

Government of National Capital Territory of Delhi

₹100

[illegible]

Certificate No.	: IN-DL13800653728768U
Certificate Issued Date	: 11-Nov-2022 11:13 AM
Account Reference	: SELFPRINT (PU)/ dl-self/ NEHRU/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDL-SELF04014925194530U
Purchased by	: S S RANA AND CO VIKRANT RANA
Description of Document	: Article 12 Award
Property Description	: ARTICLE - 12 - AWARD
Consideration Price (Rs.)	: 0 (Zero)
First Party	: VIKRANT RANA
Second Party	: NOT APPLICABLE
Stamp Duty Paid By	: VIKRANT RANA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



SELF PRINTED CERTIFICATE TO BE
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IN-DL13800653728768U

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BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME DISPUTE RESOLUTION POLICY
(Appointed by the National Internet Exchange of India)

ARBITRATION AWARD

Disputed Domain Name: <USPA.IN>

IN THE MATTER OF

United States Polo Association
1400 Centrepark Blvd., Suite 200,
West Palm Beach, FL 33401, United States of America

..... Complainant

-----versus-----

Aman Mishra
712, Niti Khand 3, Indirapuram,
Ghaziabad, Uttar Pradesh 201014, India

..... Respondent / Registrant

Warrant Case

Chetaniya, Alaka

1. The Parties

The **Complainant** in this arbitration proceeding is **United States Polo Association**, of the address *1400 Centrepark Blvd., Suite 200, West Palm Beach, Florida - 33401, United States of America*.

The **Respondent** in this arbitration proceeding is one **"Aman Mishra"**, of the address: *712, Niti Khand 3, Indirapuram, Ghaziabad, Uttar Pradesh 201014, India*.

2. The Domain Name, Registrar and Registrant

The present arbitration proceeding pertains to a dispute concerning the registration of domain name **<USPA.IN>** with the .IN Registry. The Registrant in the present matter is **"Aman Mishra"**, and the Registrar is **Dynadot, 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 August 31, 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, along with the Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure. NIXI had handed over the Domain Complaint and Annexures thereto to the Arbitrator on the same date, i.e. August 31, 2022
- Thereafter, the Arbitrator vide email dated September 06, 2022, had acknowledged receipt of the abovementioned documents received from NIXI, 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 within seven (7) days from September 06, 2022, and the said directions were acknowledged by the Complainant's Counsel on the same day.

- Subsequently, the Arbitrator was in receipt of an email dated September 12, 2022 from the Complainant's Counsel, enclosing proof of service by physical mode (BlueDart Waybill showing date of delivery as September 07, 2022). However, rather than providing proof-of-delivery by email/ soft-copy, the Complainant's Counsel only provided a PDF copy of the email as sent by them to the Respondent. The Arbitrator noted this discrepancy, and accordingly directed the Complainant's Counsel vide email on the same date, to provide proof-of-delivery (POD) of the soft copy of the Complaint and the documents served upon the Respondent as well, by providing the email delivery receipt(s), within two (2) days of receipt of the Arbitrator's email. In response thereto, Arbitrator was then in receipt of a subsequent email from the Complainant's Counsel on the same date, enclosing a copy of the Proof of Delivery of the soft copy of the documents.
- In view of the above successful delivery of the documents upon the Respondent (in light of the POD provided by the Complainant's Counsel), the Arbitrator vide email dated September 13, 2022, commenced arbitration proceedings in respect of the matter. Respondent was granted time till September 28, 2022 to submit his response.
- The Arbitrator was then in receipt of an email dated September 26, 2022 from the Respondent, wherein the Respondent had not kept the other parties to the proceedings copied in this email (i.e. .IN Registry, Complainant, etc.), in contravention of the INDRP Rules of Procedure. In the said email, the Respondent had inter alia, sought time of ten (10) days to file a reply to the domain complaint.
- In light of the Respondent's above-noted request, the Arbitrator vide email dated September 28, 2022, acknowledged receipt of the Respondent's email and request and directed the parties to mandatorily include all the parties, i.e. the Complainant (through its Counsel), Respondent, as well as NIXI, copied in any future correspondence in respect of the captioned matter. Further, vide the said email, the Arbitrator, in the interests of justice, granted an additional time of ten (10) days from the date of the email to the Respondent, to file his response to the Complaint, and forward a copy of the same to the Arbitrator, the Complainant and to NIXI within the said time period.
- Thereafter, the Arbitrator was in receipt of an email dated October 07, 2022, from the Respondent, furnishing his reply to the Complaint along with providing annexures to the

same via an online download link. The Arbitrator was then in receipt of an email dated October 10, 2022, from the Complainant's Counsel, acknowledging receipt of the Respondent's reply, and requesting to be granted an opportunity to file a rejoinder to the reply within a reasonable period of time. In view of the Complainant's abovementioned request and in the interests of justice, the Arbitrator vide email on the same date, granted a time of ten (10) days from receipt of the email, to furnish a rejoinder.

- However, the Arbitrator was then in receipt of an email dated October 12, 2022, from the Complainant's Counsel, inter alia informing that the download link provided by the Respondent is non-operational, and thus requesting the Arbitrator to direct the Respondent to send a fresh download link and accordingly also consider the deadline of ten (10) days to file a rejoinder, to commence from the day on which the Respondent sends a fresh functioning link. In light of the Complainant's Counsel's above-mentioned problem, the Arbitrator vide email on the same day, directed the Respondent to provide a fresh download link, in response to which the Respondent vide email dated October 13, 2022, provided a fresh download (Google Drive) link.
- In view of the aforesaid, the Arbitrator vide email dated October 14, 2022, asked the Complainant's Counsel to confirm if the fresh link is functional and if the documents (Respondent's reply and annexures) are accessible. The Complainant's Counsel vide email on the same day confirmed that the link is functional and confirmed receipt of the Respondent's reply and corresponding annexures, and also craved leave from the Arbitrator to file their rejoinder by October 22, 2022. Thus, in the interests of justice, the Arbitrator granted time till October 22, 2022, to submit their rejoinder.
- Subsequently, the Arbitrator was then in receipt of an email dated October 22, 2022, from the Complainant's Counsel, enclosing their rejoinder, and further affirming to dispatch a physical copy of the same by courier to the Respondent by October 27, 2022 (on account of closure of their offices due to the festival of Diwali). In view of the aforesaid, the Arbitrator took the rejoinder and accompanying annexures on record and concluded the arbitral proceedings, and reserved the arbitral award. In this regard, the Respondent then acknowledged receipt of the copy of the Rejoinder and informed that physical service is not required.

- However, vide email on the next day, i.e. morning of October 27, 2022, the Arbitrator was in receipt of an email from the Respondent, craving leave to file a reply/ rebuttal to the Complainant's Counsel's rejoinder. Even though the arbitral proceedings were concluded a day earlier, the Arbitrator, in the interests of justice and in light of the circumstances, took cognizance of the Respondent's request, and accordingly granted a time of three (3) working days to the Respondent vide email dated November 01, 2022, to file a response and decreed that no additional time or opportunity shall be granted to any party.
- The Respondent then, within the stipulated deadline, filed his rebuttal to the rejoinder filed by the Complainant, on November 02, 2022. Accordingly, vide email dated November 02, 2022, the Arbitrator took the Respondent's rebuttal (and correspondent annexure) on record and formally concluded proceedings on November 02, 2022, and reserved the present award.

4. Factual Background - Complainant

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

The Complainant was founded in 1890 and is the second oldest official governing body of the sport of polo in the United States. In this regard, the Complainant's Counsel, vide Annexure 1, has submitted documents outlining the history of the Complainant. In the said annexure, the documents therein mention that the Complainant was originally formed in 1890 as "The Polo Association", and in this regard has submitted a copy of their "original formation documents". They have further submitted that they only adopted "U.S. Polo Assn." brand as its official brand name in 1985, and since then have used the said name and various logos in its officially sanctioned apparel and merchandise. Complainant has submitted that they provide their "USPA official branded apparel, accessories, bags, watches, shoes, small leather goods, handbags, luggage, backpacks, eye wear, etc." under the "U.S. Polo Assn." brand in various locations worldwide, including but not limited to India, through its trusted partners and licensees.

Complainant has further submitted that the "U.S. Polo Assn." brand uses several different marks and logos, including the below:



U.S. POLO ASSN.

USPA

U.S. POLO ASSOCIATION

UNITED STATES POLO ASSOCIATION



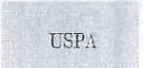

Vide the documents included in Annexure 1, the Complainant has submitted that they have more than 1,500 trademark registrations in over 169 jurisdictions, and has over 1,000 U.S. Polo Assn. branded stores worldwide in 150 countries, and has achieved retail sales of \$1.6 Billion in 2017, making the U.S. Polo Assn. brand consistently among the top 50 largest brands in the world for the last 5 years. Complainant has further submitted that it uses funds received to help, inter alia, humanitarian aid, and that it also sponsors polo teams and tournaments worldwide. Complainant also works closely and sponsors the Federation of International Polo (FIP) and in 2018, sponsored the South African Polo Team playing in the FIP World Polo Championship Zone E playoffs in Tehran as well as the FIP World Polo Championship held in Sydney, Australia.

Complainant, vide Annexure 2 to the Complaint, has also provided extracts from its websites, showing the goods sold by them under their brands. Complainant has submitted that over the course of time, they have risen in global reach and is today a premier name in the fashion and lifestyle industry, and has developed into a global market leader in, inter alia, women and children's apparel, accessories, etc. Complainant has further submitted that its extensive sales and global outreach are a result of worldwide distribution of its products via its over 1,100 U.S. Polo Assn. branded stores, as well as many thousands of independent retail and department stores and e-commerce platforms. In this regard, the Complainant has submitted vide Annexure 3, a geographical representation of its stores, wherein it is mentioned that they have 276 "USPA Mono-Brand Stores" in India and 877 worldwide.

Regarding trademarks, the Complainant has submitted that "USPA" is an abbreviation for the Complainant's trade name/trademark "United States Polo Association", and that the same was adopted in the year 1983, and commenced use of the brand "USPA" in India in 1999. The Complainant, regarding the "USPA" brand, in Annexure 4, has submitted that the "USPA" brand was visible on their website since December 1998, via screenshots of the Complainant's websites through Internet Archives.

In view of this, Complainant has submitted that the "USPA" trademark has acquired substantial goodwill and is an extremely valuable commercial asset of the Complainant, and the Complainant is the proprietor of the trademark "USPA" by virtue of priority in adoption, continuous and extensive use, widespread advertising and the tremendous reputation accruing thereto in the course of trade.

Further regarding trademarks, Complainant has submitted that in addition to the common law rights accruing in favour of the Complainant's "USPA" trademark, the Complainant is also the registered proprietor of the said mark, and its earliest registration for the mark "USPA" in India dates back to December 05, 2013. In this regard, Complainant has provided the below list of trademarks:

Trademark	Reg. Number	App. Date	Class	Status
	2728994	May 01, 2014	18, 25	Registered
	2637928	December 05, 2013	9	Registered
U.S. POLO ASSOCIATION	1504388	November 15, 2006	18	Registered
U. S. POLO ASSOCIATION	1571274	June 22, 2007	20	Registered
U. S. POLO ASSOCIATION	1571275	June 22, 2007	24	Registered
U.S. POLO ASSN.	2225429	October 25, 2011	18	Registered
U.S. POLO ASSN.	2225430	October 25, 2011	20	Registered
U.S. POLO ASSN.	2225431	October 25, 2011	25	Registered
U.S. POLO ASSN.	2637927	December 05, 2013	9	Registered

Regarding the above trademarks in India, Complainant has submitted trademark registration certificates for its above noted "USPA" trademarks as Annexure 5.

In addition to the above Indian trademarks, Complainant has submitted copies of US trademark registration certificates for “USPA” formative marks, as well as excerpts of trademarks from other Registers/ websites, as Annexure 6. Complainant has also submitted that it has been the recipient of unsolicited media publicity and recognition and in this regards has provided copies of relevant news and press releases regarding the Complainant’s awards and accolades received over the years, as Annexure 7, and copies of social media handles as Annexure 8 (to demonstrate online presence).

The Complainant has submitted that it is also active in enforcing and protecting its rights in its trademark “USPA”.

Besides trademark rights, the Complainant has also submitted that it owns various USPA formative domain names and has provided WHOIS details of select such domain names, as Annexure 9.

5. Contentions And Legal Grounds Submitted By The Complainant

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

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

(Policy, Paragraph 4(a); Rules, Paragraph 4(b)(vi)(1))

- That the Complainant offers for sale various products under the trademark “USPA” and is the registered proprietor of the brand/ trademark “USPA”.
- That the Complainant adopted the trademark “USPA” globally in the early 1980s and in India in the late 1990s, and that the Complainant is the rightful proprietor of the trademark “USPA” by virtue of priority in adoption, registration, continuous and extensive use, widespread advertising and the tremendous reputation accruing in the course of trade.
- That the disputed domain name is identical to the Complainant’s registered trademark “USPA”, and it comprises solely of the Complainant’s trademark

“USPA” in its entirety. Further, the Respondent has not even included any generic additional term to attempt a differentiation with the Complainant’s trademark “USPA”.

- That due to such similarity, an Internet user may be misled when coming across the disputed domain name. (In this regard, Complainant has placed reliance on the UDRP Decisions in *Instagram, LLC v. Super Privacy Service LTD c/o Dynadot / Edmunds Gaidis*, Case No. D2021-0401; and *The Ritz Hotel, Limited v. Damir Kruzicevic*, WIPO Case No. D2005-1137).
- That the similarity/ identity between the disputed domain name and the Complainant’s trademarks is sufficient for the purposes of the Policy.
- That the Complainant has established its rights in the trademark “USPA” on account of its extensive global use and trademark registrations, and a man of average intelligence and imperfect recollection would be confused between the disputed domain name and the Complainant’s trade mark “USPA”. (reliance placed on *LEGO Juris A/S v. Domain Administrator, Rich Premium Limited / c/o WHOIStrustee.com Limited* (WIPO Case No. D2014-1565))
- That the relevant public and the people visiting the disputed domain name will definitely associate the said disputed domain name with the Complainant alone. Further, pursuant to the already existing goods of the Complainant under the trademark “USPA” there exists a very high chance of association of the disputed domain name with the Complainant’s marks in the minds of the Internet users, and the users will be forced to associate/derive a nexus between the Respondent’s website and that of the Complainant’s popular trademark “USPA”.
- That the Respondent applied for the disputed domain on August 17, 2020, which is much subsequent to the date of adoption & use of the trademark “USPA” by the Complainant, i.e., the 1980s.
- That the disputed domain name consists of links leading to third party websites selling the Complainant’s goods under the trademark “USPA”. In this regard,

Complainant has provided screenshots of the disputed domain name and the alleged third-party links, as Annexure 12. Further to this, given that a consumer on visiting the disputed domain name will come across such third-party links leading directly to purchase the Complainant's products, the Internet users will naturally assume that the disputed domain name belongs to or has been authorized by the Complainant (reliance has been placed on *Apple Inc. v. Fred Bergstrom, Lotta Carlsson, Georges Chaloux and Marina Bianchi, WIPO Case No. D2011-1388*).

- That an Internet user who carries out a WhoIs search for the disputed domain name will find that the registration of <uspa.in> is in the name of the Respondent, or, alternatively, is not in the name of the Complainant, which will further upsurge the severe confusion in the mind of such a user, and would mislead a user into believing that the Respondent is in some way associated with or affiliated to the Complainant, or that the Respondent is acting with the consent or endorsement of the Complainant, which is not the case.
- That a Google search for the trademark "USPA" would reveal several web links to the Complainant's goods under the trade mark "USPA". In this regard, Complainant has provided extracts of Google search results, as Annexure 13.

Accordingly, Complainant has asserted that the disputed domain name <uspa.in> is identical with the Complainant's brand/trademark "USPA"

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

(Policy, Paragraph 4(b); Rules, Paragraph 4(vi)(2))

- That the Respondent has no proprietary or contractual rights in the Complainant's trademark "USPA" in whole or in part. Therefore, Respondent registered a domain name that is identical to the Complainant's well-known trademark, without the Complainant's consent or authorization and with no rights or legitimate interests with respect of the disputed domain name.

- Respondent is not commonly known by the disputed domain name nor does the Respondent engage in any business or commerce under the trademark and/or trade name “USPA”. The Respondent is not a licensee of the Complainant, nor has ever been authorized by the Complainant to use the Complainant’s trademark or register the disputed domain name. The Complainant has no relationship with the Respondent. (reliance placed on *The Toro Company v. Dick Egy*, USDRP Case No. FA1404001553926; and also on *F. Hoffmann-La Roche AG v. WhoisGuard Protected, WhoisGuard, Inc. / Samantha Park* (WIPO Case No. D2018-2495)) The Respondent is in no way related to the Complainant or its business activities nor is the Respondent an agent of the Complainant.
- That the Respondent has not made any legitimate use of the disputed domain name since its registration in August 2020. There is no evidence whatsoever of the Respondent’s use of, or demonstrable preparations to use, the disputed domain name, in connection with a *bona fide* offering of goods or/ and services. That the Respondent almost certainly registered the disputed domain name to divert Internet users to the Respondent’s pay-per-click parking page, and it appears that under the attendant circumstances, the Respondent’s use of the disputed domain name for a pay-per-click parking page does not constitute use of the disputed domain name in connection with a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.
- That the third-party links leading directly to purchase the Complainant’s products violate the Complainant’s rights in its registered trademark “USPA” as the Complainant has not authorized the Respondent to advertise such links.
- That the Respondent is not even making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain as it is evidently misleading and diverting consumers. (reliance placed on *SGII, Inc. v. New Ventures Services, Corp.* (WIPO Case No. D2019-2748); and also on *Facebook, Inc. v. S. Demir Cilingir* (WIPO Case No. D2018-2746), wherein the Panel, inter alia held that “a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (such as automatically generated pay-per-click links)”.

- That the Complainant is the registered proprietor of the trademark “USPA”, in India, and that the trademark “USPA” has become highly distinctive of the Complainant’s goods and services.

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

(Policy, Paragraph 4(c); Rules, Paragraph 4(vi)(3))

- That the Respondent has registered the disputed domain name solely with an ulterior motive to make monetary profits by providing a space for advertisement of third-party websites listing the Complainant’s products.
- That the lack of any legitimate or good faith use suggests the Respondent’s strong bad faith. The disputed domain name was registered by the Respondent after complete knowledge of the Complainant’s extremely popular trademark “USPA” with an ill-motive to gain unfair advantage.
- That the Respondent has parked the disputed domain consisting of the Complainant’s well-known trademark “USPA” and such dishonest use amounts to use and registration in bad faith.
- That considering that the disputed domain name has stayed inactive since its registration, it is evident that the Respondent registered the same in bath faith.
- That the disputed domain name is not only registered in bad faith but is also being used by the Respondent in bad faith, as it has never been used in relation with any active website but simply lists pay-per-click advertisement links.
- The *mala fide* intention becomes even more evident from the fact that the Respondent is aware of the Complainant and has even then not sought the Complainant’s authorization to use its registered trademarks, in the context that the domain is providing advertisement links to third-party retailers selling the Complainant’s goods.

- That while the Respondent has no intention to use the disputed domain name, the Respondent is simply unlawfully monetizing on the Complainant's goodwill and reputation by providing pay-per-click links to the Complainant's products on the disputed domain name. Such inactivity suggests a strong bad faith on part of the Respondent. (reliance placed on *Telstra Corporation Limited v. Nuclear Marshmallows*, (WIPO Case No. D2000-0003), specifically that *the Panel also determined that registration alone may be sufficient to establish bad faith in particular circumstances, despite the lack of any other overt action.*
- That the disputed domain name also indicates that the domain name is available for purchase.
- That the Respondent is receiving pay-per-click fees from the linked websites that are listed on the disputed domain name and are being used for its own commercial gain, and the use of the disputed domain name to host a parked page comprising pay-per-click links does not represent a *bona fide* offering. (reliance placed on *Ferring B.V. v. Domain Administrator, Fundacion Privacy Services LTD.* (Case No. D2021-0784)).
- That the Respondent also has no intention of *bona fide* use of the disputed domain name and, instead, is seeking to make unfair and illegal commercial gain, and cause immense losses to the Complainant. If the motive of the Respondent was *bona fide*, the Respondent could well have chosen a domain name that was not identical to Complainant's and/or in which Complainant had no rights. In view of the same, the disputed domain name was registered with malafide intentions.
- That considering that the disputed domain name redirects to third party websites selling the Complainants products featuring the Complainant's trademarks, the same shows that the Respondent was aware of the Complainant's trademarks when registering the disputed domain name. That the same is clear evidence that the registration of the disputed domain name was made to gain monetary benefits by providing pay-per-click links and diverting Internet users and constitutes use of the domain in bad faith. (reliance placed on *Koenigsegg Automotive AB v. Registration Private, Domains By Proxy, LLC / MPH Club* (Case No. D2021-2891))

- That the date of registration of the disputed domain name is significantly subsequent to the dates of adoption & use of the Complainant's mark USPA.
- That the Complainant is extremely well-known and popular amongst the Indian populace and there is virtually no possibility that the Respondent was unaware of its existence or presence in the market, which is substantiated by the fact that the Respondent itself is hosting pay-per-click advertisements on the disputed domain name leading to the websites selling the Complainant's goods.
- That as the Respondent was evidently aware of Complainant's presence, popularity and stature, there can be no legitimate ground or reason for which the Respondent would register the well-known trademark of another company to attract Internet users to its website. (reliance placed on *Signify Holding B.V. v. Private Registration / Tomas Baran*, WIPO Case No. D2019-3135); and also on *Mari Clarie Album v. Marie-Claire Apparel Inc.* (D2003-0767), *Veuve Clicquot Ponsardin, Maison Fondee en 1772 v. Herreveld*, (D2000-0776), *Adidas-Salomon AG v. Domain Locations* (D2003-0489).
- That the Respondent has registered the domain name primarily for the purpose of disrupting the business of the Complainant.

6. 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 <USPA.in>.

7. Reliefs claimed by the Complainant (Policy, Paragraph 11; Rules, Paragraph 4(b)(vii))

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

8. Respondent's Contentions – vide reply dated October 07, 2022

The Respondent vide its reply dated October 07, 2022, to the present Domain Complaint, has put forward the below submissions:

- That the Respondent has registered the disputed domain name in good faith and has future-plans for the same.
- That the Complainant has filed the complaint in bad faith by concealing facts in regard to the complaint.
- That the Respondent has registered the domain name during his college days in the year 2020 for his future-plans for using it as a non-profit coaching institute, platform for skill development, upskilling of underprivileged people for preparation/ teaching/ making them ready for current market demands that can help them to get knowledge and practical skills with which they can make their livelihoods better for themselves as well as their future generations.
- That the Respondent, during his college days, also suggested/ advised to a few known people to improve their branding and online presence by adopting online branding and promotion methods and since then the Respondent is associated with domain names and its technical know-how. Thus, the Respondent in advance, has registered many other domain names other than the disputed domain name for his future-plans in many other fields.
- That the Respondent has not used the disputed domain name since its registration, and it was merely parked with a domain name parking platform as the respondent has plans to develop the same in future.
- That the Respondent has plans to use the word 'USPA' as a short term for Urban Studies for Public Administration, Urban School for Public Assistance, Urban School for Professional Assistance etc., a Centre for Urban Studies for Public Administration) as Social Education & Education Service Provider which is not at all associated with the Complainant's mark in any way and also the Respondent

has even planned the taxation scheme he may apply for, regarding a venture for social service in the field of education sector.

- That many organizations, businesses are currently running under the name of USPA, including *Unifor SPA*, *Uganda Sports Press Association*, *Ukrainian Sea Ports Authority*, *Ultrasound-guided Photoacoustic*, *USPA Maheshwari Shelters LLP*, *Uniform Standards of Professional Appraisal*, *United Society of Pastel Artists*, *Union Syndicale de la Production Audiovisuelle* etc. In this regard, the Respondent has also provided a list of further such names whose abbreviation is USPA as well as some trademarks filed in India, which are similar/ identical to USPA, as Annexure 2 to the Respondent's reply dated October 07, 2022.
- That the Complainant does not own any 'USPA' domain names in any international/ main/ global extensions of domain names including .com, .org or .net which can prove its global presence. In this regard, the Respondent has mentioned the domain names USPA.com, USPA.org, USPA.net and USPA.biz as examples, of USPA formative TLDs owned by third parties. Respondent has further asserted that it does not also own the ".US" domain name for the abbreviation "USPA", i.e. USPA.us, with the USA being the home country of the Complainant. The Respondent has also submitted copies of the WHOIS search results for the said domain names as Annexure 3 to the Respondent's reply dated October 07, 2022. That the Complainant claims to be a lifestyle brand having its presence worldwide, even though they do not own the TLDs .com, .org or .net, which are commonly used to denote global business presence.
- That the Complainant, knowingly and deliberately concealed the fact that the disputed domain name was previously used by a 'Dance Academy' which is still active. In this regard, the Respondent has annexed archived screenshots of the website as earlier hosted on the disputed domain name as Annexure 4 to the Respondent's reply dated October 07, 2022.
- That the Complainant never registered the disputed domain name for years when it was freely available from its launch in 2005, which shows that the Complainant is

attempting to misuse its power and resources by bringing the present domain complaint.

- That the Complainant has failed to prove the three essentials of proving registration and use of a domain name in bad faith.
- That the Complainant has failed to prove that the domain was registered for the purpose of selling, renting, or otherwise transferring the registration to the owner of any of the existing trademark or service mark, or to a competitor of the complainant. In this regard, the Respondent has submitted copy of an email/offer received by him for sale of the domain name, and his refusal to sell the same, as Annexure 5 to the Respondent's reply dated October 07, 2022.
- That the Complainant has failed to prove that the Registrant/ Respondent has registered the domain name to prevent the owner of the trademark or service mark from reflecting the mark in the corresponding domain name.
- That the Complainant has failed to prove that the Registrant has intentionally attracted or attempted to attract internet users to his website or online 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 of a product or service on the registrant's website. In this regard, the Respondent has provided screenshots of the parked page hosted at the disputed domain name on various dates, wherein the content therein appear to relate to "Uspa Dance School", "United School Of Performing Arts", "Dance School", "Urban Studies", "United School Of Performing Arts", etc., as Annexure 6 to the Respondent's reply dated October 07, 2022
- That the Respondent has legitimate rights and interests in the disputed domain name and the Complainant in collusion with the wrong advice being given to them approached the Ld. Arbitrator with untrue facts and therefore concealing primary facts of usage in regards with the domain name in question.

- That the Respondent:
 - has legible rights in view of the demonstrable preparations to use the domain name and it is in connection with a bonafide offering of goods and services.
 - is known by the domain name in question as the domain name is already in partnership with some of his friends, keeping in mind future venture partnerships, even if he has acquired no trademark or service rights.
 - has plans to use the domain name in future, and that he is making a legitimate non-commercial or fair use of the domain name, without intent of any commercial gain or misleadingly divert consumers of the Complainant to believe or to tarnish the trademark or service mark at issue.
- That the Respondent has not listed the domain name with any search platforms or indexed it on any search engine like Google, Bing, DuckDuckGo, Yahoo Search etc. In this regard, Respondent has relied upon Annexure 11 of the Complainant's domain complaint, which shows the Google Search Result for the term "USPA" and that it only yields results related to the Complainant. Respondent has further stated that the Complainant has used its resources to index the search results for "USPA".
- That in the aforementioned Annexure 11 to the Domain Complaint filed by the Complainant, a search result therein pertains to *United States Parachute Association / uspa.org*, which is not related to the Complainant. Respondent has also submitted that a search result in the said annexure shows "USPA Powerlifting", which suggests that the word USPA is not a proprietary mark of the Complainant but the word USPA is generic in nature in which hundreds of organizations can have interest.
- That the Complainant is engaging in "Reverse Domain Name Hijacking" in the instant case.

- That the Respondent did not know about the Complainant's brand "United States Polo Association" and has never used their products, and to him, the term "USPA" only connotes his future venture/ business for welfare of society.
- That the disputed domain name was registered by the Respondent on August 17, 2020, which is way prior to the registration of other USPA formative domain names by the Complainant (which the Complainant has relied upon in the Complaint and its Annexure number 7). In this regard, Respondent has singled out 27 such USPA formative domain names of the Complainant, which Complainant has relied upon in its complaint.

In view of the above, the Respondent has submitted that:

- i. That it is clear and evident by the domain names as flagged, that the Complainant deliberately, to take over the Respondent's domain name, by inferior means, registered the said USPA formative domain names, after the disputed domain name was registered by the Respondent, and filed the present INDRP complaint against the Respondent in bad faith to take the rightful ownership of the property of the Respondent.
- ii. That the domain dispute has been filed in bad faith, and should be held as a case of Reverse Domain Name Hijacking.
- iii. That a domain name mentioned in the Complainant's submissions, USPA.GR, does not appear to be owned by the Complainant, and Respondent is disputing the ownership over the same.
- iv. That the word USPA is generic and has many meanings, in India as well as overseas.
- v. That the Complainant might have rights in the US Polo Assn., US Polo combined but not in the word 'USPA' alone as it has many meanings associated with it.

- vi. That the domain names relied upon by the Complainant to support his case were deliberately and intentionally registered to misuse them in the current matter.
- vii. That the Complainant filed the complaint in bad faith to harass the Respondent who is the Rightful Owner & Original Registrant of the disputed domain name.

In view of the aforesaid, Respondent in its reply dated October 07, 2022, has submitted that the Complaint has been filed in bad faith, and has prayed to pass an order against the Complainant and also award damages.

9. Complainant's Submissions/ Contentions – vide Rejoinder dated October 22, 2022

The Complainant's counsel, vide the abovementioned rejoinder, has responded to the Respondent's reply dated October 07, 2022. Facts, submissions and contentions already stated are not being repeated hereunder for the sake of brevity.

The salient points in the rejoinder as put forward by the Complainant are summarised below:

a) The Respondent has amended the pay-per-click ads on the disputed domain name:

- That the Respondent prior to filing of the subject Complaint hosted apparent pay-per-click links on the disputed domain name, redirecting to third party websites listing the Complainant's goods for sale, which are indicative that the Respondent was in fact aware of the Complainant.
- That subsequent to service of the subject complaint, the pay-per-click links on the disputed domain name now redirect to ads supporting the Respondent's claims (that they may wish to use *USPA* as *Urban Studies for Public Administration, Urban School for Public Assistance, Urban School for Professional Assistance, a Centre for Urban Studies for Public Administration*, etc., which suits the Respondent's convenience. In this regard, Complainant has submitted comparative screenshots of the disputed domain name/ website pre-service of the complaint, and post service. That in light of such amendment post-service of the complaint, the same is reflective of dishonest intentions and bad faith.

b) The domain name is identical to a trademark in which the Complainant has rights

- That Complainant is the prior adopter and user as well as registered proprietor of the mark USPA. The earliest registration for the Complainant's mark "USPA" in India dates to December 05, 2013.
- The disputed domain name comprises solely of the mark USPA. Complainant in this context has submitted that "*when a domain name contains a trademark in its entirety, the domain name is identical or at least confusingly similar to the Trade Mark*", and in this regard placed reliance on the prior panel decisions in *Make-Up Art Cosmetics Inc. v. Doublefist Limited, INDRP (Case No. 1094)*; *Kenneth Cole Productions Inc v. Viswas Infomedia, INDRP (Case No. 093)*.
- Mere addition of the ".IN" domain extension does not distinguish the domain name from the trademarks. (reliance placed on, inter alia, *Nike Inc. and Nike Innovative CV v. Zhaxia, INDRP (Case No. 804)*)

c) The Respondent does not have rights or legitimate interests in respect of the domain name

- That the Respondent has no proprietary or contractual rights in the Complainant's Trade Mark "USPA" in whole or in part, and does not have in bonafide reason for registering and using the domain name, which comprises solely of the Complainant's registered trademark USPA.
- The Respondent's claims regarding USPA standing for Urban Studies for Public Administration, Urban School for Public Assistance, etc., is a mere afterthought in response to the Domain Complaint as filed. That prior to filing of the complaint, Respondent listed third party links that re-directed to various pages listing the Complainant's products under its Trade Mark "USPA".

- That the Respondent's use of the disputed domain name for a pay-per-click page does not constitute use of the disputed domain name in connection with a bona fide offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.
- That the Respondent is not commonly known by the disputed domain name nor does the Respondent engage in any business or commerce under the Trade Mark and/or trade name "USPA", and Respondent's claimed future plans are baseless.
- That the Respondent was actually going to put the disputed domain name to any bona fide use, it would have by now, given that the domain was registered in 2020. That the Respondent's falsely claimed rights and legitimate interests in the disputed domain name are highly questionable. In view of this, it is well settled that passive holding of a domain name in contemplation of a proposed site does not establish any rights. (Reliance placed on *Yves Saint Laurent v. S. Kambatta*, INDRP (Case No. 389) regarding passive holding).
- That the Respondent is not commonly known by the disputed domain name nor does the Respondent engage in any business or commerce under the Trade Mark and/or trade name "USPA" or even non-commercial use, and Respondent does not even have any demonstrable preparations to evidence even an iota of bona fide adoption. (Reliance placed on *Kia Motors Corporation v. Mr. Raghav Bansal*, INDRP *Case No. 1118*).

d) **The domain name has been registered or is being used in bad faith**

- That the disputed domain name has been registered in bad faith solely with an intention to make illicit commercial gains.
- That The Respondent would have been well aware of the Complainant's presence in India and globally and yet chose to adopt an identical domain name with no additional elements to distinguish the marks.

- That the Respondent registered and used the disputed domain name comprising of the Complainant's well established trade mark "USPA" and then intentionally also attempted to gain by advertising its sale on the website, and it can be reasonably inferred that the Respondent was well aware of the Complainant's prior marks and yet registered the disputed domain name. (Reliance placed on *Yves Saint Laurent v. S. Kambatta*, INDRP (Case No. 389).
- That the Respondent has hosted apparent pay-per-click links on its website listing the Complainant's goods for sale which clearly indicates that the Respondent was aware of the Complainant and that registration was done to gain monetary benefits and divert internet traffic, and is thus evidence of bad faith.
- That in such circumstances, a Complainant's use of its Trade Mark prior to the registration of disputed domain name makes it extremely unlikely that the Respondent was not aware of said Complainant's Trade Marks, and it is the Respondent's responsibility to ensure before the registration of a disputed domain name that this will not infringe any other party's rights. In this context, Complainant has asserted the facts enumerated above, as discussed in the prior panel decision in *Sam Venture Management, LLC v. Altaf* (INDRP Case No. 1103), are applicable to the present case.
- That the Respondent has now amended the apparent pay-per-click ads on its domain name to hide its dishonest intentions, and the domain is both registered and is being used in bad faith, as it has never been used in relation with any active website but simply lists the apparent pay-per-click advertisement links.
- That even if the Respondent was indeed an honest adopter of the disputed domain name, there was no occasion for the Respondent to use a privacy shield. In this regard, reliance has been placed on *Ustream.TV, Inc. v. Vertical Axis, Inc.*, (Case No. D2008-0598), wherein the Panel held that "it is difficult to see why a PPC advertiser needs to protect its identity except to frustrate the purposes of the Policy or make it difficult for a brand owner to protect its trademarks against infringement, dilution and cybersquatting."

- That the Respondent also appears to have no intention of bona fide use of the disputed domain name and, instead, is seeking to make unfair and illegal commercial gain, and cause immense losses to the Complainant, and because of Respondent's evident awareness of Complainant's existence, there can be no legitimate ground or reason for which the Respondent would register the well-known Trade Mark of another company to attract Internet users to its website. That the Respondent is attempting to hide its intentions now. In this regard, reliance has been placed on *Liseberg AB v. Administration Local Manage Technical (Case No. D2003-0864)*, wherein the Panel observed that if at any time following the registration, the name is used in bad faith, the fact of bad faith is established. Complainant in this context asserts that amendment of the contents of the website (as allegedly done by Respondent) would fall in such ambit.
- That the Respondent hosting pay-per-click links are indicative of its bad faith. Herein reliance has been placed on *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service (Case No. D2011- 1753)*, wherein the Forum held that the Respondent by creating an apparent pay-per-click link leading to the Complainant's competitors clearly indicated bad faith.

In addition to the above, Complainant has asserted the below points in direct response to the Respondent's reply, which in its opinion, merit a response:

- Complainant denies that the Respondent had any intention of using the disputed domain name as a non-profit coaching institute or for the educational purposes listed. Complainant asserts that if it were to be the case, then the Respondent would have had no occasion to host the apparent pay-per-click ads redirecting to the Complainant's goods.
- That the Respondent has now conveniently altered his apparent pay-per-click ads to align them with his fictitious agendas of using the said domain name for educational purposes. That it is surprising that before filing the Complaint, the Respondent's domain name had no mention whatsoever of the said educational forums and only listed the Complainant's apparent pay-per-click ads for its goods.

Complainant further asserts that merely parking the domain name does not in any manner assist the Respondent to establish any “good faith” in its adoption.

- Regarding the Respondent's reply, specifically about "USPA" being an abbreviation for other entities as well, the Complainant rebuts that the abbreviation “USPA” is only related to the Complainant, given the extensive and continuous use of the Complainant's use of its Trade Mark “USPA”, its registered Trade Marks, and the several domain names registrations incorporating the term “USPA”.
- Regarding the Respondent's claim/ reply that Complainant does not own any international/main/global extensions of domain names, Complainant contends that it had mentioned such domain names in Paragraph 8 of the Complaint. Complainant has further submitted in this context that in addition to the previously listed domain names, it owns other domain names as well, and have annexed another list as Annexure B of its Rejoinder dated October 22, 2022.
- Regarding the third party USPA formative domain name registrations cited by the Respondent in its reply dated October 07, 2022, Complainant submits that it reserves its right to take appropriate action against the said domain names. Complainant in this regard further contends that any other domain name registered by a third party does not in any manner nullify the Respondent's dishonest and mala fide intentions in adopting the disputed domain name.
- Regarding the Respondent's reply that the Complainant has hidden the fact that the disputed domain name was earlier used by a Dance Academy, the Complainant submits that the said fact is irrelevant to the proceedings and does not hide the Respondent's mala fide intentions of purchasing this domain name and hosting apparent pay-per-click ads leading to the Complainant's goods.
- As regards the Respondent's submissions regarding Complainant's global presence or rather lack thereof, in its reply dated October 07, 2022 to the domain complaint, the Complainant submits that search for the term “USPA” on Google would reveal thousands of results relating to the Complainant alone, and accordingly, the

Respondent would have in any case been aware of the Complainant's Trade Marks and global presence, including in India.

- As regards the Respondent's contentions in its reply dated October 07, 2022 to the domain complaint, with respect to the Respondent receiving an offer for selling the disputed domain name but refraining from doing so, the Complainant submits that the same is entirely irrelevant, and that refusing to sell the domain name to one offeree does not in any manner whatsoever indicate that the Respondent did not intend to sell this domain name to the Complainant or third party at a significantly higher cost than the allegedly cited offer.
- Further, Complainant specifically denies that it has failed to prove the Registrant has intentionally attracted or attempted to attract internet users to his website by creating a likelihood of confusion with the Complainant's Trade Marks. In this regard, Complainant reiterates the apparent pay-per-click ads present on the Respondent's domain name, which directly relate to the Complainant's goods. Complainant further asserts that the Respondent is lying and making false statements to hide its dishonest intentions, and that Complainant has already established this, by showing that the Respondent has made efforts to make unlawful commercial gains from this domain name.
- The Complainant further denies that it is attempting "Reverse domain name hijacking", as the Complainant has legitimate and honest intentions to obtain the said domain name. Regarding RDNH, Complainant further places reliance on the UDRP decision in *National Trust for Historic Preservation v. Barry Preston*, WIPO Case No. D2005-0424, wherein it is stated that "Paragraph 1 of the Rules defines reverse domain name hijacking as "using the Policy in bad faith to attempt to deprive a registered domain name holder of a domain name". Complainant herein further places reliance on *Sydney Opera House Trust v. Trilynx Pty. Ltd.* , WIPO Case No.D2000-1224 and *Goldline International, Inc. v. Gold Line*, WIPO Case No.D2000-1151. In light of these contentions, Complainant submits that Respondent has not made any logical arguments indicating that the Complainant knew of the Respondent's alleged rights or interests in its disputed domain name or of the clear lack of bad faith, registration or use, and that Respondent is merely

trying to mislead and distract the Arbitrator by attempting to make the Complainant look guilty of trying to protect its own rights.

- With respect to the Respondent's contention that the date of registration of Complainant's other USPA formative domain names (list as provided by Complainant as an annex to the Complaint) is subsequent to the date of registration of the disputed domain name by the Respondent, the Complainant submits that the same is irrelevant as the Complainant is the prior Trade Mark user, adopter and registrant of the Trade Mark "USPA", and has honest and legitimate rights in the Trade Mark "USPA" since the past several decades, and it is the Respondent who has acted in bad faith.
- Regarding the Respondent disputing the Complainant's ownership over the domain name "uspa.gr", the Complainant submits that the same is false and baseless and has submitted the WHOIS data for the said domain name as Annexure C to its Rejoinder dated October 22, 2022.
- As regards the Respondent's contention that "USPA" is generic in nature and has many other meanings, the same is strongly denied by the Complainant and they further deny that they might have rights only in the marks "USPoloAssn" or "USPolo" but not "USPA". In this regard, the Complainant in its rejoinder submits that it has placed sufficient documents on record to establish its immense goodwill and reputation in the Trade Mark "USPA". In view of this, Complainant further submits that it is baseless to assume that the Complainant only adopted the domain names listed to support its case against the Respondent.
- Complainant denies that the Respondent is the rightful owner of the disputed domain name or that the present complaint is filed in bad faith, and thus submits that the domain name be transferred to the Complainant.

10. Respondent's Rebuttals – vide reply November 02, 2022

The Respondent, vide the abovementioned Rebuttal, has responded to the Complainant's rejoinder dated October 22, 2022. Repetitive facts and arguments are not reproduced below for the sake of brevity and the salient points in rebuttal by the Respondent are summarised below:

- That the Complainant has filed the complaint, Rejoinder/Rebuttal of the Reply in bad faith with false facts and by concealing primary facts to mislead the Arbitration proceedings.
- That the Complainant intentionally & deliberately concealed a primary fact in Annexure 12 (Screenshot of the disputed domain name evidencing the third party links it is hosting) on page no. 92 of the Complaint where they did not annex a complete screenshot of the page which is a wilful default on the Complainant's side. In view of this, Respondent has asked the Arbitrator to disregard Annexure 12 of the Complaint, and dismiss the complaint due to concealment of facts.
- That in the Rejoinder filed by the Complainant, Complainant has failed to mention the fact that the landing page of the site was being updated with different ads from time to time as it can be noticed in the Annexure 6 (The screenshots of USPA.in on different dates) on pages 80-83 of the Reply filed by the Respondent, and that from the said annexure, it can be seen that the ads on the landing page were not same and were different on different days, and they were in no connection with the Respondent, and accordingly a Disclaimer is shown on the landing page which is by the landing company itself and not by the Respondent. Respondent alleges that the complainant must have checked the same but deliberately neither mentioned the same in the Complaint nor in the Rejoinder/ Rebuttal of the Reply and always presented the half screenshot of the page. In view of this, Respondent alleges concealment of facts. Further to this, Respondent submits that he never accepted or rejected the Annexure 12 of the Complaint because he was not in a position to say whether the page is based on true facts or not, however, Respondent in his reply to the rejoinder contends that in light of submitting such incomplete screenshots, it can be presumed that the page submitted by the complainant in the original

complaint is not true and is a made-up, false page made with the help of some software engineers. In this regard, Respondent has provided the below screenshot:



<https://uspa.in>

- Respondent further submits that a contact page was also annexed on page no. 83 of the Reply to the Complaint, which mentions that the domain name is Not for Sale, but it was also not mentioned by the Complainant. In view of this, Respondent contends that the Complainant thus had an option to contact the Respondent via the Contact page for objections, if any, but they deliberately filed the present complaint.
- That the Respondent registered the domain name during his college days in the year 2020, and had future plans for the same.
- Respondent has cited the prior panel decision in *Make-up Art Cosmetics Inc. V. Doublefist Limited*, wherein the Panel mentions the Respondent's duty under para 3 of the .IN Dispute Resolution Policy to warrant and prove the contrary. Accordingly, Respondent has tendered a reply to the points as envisaged in the Policy as under:

Requirements As Per Policy (para 3)	Respondent's Replies
(a) the Registrant/ Respondent has accurately and completely made the Application Form for registration of the domain name;	The domain has been registered with correct particulars.

<p>(b) to the Registrant's knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;</p>	<p>Respondent submits that at the time of registering the domain name (i.e. 2020), he was not aware of the Complainant and its brand and only became aware after the complaint was filed, and did not intend to infringe anyone's rights. Respondent submits that to him, the full form of USPA was only limited to his future business endeavors.</p> <p>Respondent contends that a party/ petitioner can only have rights in the full word not the abbreviation of the full sentence of words, which is its brand name.</p> <p>Further, Respondent disputes the screenshot of the domain name on which complainant's brand name is visible, and Respondent doubts the originality/ authenticity of the screenshot.</p>
<p>(c) the Registrant is not registering the domain name for an unlawful purpose; and</p>	<p>The domain name was registered for the sole purpose of using it as social service education providing platform, and not any unlawful purpose.</p>
<p>(d) the Registrant will not knowingly use the domain name in violation of any applicable laws or regulations.</p>	<p>Respondent submits that he did not, and will not, knowingly use the domain name in violation of any applicable laws or regulations and also accept to remove the domain name from current landing and make a raw mini website as soon as the 'clientUpdateProhibited' state is lifted and access is given.</p>

- Respondent has taken note of the UDRP decision cited by the Complainant in its rejoinder, and has replied to the requirements noted by the Panel regarding how a Respondent may establish rights to or legitimate interests in the disputed domain name, as follows:

Requirements noted by UDRP Panel	Respondent's Replies
Before any notice to it of the dispute, the respondent'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; or	The Respondent has shown valid demonstrable preparations to use of the domain name in question, in future with bona fide offering of services.
the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or	The Respondent has been commonly known by the mark in the group of his friends, the idea of social services venture, is presented to his friends and some known people to partner with, in future, even if it has acquired no trademark or service rights.
the respondent is making a legitimate noncommercial 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.	The Respondent 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.

In this regard, the Respondent has also relied on further excerpts from the aforementioned UDRP Panel decision, in what appears to be an attempt to draw parallels between it and the present domain dispute.

- Respondent has further relied upon the prior UDRP Panel decision in *Goldline International, Inc. v. Gold Line, WIPO Case No.D2000-1151* (which has been cited by the Complainant in its rejoinder, to contend that the present domain complaint constitutes Reverse Domain Name Hijacking.
- That the Complainant failed to prove that the domain was registered to sell, rent, to disrupt the Complainant's business, to prevent the Complainant to register a

domain name incorporating its mark, or to confuse Internet users seeking to find the Complainant's website or otherwise transferring the registration to the owner of any of the existing trademark or service mark, or to a competitor of the complainant.

- That Respondent was unaware of Complainant and its marks at the time of registration of the domain name, and was selected due to it purportedly being a common abbreviation.
- That the Respondent received an offer for buying the domain name, but he directly denied that offer as he was not willing to sell the above disputed domain name.
- In response to the Complainant's contention in their rejoinder about the domain name not being built/ developed, Respondent submits that he was in college at the time of registration of the domain name, and thus did not have the resources at that time, but had plans to do so in future.
- That it is a true fact that Respondent had planned to use the word 'USPA' as a short term for (Urban Studies for Public Administration, Urban School for Public Assistance, Urban School for Professional Assistance etc., a Centre for Urban Studies for Public Administration) as Social Education & Education Service Provider, which are not associated with the Complainant's mark.
- That many other businesses and organizations are running under the name 'USPA' and that the same is also an abbreviation for a diseases called 'Undifferentiated Spondyloarthropathy' and thus is a generic term. Respondent in his rebuttal to Complainant's rejoinder has again provided samples of some other full-forms of "USPA".
- Respondent reiterates that the Complainant does not own "USPA" domain names in any international/ main/ global extensions of domain names including .com, .org or .net, and again reiterated examples of other USPA formative domain names held by parties other than the Complainant.


- The complainant has failed to prove any of the three essentials required to prove bad faith, and also failed to prove that the Registrant has intentionally attracted or attempted to attract internet users to his website or online 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 of a product or service on the registrant's website. That the disputed domain name is not indexed on Google or any other search engine or used for promotion or in any social media website, which in the context can be shown to prove that the Respondent has attracted traffic to the disputed domain name.
- Respondent reiterates that it is a case of Reverse Domain Name Hijacking.
- That any breach of law on part of Respondent, if any, is unintentional.
- That Respondent has legitimate rights and interests in the disputed domain name.
- That Respondent's date of registration of the domain name (August 17, 2020) is prior to the registration of other USPA formative domain names, on which Complainant has relied upon in the proceedings. That Complainant has concealed the fact that almost all of the USPA formative domain names relied by it, were registered post registration of the disputed domain name. That the Complainant deliberately registered over 200 domain names just to take over Respondent's domain name.
- That a USPA trademark application (of USPA with the horseman device) of the Complainant in India, as mentioned in page 19 (Annexure) of Respondent's Reply to the domain complaint, appears to be withdrawn due to action taken by Ralph Lauren.

Further to the above, Respondent has prayed that an order be passed against the Complainant and impose penalties upon them for concealment of facts and misleading the Arbitrator, and award damages on account of illegal harassment and mental torture.

11. Discussion and Findings

Prior to discussing the legal submissions of the domain dispute, considering the multiplicity of pleadings and rebuttals on part of both parties, as well as the voluminous submissions and evidences placed on record, the Arbitrator finds it imperative to first discuss the submissions/ pleadings/ which prima facie do not directly correspond with the three requirements as enumerated in Paragraph 4 of the .IN Domain Name Dispute Resolution Policy. For the sake of brevity and ease of reference, the said points made by the Respondent, and the Arbitrator's discussion and findings in respect of the same are tabulated below:

S.No.	Respondent's Submissions	Arbitrator's Discussions & Findings.
1.	That the Complainant has filed the complaint in bad faith by concealing facts in regard to the complaint.	Respondent at many instances as noted in the preceding paragraphs of this Award, have alleged that the Complaint has been filed in bad faith by the Complainant. In this regard, the Arbitrator has taken note of the below points submitted by the Respondent regarding this allegation:
2.	That the Complainant, knowingly and deliberately concealed the fact that the disputed domain name was previously used by a 'Dance Academy' which is still active.	The Arbitrator finds this to be immaterial to the proceedings, because as per the ambit of the domain dispute, the relevant discussion must revolve around the registration and use of the disputed domain name by the present Registrant/ Respondent, and any use of the domain name by prior Registrants, who are not a party to the domain dispute, has no bearing on the proceedings.
3.	The Complainant is attempting to misuse its power and resources by bringing the present domain complaint.	Respondent has repeatedly asserted that the Complainant has used its wealth and resources in bringing the present domain dispute. It is the view of the Arbitrator that a rightful owner/ proprietor of a trademark or service mark is fully within its

		<p>statutory as well as common law rights to protect its rights in this regard, including by way of proceedings against domain name registrations, and the same cannot be said to constitute 'misuse of power and resources', and it becomes incumbent upon the Respondent in such proceedings to establish honest, bonafide and legitimate rights and interests with respect to the mark/ domain name.</p>
4.	<p>That the Complainant intentionally & deliberately concealed a primary fact in Annexure 12 (Screenshot of the disputed domain name evidencing the third party links it is hosting) on page no. 92 of the Complaint where they did not annex a complete screenshot of the page which is a wilful default on the Complainant's side. In view of this, Respondent has asked the Arbitrator to disregard Annexure 12 of the Complaint, and dismiss the complaint due to concealment of facts.</p>	<p>In the context of this objection, the Arbitrator notes that the same is with respect to the apparent presence of the below text appearing in a screenshot at the bottom of the parked page seen in the screenshots annexed by the Respondent:</p>  <p>For clarity, the text mentioned above is reproduced below:</p> <p><i>"The Sponsored Listings displayed on this page are served automatically by a third party. Neither the service provider nor the domain owner maintain any relationship with the advertisers. In case of trademark issues please contact the domain owner directly. Contact information can be found in the whois."</i></p> <p>Firstly, the Arbitrator finds that such a disclaimer on a web page does not absolve any liability or responsibility on part of the Domain Registrant, with regards to the content hosted therein. As the owner of the domain name, one has the liberty to ensure that no content appears on the page, as well as minutely changing and customizing what appears on it. Thus, if objectionable content were to appear on a webpage, such as illegal pornography, seditious content, IP infringements, etc., the domain name owner cannot distance itself from liability arising thereof.</p>

		In any case, regarding the Respondent's contention that a material fact has been concealed re the said annexure, the Arbitrator finds the same to be baseless.
5.	Respondent submits that he never accepted or rejected the Annexure 12 of the Complaint because he was not in a position to say whether the page is based on true facts or not, however, Respondent in his reply to the rejoinder contends that in light of submitting such incomplete screenshots, it can be presumed that the page submitted by the complainant in the original complaint is not true and is a made-up, false page made with the help of some software engineers.	The Arbitrator does not find merit in this, especially as the Annexure was not disputed at all in the Respondent's reply to the Domain Complaint.
5.	Respondent further submits that a contact page was also annexed on page no. 83 of the Reply to the	The Arbitrator finds this to be misleading, as even in the annexures relied upon by the Respondent himself, the top of the page hosted on the domain name states "The domain Uspa.in may be for sale."

	Complaint, which mentions that the domain name is Not for Sale, but it was also not mentioned by the Complainant. In view of this, Respondent contends that the Complainant thus had an option to contact the Respondent via the Contact page for objections	Further, regarding the Complainant not contacting the Respondent prior to initiating the present domain dispute, the Arbitrator states it is the prerogative of an IP rights holder to take action as available under the laws of the land, which may even include directly filing a lawsuit without any prior intimation to the domain registrant.
6.	Respondent disputes the screenshot of the domain name on which complainant's brand name is visible, and Respondent doubts the originality/ authenticity of the screenshot.	The Arbitrator is not inclined to accept this disputation, in light of the fact that Respondent had ample opportunity to do so in its reply, being full aware of the matter at hand, but chose to do so in its final reply, and the timing and circumstances are to be considered.

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)

It has been held by the Hon'ble Supreme Court of India in the case of *M/s Satyam Infoway Ltd. v. M/s Sifynet Solutions (P) Ltd.* (JT 2004 (5) SC 541), that a domain name has all the characteristics of a trademark and such principles as are applicable to trademarks, are concurrently applicable to domain names as well.

Thus, the Arbitrator finds, in light of the trademark rights presented by the Complainant, it has been successful in establishing their rights in the trademark USPA, by virtue of, inter alia, adoption and use going back decades, and trademark registrations globally as well as in India (earliest of which dates back to 2013, as per the documents placed on record). 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 'USPA' in India.

The Complainant has, in support of its arguments, further pointed out that the disputed domain name, <USPA.in>, incorporates its trademark 'USPA' in its entirety and may, and does not even contain any additional term along with it, therefore, it can be said to be identical/confusingly similar to the Complainant's aforementioned trademark.

The Complainant has also submitted that mere addition of the extension ".in", to the mark USPA, does nothing to distinguish the domain name from the Complainant's trademarks, and the Arbitrator accepts the submission.

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 UDRP and INDRP decisions 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 USPA marks in India as well as worldwide, which includes 2. 76 "USPA Mono-Brand Stores" in India

Thus, it may be stated that the disputed domain name <USPA.in> is confusingly similar to the Complainant's trade mark 'USPA' 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>.

Further, regarding the Respondent's submissions about other entities using the USPA mark as well, and also of other USPA formative domain name held by parties other than the Complainant, the Arbitrator finds the same to be immaterial to the present proceedings. Other parties using the mark in question does not preclude the Complainant from taking the present action, especially in light of the much prior statutory and common law rights as established.

As regards the Respondent's contentions that the Complainant might have rights in the USPoloAssn., USPolo combined but not in the word 'USPA' alone as it has many meanings associated with it, and also that the mark 'USPA' is generic, the Arbitrator disagrees with the Respondent's assertions, given that the Complainant in its pleadings has submitted ample evidence to prove its trademark and common law rights in the mark USPA, including but not limited trademark registrations in India.

The Arbitrator thus rejects the Respondent's submission that Complainant does not have any rights over the mark USPA and only has rights over USPoloAssn., USPolo, and states that not only has the Complainant proved existence of statutory and common law rights over the mark USPA, trademark law of India also affords protection to abbreviations especially those that have acquired distinctiveness and become closely known with the Rights Holder. Further, the Respondent's assertion that one of the Complainant's USPA formative trademark applications in India was withdrawn holds no relevance to the present proceedings, as the Complainant has demonstrated in its pleadings that it owns several other USPA formative registrations in India.

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

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

The disputed domain name incorporates the mark 'USPA', 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 USPA.

In light of the multiple submissions and rebuttals made by both parties, the ones corresponding to this element of the INDRP and as deemed relevant as per the ambit of Policy, are tabulated below:

Complainant's Submissions	Respondent's Submissions
Complainant has contended that the Respondent has no proprietary or contractual rights in the Complainant's trademark "USPA" in whole or in part. Complainant has further contended that Respondent is not commonly known by the disputed domain name nor does the Respondent engage in any business or commerce under the trademark and/or trade name "USPA".	N/A
It has further been contended by the Complainant that the Respondent has not made any legitimate use of the disputed domain name since its registration in August 2020, and there is no evidence whatsoever of the Respondent's use of, or demonstrable	That the Respondent has registered the disputed domain name in good faith and has future-plans for the same, and has plans to use the term 'USPA' for Urban Studies for Public Administration, Urban School for

<p>preparations to use, the disputed domain name, in connection with a bona fide offering of goods or/ and services.</p>	<p>Public Assistance, Urban School for Professional Assistance etc.</p> <p>The Respondent has even planned the taxation scheme that may apply on the venture for social service in the field of education sector.</p>
<p>That the Respondent almost certainly registered the disputed domain name to divert Internet users to the Respondent's pay-per-click parking page, and it appears that under the attendant circumstances, the Respondent's use of the disputed domain name for a pay-per-click parking page does not constitute use of the disputed domain name in connection with a bona fide offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy.</p>	<p>That the Complainant has failed to prove that the Registrant has intentionally attracted or attempted to attract internet users to his website or online 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 of a product or service on the registrant's website. In this regard, the Respondent has provided screenshots of the parked page hosted at the disputed domain name on various dates, wherein the content therein appear to relate to "Uspa Dance School", "United School Of Performing Arts", "Dance School", "Urban Studies", "United School Of Performing Arts", etc., as Annexure 6 to the Respondent's reply dated October 07, 2022. In this regard, it is pertinent to note that the above "names" appear to relate to the full forms of "USPA" as envisaged by the Respondent and also as per the date and time stamps on the PDFs, these screenshots post-date the date of filing of the complaint, i.e. the Complainant's assertion that the Respondent has changed the sponsored links</p>

	hosted on the domain name post filing the domain complaint, have merit.
That the PPCs present on the parked page on the disputed domain name (prior to the complaint being filed and served upon the Respondent) contained third-party links leading directly to purchase the Complainant's products, and that the Respondent is not even making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain as it is evidently misleading and diverting consumers.	
	That the Complainant has failed to prove that the domain was registered for the purpose of selling, renting, or otherwise transferring the registration to the owner of any of the existing trademark or service mark, or to a competitor of the complainant. In this regard, the Respondent has submitted copy of an email/offer received by him for sale of the domain name, and his refusal to sell the same, as Annexure 5 to the Respondent's reply dated October 07, 2022.
	Respondent submits that he was in college at the time of registration of the domain name, and thus did not have the resources at that time, but had plans to do so in future.

As per paragraph 6 of the Policy, a Registrant may show legitimate rights and interests in a domain name, by demonstrating any of the following circumstances:

(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 the intention of commercial gain by misleadingly or diverting consumers or to tarnish the Trademark or Service Mark at issue.

In light of the above requirements, the Arbitrator finds that the Respondent has not been able to prove any of the above circumstances, and the Arbitrator's findings, in light of the Respondent's assertions re legitimate rights and interests, are given below:

- That the Respondent has registered the disputed domain name in good faith and has future-plans for the same, and has plans to use the term 'USPA' for Urban Studies for Public Administration, Urban School for Public Assistance, Urban School for Professional Assistance etc.
- The Respondent has even planned the taxation scheme that may apply on the venture for social service in the field of education sector.
- That Respondent submits was in college at the time of registration of the domain name, and thus did not have the resources at that time, but had plans to do so in future.
- Respondent is known by the domain name in question as the domain name is already in partnership with some of his friends, keeping in mind future venture partnerships, even if he has acquired no trademark or service rights.

The Arbitrator finds the above contentions of the Respondent to be completely unsubstantiated and devoid of merit. Respondent has not submitted any evidence to show 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 (such as a business license, trademark application, incorporation of any partnership or company under the USPA name/mark, MSME registration, etc.). Further, the mere assertion that the Respondent may in future wish to use the term "USPA" for names such as Urban Studies for Public Administration, Urban School for Public Assistance, Urban School for Professional Assistance etc., is speculative and has no

merit, in the absence of any evidence to substantiate the same. The assertion that Respondent did not have resources to build upon the domain name since its registration is similarly without any merit, in the absence of any evidence supporting the same, and is speculative.

Further, by virtue of the links to Complainant's own products being advertised on the parked page of the domain name (prior to service of the complaint upon the Respondent), it can be stated that the Respondent has failed to establish that is making a legitimate non-commercial or fair use of the domain name, without the intention of commercial gain by misleadingly or diverting consumers or to tarnish the Trademark or Service Mark at issue. The PDF copies of the parked page on the disputed domain name as relied upon by the Respondent in his evidence, which shows, inter alia, full forms of USPA as envisaged by the Respondent, all post-date the time of filing of the complaint, and thus does not constitute rights or legitimate interest in the domain name, and the Complainant's assertion, that the Respondent, upon being apprised of the domain complaint, changed the content of the parked page hosted on the disputed domain name (to advertise, inter alia, full forms of USPA as envisaged by him), has merit.

Similarly, regarding Respondent's assertion that he is known by the domain name in question as the domain name is already in partnership with some of his friends, keeping in mind future venture partnerships, even if he has acquired no trademark or service rights, the Arbitrator finds the same to be devoid of any merit, in the absence of any evidence to substantiate the same, for which the Respondent had ample time and opportunities during the proceedings.

Thus, the Arbitrator finds that the Respondent 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.

Whereas, the Complainant has established a prima facie case of its rights in the mark 'USPA', 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.

Further, the Respondent's use of the disputed domain name for a pay-per-click parking page does not constitute use of the disputed domain name in connection with a bona fide offering of

goods or services within the meaning of paragraph 4(c)(i) of the Policy, and it is the Arbitrator's view that the a mere disclaimer as the one Respondent has relied upon in his pleadings (inter alia distancing himself from the links and content hosted on the disputed domain name), does nothing to alleviate the Respondent's responsibility in this regard.

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.

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 Paragraphs 4(b) and 6 of the INDRP.

iii. The Registrant's domain name has been registered or is being used in bad faith (Paragraph 4(c) 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, inter alia, products of the Complainant (as on date of filing of the complaint, as per the evidence placed on record), 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.

The Arbitrator accepts the Respondent's assertion that in light of lack of such legitimate interest, that the disputed domain name was registered by the Respondent, being aware of the Complainant's trademark "USPA". The Arbitrator finds no merit in the Respondent's assertion that it only became aware of the Complainant and its marks only after being served upon the domain complaint, in light of Complainant's ubiquitous offline and online presence globally as well in India, which includes 276 "USPA Mono-Brand Stores" in India and over 1,100 stores worldwide.

The Arbitrator also accepts the Complainant's assertion that considering that the disputed domain has been inactive since its registration, it is evident that the Respondent registered the same in bad faith. The Arbitrator finds that such inactivity suggests a strong bad faith on part of the Respondent, as was envisaged in the UDRP case of *Telstra Corporation Limited v. Nuclear Marshmallows*, (WIPO Case No. D2000-0003). It has been found by numerous prior INDRP (including but not limited to *HSBC Holdings plc v. Hooman Esmail Zadeh*, INDRP/032) and UDRP panels that such passive holding of domain names can be construed as evidence of bad faith. By simply registering the domain name and carrying out no other activity on the said domain name is such as to let the domain name not be used for any commercial purpose is evidence of bad faith. Regarding use in bad faith, whilst a disputed domain name may not have been put to any substantial use in connection with an active website, non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Further, the Arbitrator does not accept the Respondent's assertion that the reason for not developing a website on the disputed domain name since its registration over two years ago in 2020 to hold water (*especially as Respondent in his reply dated October 07, 2022, has claimed to have skill and knowledge in domain names also own other domain names*), and thus considers the Respondent's passive holding of the disputed domain name to be use in bad faith.

The Arbitrator further accepts the Complainant's assertion that the Respondent has parked the disputed domain name consisting of the Complainant's well-known trademark "USPA" and such dishonest use amounts to use and registration in bad faith. In light of such, and considering the facts and circumstances and evidence placed on record, the Arbitrator finds that the Respondent herein prima facie appears to attempting to attract internet traffic to the Respondent's website, by misleading internet users.

Regarding the Respondent's assertion that he did not sell the domain name to a third party, the Arbitrator accepts the Complainant's submission that refusal to sell the domain to one offeree does not in any manner whatsoever indicate that the Respondent did not intend to sell this domain name to the Complainant or third party at a significantly higher cost than the allegedly cited offer."

The Arbitrator further finds that the change of PPCs (pay-per-click links) and overall content as hosted on the domain name, post filing domain complaint, to show the Respondent's envisaged full-forms of the term USPA is also evidence of bad faith.

Further, it is pertinent to note that as per all annexures of the webpage parked on the domain name, as submitted by both the Complainant and the Respondent, the upper portion of the page clearly states that “*The domain Usps.in may be for sale.*”, which, to internet users denote that the domain name is in fact up for sale, and generates further interest. The Arbitrator thus finds the above fact to also constitute the Respondent’s bad faith, as envisaged under the Policy.

Further, the Arbitrator also finds the act of the Respondent of amending the links hosted on the disputed domain name post filing of the domain complaint to showcase contents of his envisaged full-forms of “USPA”, to be evidence of use in bad faith, as envisaged under the prior UDRP panel decision in *Liseberg AB v. Administration Local Manage Technical (Case No. D2003-0864)*.

In view of the aforesaid, the Arbitrator concludes that the Complainant has satisfactorily proved the requirements of Paragraph 4(c) and Paragraph 7 of the INDRP.

Accordingly, the Arbitrator also rejects the Respondent’s assertion that this is a fit case of ‘Reverse Domain Name Hijacking’ (RDNH). The Complainant has clearly established its trademark rights, and in the context of RDNH, it is pertinent to point out that the Respondent has also not been able to provide any cogent and valid documentary evidence showing that they have rights and legitimate interests in the domain name. Further, while the Respondent has claimed to be unaware of the Complainant and its brands including USPA prior to registration of the domain name, the Arbitrator finds that on balance of probability, to be hard to believe, given the Complainant’s widespread presence (as per the evidenced adduced by the Complainant) in India, which is the country the Respondent is situated, and the fact that the disputed domain name was registered by the Respondent only in 2020.

12. Decision

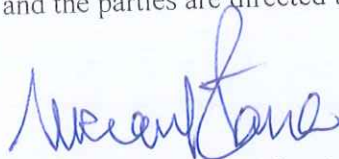
Based upon the facts and circumstances and further relying on the materials as available on the record, the Arbitrator is of the view that the Complainant has statutory and proprietary rights over the trade mark ‘USPA’ and variations thereof. The Complainant has herein been able to prove conclusively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

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



Vikrant Rana, Sole Arbitrator

Date: November 11, 2022.

Place: New Delhi, India.