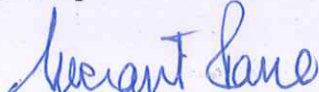
9. Decision

Based upon the facts and circumstances and further relying on the materials as available on the record, the Arbitrator is of the view that the Complainant has statutory and proprietary rights over the trade mark 'MATRIX' and variations thereof. The Complainant has herein been able to prove conclusively that:

- i. The Registrant's domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights;
- ii. The Registrant has no rights and legitimate interest in respect of the domain name;
- iii. The Registrant's domain name has been registered or is being used in bad faith.

The Arbitrator therefore allows the prayer of the Complainant and directs the .IN Registry to transfer the domain <mdaymatrixprofessional.in> to the Complainant.

The Award is accordingly passed and the parties are directed to bear their own costs.


Vikrant Rana, Sole Arbitrator

Date: August 22, 2022.

Place: New Delhi, India.