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E.KOTI REDDY

LICENCED STAMP VENDOR

LIC No.15-11-031/2014,RL No.15-11-040/2020

H.NO. LIG-441, Road No-3, KPFB Colony

Kukatpally, Medchal-Malkajgiri Dist.

Cell: 9491628238

తెలంగాణ నేతాగా తెలంగాణ
SI.No: 721; Date: 23-07-2022 Rs.100/-

Sold to: **DR. VEDULA GOPINATH**

S/o Late V.K.CHENULU R/o HYD

For whom:SELF

THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

Dr. Vedula Gopinath, Sole Arbitrator

Arbitration Award No. INDRP/1616, dated October 28, 2022

In the matter of Arbitration Between

Car Exhaust System Inc.

1901 Corporate Centre Drive

Oceanside, California 92056 USA

Complainant

The Registrant (Domain Name MAGNAFLOW.IN)

Email crist.ys.u.u.p.s.300@gmail.com

Int'l postal name Cris Phan

2121 Natmos crossing DR No.80

Sacramento CA 95834 USA

Respondent



DR. VEDULA GOPINATH
MEMBER-ICADR
SOLE ARBITRATOR



II. THE PARTIES : 1. Complainant's authorised representative authorised representative in this administrative proceedings

Mr. Ramesh Ranganathan, Advocate, Factum Law Ground Floor No.48, Edams Road, Alwarpet, CHENNAI 600018 Tamil Nadu India

2. Respondent has not authorised any person for representation. Details of Respondent as per WHOIS is as under:

The Registrant (Domain Name MAGNAFLOW.IN) (Name was blocked and hence Respondent is shown as Registrant)

Email crist.ys.u.u.p.s.300@gmail.com, Int'l postal name Cris Phan, 2121 Natmos crossing DR No.80, Sacramento CA 95834 USA

III. Disputed Domain Name and Registry. The following is the name under dispute in these proceedings

MAGNAFLOW.IN

- a. The Registry is National Internet Exchange of India (NIXI).
- b. The name of sponsoring Registrar is NameCheap Inc.

IV. PROCEDURAL HISTORY / BACK GROUND :

Sept.28,2022	The .IN REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator from its panel as per paragraph 5 of INDRP Rules of Procedure.
September 29,2022	Consent of the Sole Arbitrator along with declaration was given to the .IN REGISTRY according to the INDRP Rules of Procedure.
September 28, 2022	.IN REGISTRY sent an email to all the concerned intimating the appointment of arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexure was sent to Respondent.
September 30,2022	Notice of Arbitration was sent to all concern by the Sole .

All pleadings are submitted in English Language.



VEDULA GOPINATH
MEMBER-JOINT
SOLE ARBITRATOR

1. The Complainant herein is Car Sound Exhaust System, Inc. a company registered under the laws of United States of America and having its office at 1901 Corporate Centre Drive, Oceanside, California 92056. USA Email ID: info@factumindia.law.

2. The Complainant had applied for and obtained registration of its trademark, wordmark and device marks, viz. MAGNAFLOW in several countries across the world including India. (detailed as per *Annexure B* of the Complaint).

VI. COMPLAINANT'S CONTENTIONS

i. the Complainant's products under the Trademark have won numerous awards, accolades and accreditations, which clearly proves the tremendous goodwill, reputation and recognition achieved by the Trademark MAGNAFLOW.

ii. Apart from United States of America, the Complainant has secured registration for the Trademark MAGNAFLOW as a word mark and as a part of a device along with its formatives, in various countries such as India, Australia, Canada, Japan, European Union, Mexico, China, and Russia per details given in Annexure C of Complaint. In India, the Trademark stands registered under nos. 3449050 and 3449051, both in class 7 since 04/01/2017. Copy of Registration Certificates issued by the Indian Trademarks Registry for the Complainant's Trademark are given as per Annexure D of the Complaint.

iii. The Complainant also owns, directly or beneficially, at least three (3) domain names containing the Trademark MAGNAFLOW or formative variations of MAGNAFLOW. A schedule of these MAGNAFLOW domain names details are given in the Annexure E of the Complaint.



V. VEDULA GOPINATH
MEMBER-ICAI R
SOLE ARBITRATOR

(Handwritten signature)

iv. The Complainant has advertised and continues to advertise the Trademark extensively through different media of advertisement and publicity viz. newspaper, magazines, periodicals, the internet (which includes social networking platforms such as Facebook®, LinkedIn®, Twitter®) apart from Google Search details given as annexure to the Complaint.

v. The Complainant, during its regular watch of trademark violations including through domain names, learnt of the Disputed Domain Name being registered by the Respondent through the registrar NameCheap Inc. When the Complainant visited the website hosted under the Disputed Domain Name, to the shock and surprise of the Complainant, the website has dummy links leading to sale of second hand cars and other unrelated services. It was thus clear that the Disputed Domain Name has been parked / squatted by the undisclosed Respondent for the purpose of extorting monies from interested buyers.

VII. A) GROUNDS OF APPEAL BY COMPLAINANT.

1. The Complainant and the Trademark have been existence since 1995, while the Respondent registered the Disputed Domain Name on or about July 2022. Per Paragraph 3 of the 'In Domain Name Dispute Resolution Policy', the Respondent has a duty to ensure that the Disputed Domain Name does not infringe upon or otherwise violate the rights of any third party. The Respondent has failed in discharging the said duty / responsibility. There is overwhelming evidence to prove that the Disputed Domain Name is identical to a trademark in which the Complainant has exclusive proprietary and common law rights.

2) Neither license nor authorization has been granted to the Respondent to make any use of the trademark, or apply for registration of the dispute

3) Further, the Complainant contends that the Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public and therefore is not making a legitimate, fair or bona fide use of the domain name.



VEDULA GOPINATH
MEMBER JUDGE
SOLE ARBITRATOR

4, Respondent has no prior rights or legitimate interests in the disputed domain name. The registration of the MATRIX trademarks preceded the registration of the disputed domain for many years.

B. RESPONDENTS CONTENTIONS.

The Respondent in-spite of Notices didn't submit any response. The Complainant has also served the complaint to the Respondent. The Respondent did not reply within a reasonable time. The Respondent appears to be preferring not replying to the notices and also do not have a valid counter argument.

VIII. DISCUSSION AND FINDINGS / REASONING:

(I) IN Domain Name Dispute Resolution Policy (INDRP). The Arbitral Tribunal after examination of the matter in details arrived the following conclusion of Complainant's Compliance of INDRP Policy. In order to obtain the transfer of the Disputed Domain Name, Complainant should, accordingly, prove all the following three elements to paragraph 4 of the Policy.

- (i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) The Disputed Domain Name has been registered and is being used in bad faith.

II. Further pursuant to paragraph 6 & 7 of INDRP Policy, the Respondent have no legitimate interest and the same have been used in bad faith.



MEMBER JUDGE
SOLE REGISTRAR
A. VEDULA GOPINATH
A. S. S. S.

DR. VEDULA GOPINATH
MEMBER-JOINT
SOLE ARBITRATOR



Dated 28th October 2022

Sole Arbitrator

Dr. Vedula Gopinath

This is adjudicated.

Complainant.

and incidental action required for transfer of the disputed name in favour of the National Internet Exchange of India (NIXI) are advised to take ancillary Complainant((Car Exhaust System Inc.). There is no order as to costs.

disputed Domain Name MAGNAFLOW.IN be transferred to the Respondent shall cease to use the mark MAGNAFLOW and also the paragraph 10 of the JNDRP, the Arbitral Tribunal orders that the X.DECISION: For all the foregoing reasons, in accordance with

Complainant.

IX. In view of the foregoing discussion, the Arbitral Tribunal arrives at a Logical conclusion of accepting the prayer of the

(IV) The allegations levelled by Complainant against Respondent appears to have been proved basing on the evidential value of the documents submitted by complainant.

(III) In case of failure of default of Respondent in sending response or reply to the complaint, the Arbitrator is empowered to announce the judgment as he thinks proper and appropriate as per applicable laws.

The Complainant has proved the aforesaid aspects to the satisfaction of the Arbitral Tribunal.