



सत्यमेव जयते

INDIA NON JUDICIAL

Page # 1 Government of National Capital Territory of Delhi

₹100

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Certificate No.	: IN-DL74088746839759U
Certificate Issued Date	: 16-Aug-2022 03:10 PM
Account Reference	: IMPACC (SH)/ dlishimp17/ SUPREME COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1729652306065963U
Purchased by	: KAMAL DAVE
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: KAMAL DAVE
Second Party	: Not Applicable
Stamp Duty Paid By	: KAMAL DAVE
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



In the matter of the Arbitration Act 1996 as Amended by
Arbitration & Conciliation (Amendment) Act, 2015;

and

INDRP Rules of Procedure;

and

.IN Domain Name Dispute Resolution Policy (INDRP)

and



- Page # 1 -

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
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In the matter of an arbitration between

Sycoriaan Matrimonial Services Limited

AB-1, Kamal Cinema Complex,

Safdarjung Enclave,

New Delhi - 110029, India

...Complainant

AND

1. SK Arora

Luxury India Solutions Private Limited

18/20, WEA, Karol Bagh

Delhi 110005

2. Luxury India Solutions Pvt Ltd

10015, Plot No. 20, Block No.18,

W.E.A., Karol Bagh

Delhi – 110005

3. ELITECLASSMATRIMONY PRIVATE LIMITED

Plot No. 133, Ground Floor,

Pocket B-1, Sector-36 ROHINI

North Delhi 110042, India

...Respondents

in respect of Disputed Domain Name(s):

<www.eliteclassmatrimony.in>



INDRP Case No: 1679

FINAL AWARD

A. THE PARTIES AND THEIR REPRESENTATIVES

1. Claimant :

Sycoriaan Matrimonial Services Limited
AB-1, Kamal Cinema Complex,
Safdarjung Enclave,
New Delhi - 110029, India

Authorised Representative

Arpit Kalra and Pranit Biswas
S.S. Rana & Co., Advocates
Registered Office Address:
317, Lawyers Chambers, High Court of Delhi,
New Delhi — 110003, India
Telephone: +91 11 - 40123000; +91 8448584675, 9311953442
Fax: +91 11- 40123010
Email: inf@ssrana.com

2. Respondent

1. SK Arora

Luxury India Solutions Private Limited
18/20, WEA, Karol Bagh
Delhi 110005

2. Luxury India Solutions Pvt Ltd

10015, Plot No. 20, Block No.18,
W.E.A., Karol Bagh
Delhi – 110005



3. ELITECLASSMATRIMONY PRIVATE LIMITED

Plot No. 133, Ground Floor,
Pocket B-1, Sector-36 ROHINI
North Delhi 110042, India

Authorised Representative

Ravi Verma,

Advocate

Residence-cum-Office.

House No.13, Pocket-7,

Sec-2, Rohini, Delhi-85

Tel / Fax:- 011-35507312, Mob.: 9891927403

B. THE DOMAIN NAMES AND REGISTRAR : The accredited registrar of the disputed Impugned Domain <www.eliteclassmatrimony.in> is GoDaddy.com, LLC. The details of the Registrar, are as follows:

Corporate Headquarters :

14455, North Hayden Road, Suite 219,

Scottsdale, AZ 85260,

United States of America.

Email: abuse@godaddy.com, trademarkclaims@godaddy.com

C. THE ARBITRAL TRIBUNAL – APPOINTMENT

1. As per the records, on 23rd March 2023 NIXI sent intimation to the Arbitrator & the parties including the Respondent regarding the appointment of arbitrator to decide the dispute in respect of domain <www.eliteclassmatrimony.in>.
2. As per the records, I, the undersigned (i.e. Kamal Dave) was appointed as arbitrator by NIXI, in accordance with INDRP Rules of Procedure and .In domain name dispute resolution policy (INDRP), vide appointment order dated 24th March



2023 and I submitted declaration of impartiality and independence at all times with NIXI.

3. The .IN Domain Name Dispute Resolution Policy (INDRP) & Rules of Procedure of INDRP mandates appointment of arbitrator by NIXI, Accordingly clause 5 (b) of INDRP Rules of Procedure provides for it, which reads, "*The .IN Registry shall appoint, an Arbitrator from the .IN Registry's list and shall forward the Complaint along with supporting documents to such Arbitrator*".

D. PROCEDURAL HISTORY :

1. After my appointment as arbitrator by NIXI & intimation to me on 23rd March 2023; On 24th March 2023, the arbitral tribunal communicated the parties through email at their respective registered email addresses, whereby it was directed through Procedural Order No 1 that the mode of communication shall be electronic only except as otherwise specifically stated/ directed. Further the tribunal directed the parties (viz. complainant & respondent) through the procedural order no 1 to file their respective pleadings- viz. to file the scanned copy of complaint along-with documents through through email & courier by 27th March 2023 & 03rd April 2023 respectively; Further It was directed that the complainant & respondent may submit their rejoinder and its reply by 06th April 2023 & 10th April 2023 respectively; The parties may file their written arguments before myself on or before 14th April 2023 and serve the copy thereof to the other party;
2. During the passing of Procedural Order #1 (proceedings), inadvertently a clerical error occurred/ crept in Procedural Order # 1 and upon discovering it, I passed corrigendum to Procedural Order no 1 nomenclature as Procedural Order no 2. Through Procedural Order # 2, I directed the parties to file their respective pleadings- viz. to file the scanned & physical copy of complaint along-with documents through through email & courier by 06th April 2023 & 10th April 2023



respectively; Further I directed the parties that they may submit their rejoinder and its reply by 14th April 2023 & 18th April 2023 respectively; Further I directed the parties that they may file their written arguments before myself on or before 18th April 2023 and serve the copy thereof to the other party;

3. Accordingly, the parties, in compliance of Procedural Order #1 & #2 and filed their respective pleadings, rejoinder & its reply. And the parties also filed their respective Affidavit in support of their pleadings (complaint & reply) & affidavit of service. The Respondent also filed written arguments. The complainant filed amended memo of parties on 24th April 2023.
4. I got delayed in passing this award as I was unwell for about a week from 18th May 2023 to 23rd May 2023.

E. INTERIM PROCEEDINGS/ ORDERS :

1. The respondent prayed through email correspondence dated 24th April 2023 stating that the affidavit filed by complainant in support of the complaint be rejected as the same has been filed after the expiry of the date of such submission. I rejected the submission of the respondent since neither of the parties have filed affidavit in support of their pleading thus an opportunity was provided to both the parties to file their respective affidavit duly attested by Notary. The claimant & the respondent complied with the orders/ directions and filed their affidavits in support of their pleadings.

F. PLEADINGS :

- a. The complainant averred in their complaint that they

-The Complainant is one of India's pre-eminent providers of matchmaking and matrimonial services, and has been providing the said services for decades. The Complainant understands that in Indian marriages, unlike western culture, not only revolves around the two individuals marrying each other but also equally cares about their family, their traditions, cultures, rituals and the understanding of both the families. When everything settles down, the relation cultivates to the bond of lifetime. Keeping this in mind, our client's services are very unique in the industry, and is one of the reasons why the Complainant is so popular in the market. Unlike other players in the industry, the Complainant's responsibility doesn't end with the matchmaking; rather they take



their responsibilities forward with successful execution of marriage providing multiple essential services. The Complainant fulfils both corporate and domestic sector's requirements.

- The Complainant has immense knowledge and experience regarding the hospitality industry, public relations, international and local trading and fund management act which often turn out to be remarkably beneficial for their clients. The Complainant has a robust team of in-house experts with a profound knowledge in Indian cultures, and marriages. Their continuous training and exploration about Indian tradition make their personnel the best help for clients during marriage activities.
- Due to its high quality services spanning almost 18 years, the Complainant and its services have been featured in Indian print and electronic media many times. Details of some of these press clippings is annexed herewith as Annexure C-4. More details about the Complainant and its stellar services can be found at its website www.sycorian.com, which has been operational since the year 2000.
- Complainant's Brand — ELITE CLASS MATRIMONY Invariant's Brand — ELITE CLASS MATRIMONY : One of the main brands of the Complainant is ELITE CLASS MATRIMONY, which it adopted in 2015. In order to perpetuate and promote its business under the said brand. the Complainant registered the domain name <ELITECLASSMATRIMONY.COM> on April 21, 2015, and has been operating an active website on the same ever since. The WHOIS records for the Complainant's aforesaid domain name, as well as screen from the Web Archive, evidencing the Complainant's use of the brand ELITE CLASS MATRIMONY since 2015, are annexed herewith as Annexure C-5.
- The Complainant, over the years has worked diligently to create a rich and enormous database of high profile clients in India wherein their match making experts are well-versed in the dynamics of the Indian marriage system. As a primary mode of their business under the brand name ELITE CLASS MATRIMONY, operates an interactive website at it's the aforementioned domain name www.eliteclassmatrimony.com, where their clients have easy access to the dedicated teams for matrimony services that cater to the client specific requirements.
- As noted above, the Complainant registered 'the top-level domain name<ELITECLASSMATRIMONY.COM> in the year 2015, which they have been using continuously and exclusively in relation to their business ever since. The said website showcases information about the Complainant and its business under the name/marks ELITE CLASS MATRIMONY/ ELITECLASSMATRIMONY, the variety of services which can be availed as well as numerous testimonials of their clients. The said website is accessible globally and can be viewed by persons all over the world. Snapshot of the website page of the Complainant prominently displaying the name/mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY has been pasted below:
- In addition to its domain registration for <ELITECLASSMATRIMONY.COM>, the Complainant has also filed trademark application for its name/mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY, in India. A copy of the application status page from the Registry's website, is annexed herewith as Annexure C-6.
- As a result of the extensive use and promotion, Complainant's name/marks ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY have become distinctive and has enjoyed distinctiveness, goodwill and reputation long prior to the date on which Respondent registered the domain name."



b The Respondent has averred in their reply

- "...That the Respondent No. 1, being the Director of the Respondent No. 2 and 3 has been into the services of matrimonial alliance for the past many years since 2015. The present Complaint under reply filed by the Complainant mentioning three Respondents, however the Order dated 03.04.2023 shows that there are two Respondents i.e. Luxury India Solutions Pvt. Ltd. and Elite Class Matrimony Pvt. Ltd. In these circumstances the present Reply is being signed, verified and filed on behalf of Sh. S. K. Arora in his personal capacity as well as in capacity of the being the Director / Authorized Representative of Luxury India Solutions Pvt. Ltd. and Elite Class Matrimony Pvt. Ltd. The Board Resolutions in favour of Sh. S. K. Arora S/o Sh. Ramesh Chand Arora issued by the Respondent No. 2 and Respondent No. 3 are placed as Annexure-'A' (Colly.). The Respondent No. 1 is continuously promoting his services since the year 2015 in Trademark starting the word "Elite" under another company M/s Luxury India News Private Limited CIN U74140DL2015SPTC280915. The copy of the Registration Certificate and Company Master data of M/s Luxury India News Private Limited is placed as Annexure-'B'.
- That M/s Luxury India News Private Limited and the Respondent No. 2 (M/s Luxury India Solutions Private Limited) coined and adopted various trademarks with the word "Elite" and started using the same in the business of matrimonial match making services etc. The copy of the Registration Certificate of the Respondent No. 2 is placed as Annexure-'C'. It is respectfully submitted that on 01.06.2015, the Respondent No. 2 had obtained the Trademark Registration vide Application bearing No. 2975810 for the mark "Elite Swayamvar.Com" claiming user since 01.04.2015. The copy of the Application and Printout of the E-Register from the official website of Registrar of Trademarks is attached herewith as Annexure-'D'. The copy of the Registration Certificate of Respondent No. 2 is placed as Annexure-'E'.
- That on the same very day i.e. 01.06.2015, the Respondent No. 2 (M/s Luxury India Solutions Private Limited) had also obtained Trademark Registration vide Application No. 2975811 for Registration of Trademark "EliteJodi.Com" claiming user since 01.04.2015. The copy of the Trade Mark Application and documents are attached herewith as Annexure-'F'. The copy of the Registration Certificate of 'EliteJodi?' issued by the Registrar of Trademarks is attached herewith as Annexure-'G'. Thereafter the Respondent No. 1 incorporated various brands under the name 'Elite' including the companies like Elite Class Matrimony Private Limited, Elite Marriage Bureau Pvt. Ltd., Elite Matrimony Bureau Pvt. Ltd. etc. and the same Was got registered with Registrar of Companies. The copy of the Registration Certificate, Certificate of Incorporation as well as Copyright Certificate of M/s Elite Class Matrimony is placed as Annexure-'H'. The copies of the Registration Certificates as well as copy rights certificate of Elite Marriage Bureau Pvt. Ltd. and Elite Matrimony Bureau Pvt. Ltd. are placed as Annexure-'I' (Colly.). The copies of the email account / newspaper advertisements / facebook and instagram pages etc. clearly shows that the Respondent is the prior user and adopter of the name / mark 'Elite' and continuously using the name / mark 'Elite' since 2015 are place ad Annexure-'J' (Colly.). The Certificate under Section 65-B of the Indian Evidence Act regarding electronic evidences With respect to emails / newspaper advertisements / facebook pages and instagram pages are placed as Annexure-'K'.
- That the Respondent No. 1 is the owner of large number of domain names starting with the word 'Elite' and for the purpose of its business of matrimonial services using the same since 01.04.2015. These command substantial goodwill and reputation and is very well known in this business. It is further submitted that the Respondents are the bona fide adopter of the mark ELITECLASSMATRIMONY and the same has been



adopted from the trading name Elite Marriage Bureau Pvt. Ltd. The Respondent No.1 is providing its services in this industry since the year 2015. The Respondents are using the subject mark inception without any interruptions due to which the subject mark has become the house mark of the Respondents. The Respondents have been a reputed service provider of the industry since then. It is further submitted that the Respondents have a massive reputation and goodwill in the industry. Moreover, the services under the mark "ELITE" has become very popular amongst the relevant section of public and trade associates. The mark "ELITECLASSMATRIMONY" have become considerably popular and well-recognized in the industry, to the extent that a customer with reasonable intelligence and imperfect recollection would associate and assume the origin of the above-mentioned services the Respondents and the mark "ELITE" and thus the Complaint under reply needs to be dismissed on this count only.

- That the Complainant herein is using a word 'Sycoriaan Matrimonial Services' and the word Sycoriaan is considered to be a generic word. The business of the Complainant under the name Sycoriaan was a total failure and therefore the Complainant copied the Respondent's brand name and started using the word 'Elite' to ride on the goodwill and reputation of the Respondent and thus the Complaint filed by the Complainant needs to be dismissed on this count only.
- That the large number of invoices showing use of the word 'Elite' by the Respondents and its group companies (same Directors and Owners) have been filed which shows that the Respondent Company was it group companies were using the trademark 'Elite Class Matrimony'. The copies of the Invoices are placed as Annexure-'L'. It is further submitted that the Respondent No.2 is also having copyright to the word 'EliteClassMatrimony'. The Complainant has copied and used the same idea, features, words and applied for a deceptively similar domain name 'Elite Class Matrimony' as that of the Respondent. A person who has started taking services of Elite Marriage Bureau would assume that the Elite Class Matrimony also belongs to the same person. Therefore it is the Complainant who has copied from the Respondent and not the other way round which the Complainant is claiming before this Hon'ble Tribunal and thus the Complaint filed by the Complainant needs to be dismissed on this ground only.
- That the Respondent No.1] by virtue of prior, long, continuous and extensive use and uniqueness in adoption, Complainant's trademarks and domains have become distinctive and has gained enviable goodwill and reputation. The Respondent No.1 is using the marks 'Elite' continuously since their inception i.e. 2015 and is the prior user, adopter and Proprietor of the mark / name 'Elite'. It is respectfully submitted that it is the Complainant who has copied the Respondent's name / mark 'Elite' which the Respondent is using since 2015 and thus the complaint filed by the Complainant needs to be dismissed with heavy cost.
- That the Complainant with ulterior motive to harass and humiliate the Respondents, has filed the Complaint bearing INDRP No.1429 on one of the employee of the Respondent No.1. However, Ld. Sole Arbitrator was pleased to dismiss the said Complaint vide order dated 12.10.2021. The copy of the Award dated 12.10.2021 is placed as Annexure-'M'. Moreover, the Complainant is in habit of filing of false and frivolous litigations against the Respondents without any justified reason.
- That the Complainant is not the proprietor of the trademark 'Elite Class Matrimony'. The Complainant's name / mark 'Elite Class Matrimony' is identical the Respondent's corporate name and trading style under the name 'Elite Class Matrimony Pvt. Ltd.' which is registered with Registrar of Companies. The Further apart from having the identical name as explained above, the Complainant's mark is deceptively and confusingly similar



to Respondent's trade mark containing the word 'Elite Class'. The adoption of the name / mark is fraudulent, willful, dishonest and void ab initio and thus the Complaint filed by the Complainant needs to be dismissed in limine.

- That the present Complaint is not maintainable against the Respondents due to the fact that the Respondent No.2 is the proprietor and the prior user and adopter of the Trade name / mark "Elite / Elite Marriage Bureau" since year 2015 and the said Trade Mark is being in prior, long, continuous and extensive use by the Respondents for their services falling in class-45. The said act of the Complainant clearly indicates that the Complainant was within the knowledge of the fact that Respondent No.2 is extensively using the Trade Mark "Elite" for its matrimonial services being provided to general public.
- That the impugned mark 'EliteClassMatrimony' of the Complainant is identical/ deceptively similar to the Respondent's mark. The impugned mark of the Complainant is phonetically, visually, structurally, and conceptually similar to the Respondent's mark. The mala fide intent of the Complainant is pretty clear from the fact that the impugned mark of the Respondent is deceptively similar to such a unique and arbitrary mark that is so distinctive when observed in relation to the nature and type of services it is applied to. The Complainant copied an identical trademark in relation to identical set of services and it would cause grave harm to the reputation and envious goodwill of Respondent's mark. The Complainant has adopted a deceptively similar mark. The present Complaint of the Complainant for transferring the domain in question needs to be dismissed on this ground only. ..."
- "...REPLY TO FACTUAL AND LEGAL GROUND
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant is one of India's pre-eminent providers of matchmaking and matrimonial services or that has been providing the said services for decades. It is also denied that the Complainant understands the Indian marriages. It is also denied that the services of the Complainant are very unique in the industry or that the Complainant is so popular in the market. It is also denied that the Complainant is providing multiple essential services or that fulfills both corporate and domestic sector's requirements.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant has immense knowledge and experience regarding the hospitality industry, public relations, international and local trading and fund management act which often turn out to be remarkably beneficial for their clients.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant has a robust team of in-house experts with a profound knowledge in Indian culture and marriages. It is also denied that their continuous training and exploration about Indian tradition make their personnel the best help for clients during marriage activities.
- That the contents of the corresponding paragraph of the Complaint under reply being matter of record needs no reply. However it is denied that the Complainant is providing its services for last 18 years. It is respectfully submitted that the Complainant has not filed any document showing that the Complainant is working in this field for last 18 years and the averments are false and frivolous.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that one of the main brands of the Complainant is "Elite Class Matrimony" or that the same was



adopted by the Complainant in 2015. It is also denied 'that the Complainant registered the domain name <ELITECLASSMATRIMONY.COM> on April 21 2015 or that has been operating an active website on the same ever since. The Respondent No.1 by virtue of prior, long, continuous and extensive use and uniqueness in adoption, Complainant's trademarks and domains have become distinctive and have gained enviable goodwill and reputation. The Respondent No.1 is using the marks 'Elite' continuously since their inception 01.04.2015 and is the prior user, adopter and Proprietor of the mark / name 'Elite'. It is respectfully submitted that it is the Complainant who has copied the Respondent's name / mark 'Elite' which the Respondents are using since 2015. Due to this act the Complainant has caused severe losses to the Respondents.

- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant, over the years has worked diligently to create a rich and enormous database of high profile clients in India or that their match making experts are well-versed in the dynamics of the Indian Marriage System. It is also denied that as a primary mode of their business under the brand name 'Elite Class Matrimony' operates an interactive website. It is submitted that the Complainant has copied the Respondent's name / mark 'Elite' as the Respondent is the prior user and adopter of the name / mark 'Elite'.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant registered the top-level domain name <Elite Class Matrimony.Com> in the year 2015 or that the same was using by the Complainant continuously and exclusively in relation to their business ever since. It is also denied that the said website showcases information about the Complainant and its business under the name / marks Elite Class Matrimony / EliteClassMatrimony or that the variety of services can be availed as well as numerous testimonials of their Clients. It is also denied that the said website is accessible globally or that can be viewed by persons all over the world. It is submitted that the webpage shown by the Complainant is false and frivolous.
- That the contents of the corresponding paragraph of the Complaint under reply being matter of record needs no reply. However, it is denied that the Complainant is using the word mark EliteClassMatrimony since 21.04.2015. The Complainant has made false statement in the Trademark application. The true fact is that it is the Respondents who are using the name / mark 'Elite' since 2015 and the Complainant has copied the Respondent's name / mark 'Elite' and has applied the trade mark application.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant was in extensive use and promotion its name / marks EliteClassMatrimony or that the same has become distinctive or that has enjoyed distinctiveness, goodwill and reputation long prior to the date on which the Respondent registered the domain name. The contents of the Preliminary Objections / Submissions taken above may kindly be treated as part and parcel of the reply to this para as the contents of the same are not being reproduced herein for the sake of brevity.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the domain name <eliteclassmatrimony.in> is confusingly similar to a trade mark in which the Complainant has rights. The true fact is that the Respondent Company was it group companies were using the trademark 'Elite Class Matrimony'. The Complainant has used the same idea, features, words and applied for a deceptively similar domain name 'Elite Class Matrimony?' as that of the Respondent. A person who has started taking services of Elite Marriage Bureau would assume that the Elite Class Matrimony also belongs to



the same person. Therefore it is the Complainant who has copied from the Respondent and not the other way round which the Complainant is claiming before this Hon'ble Tribunal.

- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant had started its matrimonial services business under the name Elite Class Matrimony / EliteClassMatrimony way back in the year 2015 or that registered the corresponding domain <Elite Class Matrimony.In> on April 21, 2015 or that have been continuously and exclusively using the same in relation to its business for many years. It is also denied that the Complainant is using the name / marks Elite Class Matrimony since 2015 or that has garnered immense reputation and goodwill. The contents of the Preliminary Objections / Submissions taken above may kindly be treated as part and parcel of the reply to this para as the contents of the same are not being reproduced herein for the sake of brevity.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the disputed domain name is identical to the Complainant's prior registered top-level domain name. The contents of the Preliminary Objections / Submissions taken above may kindly be treated as part and parcel of the reply to this para as the contents of the same are not being reproduced herein for the sake of brevity.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant was prior registered with domain name <ELITECLASSMATRIMONY.COM> or that the domain <ELITECLASSMATRIMONY.IN> is bound to cause confusion and deception in the minds of the public that the Respondent has some connection, association or affiliation with the Complainant. Rest of the content of the paragraph of the Complaint under reply are the judgments passed in various INDRP cases and the same being matter of record needs no reply.
- That the contents of the corresponding paragraph of the Complaint under reply being matter of record needs no reply.
- That the contents of the corresponding paragraph of the Complaint under reply being matter of record needs no reply. However it is denied that the Complainant has acquired rights in the trade mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY by way of domain registration much prior to the date on which the Respondent created the disputed domain name <ELITECLASSMATRIMONY.IN>. The true fact is that the Respondents are using the trademark 'Elite' since 2015 and it is the Complainant who has copied the Respondent's name / mark 'Elite'.
- That the contents of the corresponding paragraph of the Complaint under reply are being matter of record. However it is respectfully submitted that the Respondents are using the domain name <ELITECLASSMATRIMONY.IN> prior filing of the trade mark application by the Complainant. The Respondents are using the domain name <ELITECLASSMATRIMONY.IN> long back and the same is clearly reflecting in the documents attached herewith.
- That the contents of the corresponding paragraph of the Complaint under reply being matter of record. However, it is denied that the Respondent at the time of registering the domain name failed to make the determination that the name / mark <ELITE CLASS MATRIMONY> and the rights subsisting therein vest exclusively with the Complainant.



- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent has no right or legitimate interest in the domain name <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY.IN>. It is respectfully submitted that the Complainant has filed its Trade Mark application on 17th December 2019 and has falsely claimed in its trade mark application that he is using the said domain since 2015. It is denied that the Company name is malafide and in bad faith or that the same is liable to be changed. It is denied that the Respondent was not using the domain name in connection with a bonafide offering of goods and services. It is also denied that the registration by the Respondents is only with the motive to deceive the general public into believing that they are associated with or endorsed by the Complainant or that with an intention to ride on the goodwill and reputation associated with the Complainant to unjustly enrich the same. The contents of the Preliminary Objections / Submissions taken above may kindly be treated as part and parcel of the reply to this para as the contents of the same are not being reproduced herein for the sake of brevity.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent in bad faith and malafide intention filed an application for the mark <ELITECLASSMATRIMONY> on a proposed to be used basis. It is also denied that the Respondent upon becoming aware of the Complainant's trademark application decided to file its own application in bad faith with malafide intention on 25.12.2019 to harass the _ Complainant. It is also denied that the Respondent's trademark application is no basis to claim legitimate interest or that the same is malafide and in bad faith. It is also denied that the Respondents ever filed any malafide application in bad faith. It is also denied that the Complainant adopted the trademark <ELITECLASSMATRIMONY> way back in year 2015 or that the Claims of the Respondent are far subsequent to the Complainant's adoption.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent is not making a legitimate non-commercial fair use of the domain name. It is also denied that the Respondent has deliberately chosen to use the domain name <ELITECLASSMATRIMONY.IN> or that the same is identical to the Complainant's domain name / website.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent does not have any right or legitimate interest in the name <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY> within the meaning of paragraph 6(c) of the Policy. It is also denied that the Respondent is not making a legitimate, non-commercial or fair use of the domain name. It is also denied that the Respondent has deliberately chosen to use the domain name <ELITECLASSMATRIMONY.IN> or that the same is phonetically conceptually, deceptively and confusingly identical / imilar to the Complainant's trademark and domain name or that to suggest a direct connection or affiliation with the Complainants name / marks or that to create a direct affiliation with the Complainant and its business.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that there is any confusion or that the same is greatly aggravated by the fact that the Respondent is using the domain name <ELITECLASMATRIMONY.IN> with respect to matrimonial services or that the same is identical / overlapping to the Complainant's area of business under the name / marks <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY>. It is also denied that the Respondent are not currently making a legitimate, non-commercial or fair use of the domain name in accordance with paragraph 6 (c) of the Policy. It



is also denied that any use of domain name <ELITECLASSMATRIMONY.IN> by the Respondent is likely to create a false association and affiliation with the Complainant's name / marks ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY>. It is also denied that the Respondent has no rights or legitimate interests in respect of the domain in question or that is incapable of making a legitimate, non-commercial or fair use of the domain in question in accordance with paragraph 6 (c) of the Policy.

- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent has registered the domain in question <ELITECLASSMATRIMONY.IN> after 4 years after the Complainant adopted the trademark <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY>. It is also denied that the Respondent is using the identical domain with respect to the identical services. It is also denied that the Respondent's use of the domain in question is not bonafide or that the same is phonetically, conceptually, deceptively and confusingly identical / similar to the Complainant's trademark. The contents of the Preliminary Objections may kindly be treated as part and parcel of the reply to this para as the same are not being reproduced herein for the sake of brevity.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent's use of domain in question would be illegitimate or would create a false association and affiliation with the Complainant's mark. It is also denied that the Respondent has no rights or legitimate interests in respect of the domain in question.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent is creating a likelihood of confusion with the Complainant's mark. It is also denied that the Respondent registered a domain name inextricable or that connected with the Complainant and its name / marks or that the same is using for similar / identical services or that clearly indicate bad faith as per the INDR Policy.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent had registered the disputed domain name <ELITECLASSMATRIMONY.IN> subsequent to the Complainant's prior domain name or that the Respondent is using the identical name with respect to the domain in question or that appears to be offering similar / identical services on the domain in question. It is also denied that the Complainant is in continuous and extensive use of name / mark <ELITE CLASS MATRIMONY / ELITECLASS MATRIMONY> or that the same is an exclusive identifier for the Complainant. It is also denied that the Respondent has adopted an identical name / mark <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY> with respect to the domain in question to create a deliberate and false impression in the minds of consumers. It is also denied that the facts and contentions enumerated above establish the Respondent's domain name registration for <ELITECLASSMATRIMONY.IN> or that the same is contrary to the provisions of paragraph 4 (c) of the INDRP.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant adopted the name <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY> way back in 2015. It is also denied that the Respondent there is an attempt on part of the Respondent to ride on the association and goodwill of the Complainant's brand by misleading, confusing and deceiving the Complainant's customers and the general lay public. The averments are false and frivolous. The contents of the Preliminary Objections / Submissions taken above may kindly be treated as



part and parcel of the reply to this para as the contents of the same are not being reproduced herein for the sake of brevity.

- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant has established the name / marks <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY> are distinctive or that the Respondent had prior knowledge of Complainant's name / marks prior to registering the domain in question.".

2. GROUNDS

a. The complainant contended under the head, "The domain name is confusingly similar to a name, trademark or service mark in which the Complainant has rights:

- "... The domain name <eliteclassmatrimony.in> is confusingly similar to a trade mark in domain name <eliteclassmatrimony.in> is confusingly similar to a trade mark in which Complainant has rights (Paragraph 4(i) of the .IN Policy)
- Complainant had established their matrimonial services business under the name ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY way back in the year 2015 and registered the corresponding domain name <SELITECLASSMATRIMONY.COM> (which is identical to the disputed domain name <ELITECLASSMATRIMONY.IN>) on April 21, 2015 and have been continuously and exclusively using the same in relation to its business for many years. By virtue of long standing use (since 2015), Complainant's name/ marks ELITE CLASS MATRIMONY ELITECLASSMATRIMONY have garnered immense reputation and goodwill.
- The disputed domain name <ELITECLASSMATRIMONY.IN> is identical to the Complainant's prior registered top-level domain name <ELITECLASSMATRIMONY.COM> as well as the name/marks ELITE CLASS MATRIMONY/ ELITECLASSMATRIMONY.
- Given the identity of the disputed domain name <ELITECLASSMATRIMONY.IN> with the Complainant's prior registered domain name <ELITECLASSMATRIMONY.COM> and its name/marks ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY, the same is bound to cause confusion and deception in the minds of the public that the Respondent has some connection, association or affiliation with the Complainant, when it is not so. It has been held by prior panels deciding under the INDRP that there is confusing similarity where the disputed domain name wholly



incorporates the Complainant's trade mark such as Kenneth Cole Productions v. Viswasinfomedia INDRP/093 <kennethcole.in>, Inter-Continental Hotels Corporation vs. Jaswinder Singh (INDRP/278) <hotelintercontinental.in>, Indian Hotels Company 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 vy. Novation In Limited (INDRP/905) <singer.co.in>.

- This well-established principal has also been upheld by various UDRP panels, including but not limited to in Oki Data Americas, Inc. v. ASD, Inc. (WIPO Case No. D2001-0903) <okidataparts.com>, Go Daddy.com, Inc. v. Shoneye's Enterprise (WIPO Case No. D2007-1090) <domainnamedaddy.com>, Qalo, LLC v. Chen Jinjun and Magnum Piercing Inc. v. The Mudjackers (WIPO Case No. D2000-1525) <magnumpiercing.com> <magnumpiercinginc.com> <magnumpiercing.net> <magnumpiercinginc.net> <magnumpier.net> <magnumpiers.com> <magnumpiers.net> <magnum-piercing.com> <magnum-piercing.net> <magnum-pier.com> <magnum-pier.net> <magnumpier.com> <magnum-piers.com> <magnum-piers.net>.
- Further, a TLD/ccTLD such as ".in" is an essential part of domain name, thus it cannot be said to distinguish the disputed domain name <ELITECLASSMATRIMONY.IN> from the Complainant's domain <ELITECLASSMATRIMONY.COM> or its trade mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY. This has been held by prior panels in numerous cases, for instance in Dell Inc. v. Mani, Soniva (INDRP/753) <dellservicecenter.in>, Patagonia Inc. v. Doublefist Ltd. (INDRP/1155) <patagonia.co.in> and Humor Rainbow, Inc. v. Yin Jun, China (INDRP/1153) <okcupid.in>.
- Reliance is also placed on a prior decision of the INDRP Panel in M/s Retail Royalty Company v. Mr. Folk Brook INDRP/705 wherein on the basis of the Complainant's registered trademark and domain names for "AMERICAN EAGLE", having been created by the Complainant much before the date of creation of the disputed domain name <americaneagle.co.in> by the Respondent, it was held that, "The disputed domain name is very much similar to the name and trademark of the Complainant. The Hon ble Supreme Court of India has recently held that the domain name has become a business identifier. A domain name helps identify the subject of trade or service that an entity seeks to provide to its potential customers. Further that there is a strong likelihood that a



web browser looking for AMERICAN EAGLE products in India or elsewhere would mistake the disputed domain name as of the Complainant.". In the present dispute as well, the Complainant has acquired rights in the trade mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY by way of domain name registration much prior to the date on which the Respondent created the disputed domain name <ELITECLASSMATRIMONY.IN> and also by way of filing a trade mark application.

- The identity between the Complainant's name/marks ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY as well as its domain name <ELITECLASSMATRIMONY.COM>, with the disputed domain name <ELITECLASSMATRIMONY.IN>, is grossly exacerbated by the fact that the Respondent is using the domain for identical services i.e. matrimonial services which is the nature of services provided by the Complainant as well.
- Additionally, Paragraph 3 of the INDRP states that, "it is the Registrant's responsibility to determine whether the Registrant's domain name registration infringes or violates someone else's rights." As held by the panel in Lockheed Martin Corporation v. Aslam Nadia (INDRP/947) <lockheedengineering.in>, since the Respondent failed to discharge such responsibility, the panel concluded that the Complainant has satisfied the first element required by Paragraph 4 of the INDRP. In the present dispute as well, the Respondent, at the time of registering the impugned domain name, has clearly failed to make the determination that the name/ mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY and the rights subsisting therein vest exclusively with the Complainant.
- Therefore, the conditions under the INDRP Paragraph 4(a) stand suitably established..."

b. The Respondent has no rights or legitimate interests in respect of the domain name Respondent has no rights or legitimate interests in respect of the domain name (Paragraph 4(b) and Paragraph 6 of the .IN Policy)

- "...For the facts stated hereinabove, the Respondent has no right or legitimate interest in the domain name <ELITECLASSMATRIMONY.IN>. Complainant has not authorized the Respondent at any point of time to register the impugned domain name, or use the names ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY in any form whatsoever. In this regard, while the Respondent might have incorporated a company under the name ELITECLASSMATRIMONY PRIVATE LIMITED, the same was in the



year 2020 and hence is by far subsequent to the Complainant's trademarks and domain name, as established in the preceding paragraphs (i.e. Complainant registered the domain name ELITECLASSMATRIMONY.COM in 2015 and filed its trademark application on December 17, 2019, claiming use since 2015). Thus, the same is no basis to claim legitimate interest, as the said company name in itself is malafide and in bad faith, and is liable to be changed. The Complainant reserves its rights to take separate action with respect to the said malafide company incorporation, which is its prerogative. Thus, the Respondent cannot assert that it is using the disputed domain name in connection with a bona fide offering of goods and services in accordance with Paragraph 6(a) of the .IN Policy. The said registration by the Respondent is only with the motive to deceive the general public into believing that they are somehow associated with or endorsed by the Complainant, and further with an intention to ride on the goodwill and reputation associated with the Complainant to unjustly enrich from the same.

- It is further placed on record that the Respondent (through its associate/ affiliate company Elite Marriage Bureau Private Limited), in bad faith and with malafide intention, has also filed an application for the mark ELITECLASSMATRIMONY (vide application no. 4389139 dated December 25, 2019, on a proposed to be used basis. It is evident that the Respondent, upon becoming aware of the Complainant's 'trademark application no. 4380561 for the mark ELITECLASSMATRIMONY filed on December 17, 2019, decided to file its own application in bad faith with malafide intention, on December 25, 2019, to further harass the Complainant. Thus, the Complainant has reserved its right to file opposition against the said pending application of the Respondent, as and when the same is advertised/ published in the Trade Marks Journal. Thus, the Respondent's trademark application is no basis to claim legitimate interest, as the same in itself is malafide and in bad faith. Such malafide application filed in bad faith by the Respondent, does not give any legitimate rights or interests to the Respondent over the disputed domain name <eliteclassmatrimony.in>. It has been suitably established in the preceding paragraphs that the Complainant adopted the trademark ELITE CLASS MATRIMONY/ ELITECLASSMATRIMONY way back in the year 2015, and any claims which the Respondent may assert over the identical mark, are by far subsequent to the Complainant's adoption.



- Respondent is clearly not making a legitimate, non-commercial fair use of the domain name. Therefore, it appears that Respondent has deliberately chosen to use the domain name <ELITECLASSMATRIMONY.IN>, which is identical to the Complainant's domain name/ website ELITECLASSMATRIMONY.COM as well as its trade mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY, so as to suggest a direct connection or affiliation with the Complainant and its business when in fact there is none.
- The Respondent does not have any right or legitimate interest in the name ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY within the meaning of Paragraph 6(c) of the Policy. The Respondent is not making a legitimate, non-commercial or fair use of the domain name. It appears that the Respondent has deliberately chosen to use the domain name <ELITECLASSMATRIMONY.IN>, which is phonetically, conceptually, deceptively and confusingly identical similar to the Complainant's trademark and prior domain name, so as to suggest a direct connection or affiliation with the Complainant's name/marks and business and to create a direct affiliation with Complainant and its business when in fact there is none.
- Further, such confusion is greatly aggravated by the fact that the Respondent is using the domain name <ELITECLASSMATRIMONY.IN> with respect to matrimonial services which is identical/ overlapping to the Complainant's area of business under the name marks ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY. Accordingly, the Respondent cannot assert that they are currently making a legitimate, non-commercial or fair use of the domain name, in accordance with Paragraph 6(c) of the Policy. In fact, any use of the domain name <ELITECLASSMATRIMONY.IN> by the Respondent in relation to identical services is likely to create a false association and affiliation with the Complainant's name/marks ELITE CLASS MATRIMONY/ ELITECLASSMATRIMONY and its official website at ELITECLASSMATRIMONY.COM. Therefore, it is submitted that Respondent has no rights or legitimate interests in respect of the impugned domain name and is incapable of making a legitimate, non-commercial or fair use of the domain name in accordance with Paragraph 6(c) of the Policy.
- Respondent herein registered the impugned domain <ELITECLASSMATRIMONY.IN> almost 4 years after the Complainant adopted the trade mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY in relation to their business. Further, Respondent is presently using the identical domain with respect to identical services i.e. matrimonial services. In the circumstances of this case the



Respondent's use of the disputed domain name is not "bona fide" within the meaning of Paragraph 6(c) of the Policy since there is no apparent legitimate justification for the Respondent's registration of the <ELITECLASSMATRIMONY.IN> domain name that is phonetically, conceptually, deceptively and confusingly identical/ similar to the Complainants' trade mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY.

- Further, the continued ownership of the disputed domain name <ELITECLASSMATRIMONY.IN> by the Respondent, prevents the Complainant from reflecting their trademark in the subject domain name. In *Motorola, Inc. vs NewGate Internet, Inc.* (WIPO Case D2000-0079), it was held that use of the trademarks can not only create a likelihood of confusion with the Complainants' marks as to the Source, sponsorship, affiliation or endorsement of its web site, but also creates dilution of the marks.
- It is not possible to conceive of any plausible use of the domain name <ELITECLASSMATRIMONY.IN> by Respondent that would not be illegitimate, as it would inevitably create a false association and affiliation with Complainant's mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY and its domain name/ website ELITECLASSMATRIMONY.COM. Therefore, it is submitted that Respondent has no rights or legitimate interests in respect of the impugned domain name.

c. The domain name was registered or is being used in bad faith (Paragraph 4(c) and Paragraph 7 of the .IN Policy)

- "...As per paragraph 7(c) of the Policy, it is stipulated that a "bad faith" registration and use of a domain name can be established inter alia by showing circumstances indicating that the Respondent has registered and was previously using the domain name to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation or endorsement of Respondent's website or location, or of a product or service on Respondent's website or location. The fact that the Respondent registered a domain name so inextricably intertwined and connected with the Complainant and its name/marks and business, and is using the same for similar/identical services, thus, in this context, clearly indicate bad faith as per the INDR Policy.



- Furthermore, the fact that the Respondent had registered the disputed domain name <ELITECLASSMATRIMONY.IN> much subsequent to the complainant's prior registered domain name/ website further aggravates the Respondent's bad faith, in as much as, the Respondent is using the identical name with respect to the impugned domain name <ELITECLASSMATRIMONY.IN>, and appears to be offering similar/identical services on the disputed domain name. There can be no other plausible explanation as to how the Respondent arrived at the impugned domain name <ELITECLASSMATRIMONY.IN> which incorporates the Complainant's name/ marks ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY and provides matrimonial services which is the primary service of the Complainant under the said name/ marks. In light of the continuous and extensive use of the name/ mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY by the Complainant including as part of their trade mark/domain name, the same is an exclusive identifier for the Complainant. Reliance is placed on a prior decision of this Panel in M/s Merck KGaA v Zeng Wei INDRP/323 wherein it was stated that: "The choice of the domain name does not appear to be a mere coincidence, but a deliberate use of a well-recognized mark... such registration of a domain name, based on awareness of a trademark is indicative of bad faith registration.". Hence, the Respondent had no reason to adopt an identical name/ mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY with respect to the impugned domain name except to create a deliberate and false impression in the minds of consumers that the Respondent is somehow associated with or endorsed by the Complainant, with the sole intention to ride on the massive goodwill and reputation associated with the Complainant and to unjustly enrich from the same. The facts and contentions enumerated above establish that Respondent's domain name registration for <ELITECLASSMATRIMONY.IN> is clearly contrary to the provisions of paragraph 4(c) of the INDRP.
- In consideration of the Complainant's longstanding reputation, and the ubiquitous presence of 'the Complainant's name/marks ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY on the Internet, Respondent was, or should have been, aware of the Complainant's trade mark and the domain ELITECLASSMATRIMONY.COM long prior to registering the domain name, especially considering the fact that the Complainant's adoption of the name ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY dates back to 2015. The Respondent's



intent appears reflective of a blatant attempt to ride on the association and goodwill of the Complainant's brand as acquired among the consuming public and thereby drive traffic towards the Respondent's domain and website by misleading, confusing and deceiving Complainant's customers and the general lay public as to the source, sponsorship, affiliation or endorsement of the Respondent's domain name and website as hosted thereon.

- *In view of the above, Complainant has established that the name/marks ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY are distinctive and it is evident that the Respondent had prior knowledge of Complainant's name/marks prior to registering the disputed domain name. Owing to the fame attached to Complainant's name/marks ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY, which is a result of extensive use and promotion in relation to its matrimonial services, it is implausible that the disputed domain name <ELITECLASSMATRIMONY.IN> can be affiliated/ associated with anyone else except the Complainant herein..."*

d. The respondent replied under the head, "REPLY TO FACTUAL AND LEGAL GROUND"

- *"...That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant is one of India's pre-eminent providers of matchmaking and matrimonial services or that has been providing the said services for decades. It is also denied that the Complainant understands the Indian marriages. It is also denied that the services of the Complainant are very unique in the industry or that the Complainant is so popular in the market. It is also denied that the Complainant is providing multiple essential services or that fulfills both corporate and domestic sector's requirements.*
- *That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant has immense knowledge and experience regarding the hospitality industry, public relations, international and local trading and fund management act which often turn out to be remarkably beneficial for their clients.*
- *That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant has a robust team of in-house experts with a profound knowledge in Indian culture and marriages. It is also*



denied that their continuous training and exploration about Indian tradition make their personnel the best help for clients during marriage activities.

- That the contents of the corresponding paragraph of the Complaint under reply being matter of record needs no reply. However it is denied that the Complainant is providing its services for last 18 years. It is respectfully submitted that the Complainant has not filed any document showing that the Complainant is working in this field for last 18 years and the averments are false and frivolous.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that one of the main brands of the Complainant is "Elite Class Matrimony" or that the same was adopted by the Complainant in 2015. It is also denied 'that the Complainant registered the domain name <ELITECLASSMATRIMONY.COM> on April 21 2015 or that has been operating an active website on the same ever since. The Respondent No.1 by virtue of prior, long, continuous and extensive use and uniqueness in adoption, Complainant's trademarks and domains have become distinctive and have gained enviable goodwill and reputation. The Respondent No.1 is using the marks 'Elite' continuously since their inception 01.04.2015 and is the prior user, adopter and Proprietor of the mark / name 'Elite'. It is respectfully submitted that it is the Complainant who has copied the Respondent's name / mark 'Elite' which the Respondents are using since 2015. Due to this act the Complainant has caused severe losses to the Respondents.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant, over the years has worked diligently to create a rich and enormous database of high profile clients in India or that their match making experts are well-versed in the dynamics of the Indian Marriage System. It is also denied that as a primary mode of their business under the brand name 'Elite Class Matrimony' operates an interactive website. It is submitted that the Complainant has copied the Respondent's name / mark 'Elite' as the Respondent is the prior user and adopter of the name / mark 'Elite'.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant registered the top-level domain name <Elite Class Matrimony.Com> in the year 2015 or that the same was using by the Complainant continuously and exclusively in relation to their business ever since. It is also denied that the said website showcases information about the



Complainant and its business under the name / marks Elite Class Matrimony / EliteClassMatrimony or that the variety of services can be availed as well as numerous testimonials of their Clients. It is also denied that the said website is accessible globally or that can be viewed by persons all over the world. It is submitted that the webpage shown by the Complainant is false and frivolous.

- That the contents of the corresponding paragraph of the Complaint under reply being matter of record needs no reply. However, it is denied that the Complainant is using the word mark EliteClassMatrimony since 21.04.2015. The Complainant has made false statement in the Trademark application. The true fact is that it is the Respondents who are using the name / mark 'Elite' since 2015 and the Complainant has copied the Respondent's name / mark 'Elite' and has applied the trade mark application.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant was in extensive use and promotion its name / marks EliteClassMatrimony or that the same has become distinctive or that has enjoyed distinctiveness, goodwill and reputation long prior to the date on which the Respondent registered the domain name. The contents of the Preliminary Objections / Submissions taken above may kindly be treated as part and parcel of the reply to this para as the contents of the same are not being reproduced herein for the sake of brevity.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the domain name <eliteclassmatrimony.in> is confusingly similar to a trade mark in which the Complainant has rights. The true fact is that the Respondent Company was it group companies were using the trademark 'Elite Class Matrimony'. The Complainant has used the same idea, features, words and applied for a deceptively similar domain name 'Elite Class Matrimony?' as that of the Respondent. A person who has started taking services of Elite Marriage Bureau would assume that the Elite Class Matrimony also belongs to the same person. Therefore it is the Complainant who has copied from the Respondent and not the other way round which the Complainant is claiming before this Hon'ble Tribunal.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant had started its matrimonial services business under the name Elite Class Matrimony / EliteClassMatrimony way back in the year 2015 or that registered the corresponding domain <Elite Class



Matrimony.In> on April 21, 2015 or that have been continuously and exclusively using the same in relation to its business for many years. It is also denied that the Complainant is using the name / marks Elite Class Matrimony since 2015 or that has garnered immense reputation and goodwill. The contents of the Preliminary Objections / Submissions taken above may kindly be treated as part and parcel of the reply to this para as the contents of the same are not being reproduced herein for the sake of brevity.

- *That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the disputed domain name is identical to the Complainant's prior registered top-level domain name. The contents of the Preliminary Objections / Submissions taken above may kindly be treated as part and parcel of the reply to this para as the contents of the same are not being reproduced herein for the sake of brevity.*
- *That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant was prior registered with domain name <ELITECLASSMATRIMONY.COM> or that the domain <ELITECLASSMATRIMONY.IN> is bound to cause confusion and deception in the minds of the public that the Respondent has some connection, association or affiliation with the Complainant. Rest of the content of the paragraph of the Complaint under reply are the judgments passed in various INDRP cases and the same being matter of record needs no reply.*
- *That the contents of the corresponding paragraph of the Complaint under reply being matter of record needs no reply.*
- *That the contents of the corresponding paragraph of the Complaint under reply being matter of record needs no reply. However it is denied that the Complainant has acquired rights in the trade mark ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY by way of domain registration much prior to the date on which the Respondent created the disputed domain name <ELITECLASSMATRIMONY.IN>. The true fact is that the Respondents are using the trademark 'Elite' since 2015 and it is the Complainant who has copied the Respondent's name / mark 'Elite'.*
- *That the contents of the corresponding paragraph of the Complaint under reply are being matter of record. However it is respectfully submitted that the Respondents are using the domain name <ELITECLASSMATRIMONY.IN> prior filing of the trade mark*



application by the Complainant. The Respondents are using the domain name <ELITECLASSMATRIMONY.IN> long back and the same is clearly reflecting in the documents attached herewith.

- That the contents of the corresponding paragraph of the Complaint under reply being matter of record. However, it is denied that the Respondent at the time of registering the domain name failed to make the determination that the name / mark <ELITE CLASS MATRIMONY> and the rights subsisting therein vest exclusively with the Complainant.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent has no right or legitimate interest in the domain name <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY.IN>. It is respectfully submitted that the Complainant has filed its Trade Mark application on 17th December 2019 and has falsely claimed in its trade mark application that he is using the said domain since 2015. It is denied that the Company name is malafide and in bad faith or that the same is liable to be changed. It is denied that the Respondent was not using the domain name in connection with a bonafide offering of goods and services. It is also denied that the registration by the Respondents is only with the motive to deceive the general public into believing that they are associated with or endorsed by the Complainant or that with an intention to ride on the goodwill and reputation associated with the Complainant to unjustly enrich the same. The contents of the Preliminary Objections / Submissions taken above may kindly be treated as part and parcel of the reply to this para as the contents of the same are not being reproduced herein for the sake of brevity.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent in bad faith and malafide intention filed an application for the mark <ELITECLASSMATRIMONY> on a proposed to be used basis. It is also denied that the Respondent upon becoming aware of the Complainant's trademark application decided to file its own application in bad faith with malafide intention on 25.12.2019 to harass the _ Complainant. It is also denied that the Respondent's trademark application is no basis to claim legitimate interest or that the same is malafide and in bad faith. It is also denied that the Respondents ever filed any malafide application in bad faith. It is also denied that the Complainant adopted the trademark <ELITECLASSMATRIMONY> way back in year 2015 or that the Claims of the Respondent are far subsequent to the Complainant's adoption.



- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent is not making a legitimate non-commercial fair use of the domain name. It is also denied that the Respondent has deliberately chosen to use the domain name <ELITECLASSMATRIMONY.IN> or that the same is identical to the Complainant's domain name / website.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent does not have any right or legitimate interest in the name <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY> within the meaning of paragraph 6(c) of the Policy. It is also denied that the Respondent is not making a legitimate, non-commercial or fair use of the domain name. It is also denied that the Respondent has deliberately chosen to use the domain name <ELITECLASSMATRIMONY.IN> or that the same is phonetically conceptually, deceptively and confusingly identical / imilar to the Complainant's trademark and domain name or that to suggest a direct connection or affiliation with the Complainants name / marks or that to create a direct affiliation with the Complainant and its business.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that there is any confusion or that the same is greatly aggravated by the fact that the Respondent is using the domain name <ELITECLASMATRIMONY.IN> with respect to matrimonial services or that the same is identical / overlapping to the Complainant's area of business under the name / marks <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY>. It is also denied that the Respondent are not currently making a legitimate, non-commercial or fair use of the domain name in accordance with paragraph 6 (c) of the Policy. It is also denied that any use of domain name <ELITECLASSMATRIMONY.IN> by the Respondent is likely to create a false association and affiliation with the Complainant's name / marks ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY>. It is also denied that the Respondent has no rights or legitimate interests in respect of the domain in question or that is incapable of making a legitimate, non-commercial or fair use of the domain in question in accordance with paragraph 6 (c) of the Policy.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent has registered the domain in question <ELITECLASSMATRIMONY.IN> after 4 years after the Complainant adopted



the trademark <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY>. It is also denied that the Respondent is using the identical domain with respect to the identical services. It is also denied that the Respondent's use of the domain in question is not bonafide or that the same is phonetically, conceptually, deceptively and confusingly identical / similar to the Complainant's trademark. The contents of the Preliminary Objections may kindly be treated as part and parcel of the reply to this para as the same are not being reproduced herein for the sake of brevity.

- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent's use of domain in question would be illegitimate or would create a false association and affiliation with the Complainant's mark. It is also denied that the Respondent has no rights or legitimate interests in respect of the domain in question.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent is creating a likelihood of confusion with the Complainant's mark. It is also denied that the Respondent registered a domain name inextricable or that connected with the Complainant and its name / marks or that the same is using for similar / identical services or that clearly indicate bad faith as per the INDR Policy.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Respondent had registered the disputed domain name <ELITECLASSMATRIMONY.IN> subsequent to the Complainant's prior domain name or that the Respondent is using the identical name with respect to the domain in question or that appears to be offering similar / identical services on the domain in question. It is also denied that the Complainant is in continuous and extensive use of name / mark <ELITE CLASS MATRIMONY / ELITECLASS MATRIMONY> or that the same is an exclusive identifier for the Complainant. It is also denied that the Respondent has adopted an identical name / mark <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY> with respect to the domain in question to create a deliberate and false impression in the minds of consumers. It is also denied that the facts and contentions enumerated above establish the Respondent's domain name registration for <ELITECLASSMATRIMONY.IN> or that the same is contrary to the provisions of paragraph 4 (c) of the INDRP.



- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant adopted the name <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY> way back in 2015. It is also denied that the Respondent there is an attempt on part of the Respondent to ride on the association and goodwill of the Complainant's brand by misleading, confusing and deceiving the Complainant's customers and the general lay public. The averments are false and frivolous. The contents of the Preliminary Objections / Submissions taken above may kindly be treated as part and parcel of the reply to this para as the contents of the same are not being reproduced herein for the sake of brevity.
- That the contents of the corresponding paragraph of the Complaint under reply are wrong and hence denied. It is denied that the Complainant has established the name / marks <ELITE CLASS MATRIMONY / ELITECLASSMATRIMONY> are distinctive or that the Respondent had prior knowledge of Complainant's name / marks prior to registering the domain in question."

3. From the pleadings following issues have been framed :

G. The Issues :

1. Whether the Impugned domain name <www.eliteclassmatrimony.in> is confusingly similar to a name, trademark or service mark in which the Complainant has rights?
2. Whether the Respondent has no rights or legitimate interests in respect of the Domain Name <www.eliteclassmatrimony.in> ?
3. Whether the impugned domain name <www.eliteclassmatrimony.in> was registered or is being used in bad faith?
4. Relief – REMEDIES REQUESTED : The Complainant requests the arbitral Panel appointed in this arbitral proceeding to issue a decision that the disputed Domain Name www.eliteclassmatrimony.in be transferred to the Complainant.



H. Analysis of the issues

1. Whether the Impugned domain name <www.eliteclassmatrimony.in> is confusingly similar to a name, trademark or service mark in which the Complainant has rights?
 - a. I have perused the pleadings, affidavit of the counsel of the complainant & documents. The complainant must stand on its own foot and not on the weakness of respondent.
 - b. The complainant has contended that through their affiliate Mr Rakesh Tripathy, on 21/04/2015 they have adopted domain <www.eliteclassmatrimony.com>, however, the complainant, along-with its complaint or later on has not placed on record any document showing any affiliation between the complainant & Mr Rakesh Tripathy (Averred as one of the affiliate of complainant).
 - c. The complainant has averred that they had filed trademark application no. 4380561 for the mark ELITECLASSMATRIMONY on 17/12/2019.
 - d. And they have also relied on Annexure C5 i.e. Whois Lookup <www.eliteclassmatrimony.com> which shows the registration details of owner of the domain; Accordingly the domain <www.eliteclassmatrimony.com> is registered in the name of "Domains By Proxy, LLC, DomainsByProxy.com, 2155 E Warner Rd, Tempe, Arizona,US.", and further there is no document placed on record showing transfer of rights or agreement to use of the domain <www.eliteclassmatrimony.com> by Mr Rakesh Tripathy or the complainant.
 - e. From the documents filed by the respondent, the Trademark "ELITECLASSMATRIMONY" is registered in the name of the respondent (Annexure H) dated 14/02/2020.



From the documents i.e. Whois Lookup filed by the complainant, the domain name <www.eliteclassmatrimony.in> is registered in the name of the respondent (Annexure C3) dated 16/02/2019.

- g. Thus it is apparent that the complainant has not filed document showing any affiliation between them & Mr Rakesh Tripathy (Averred as one of the affiliate of complainant); And also that there is no document on record showing transfer of rights or agreement to use of the domain <www.eliteclassmatrimony.com> by Mr Rakesh Tripathy or the complainant. On the other hand respondent had placed on record i.e. Annexure H & Annexure C3 (filed by complainant themselves).
- h. In view of aforementioned circumstances and the submissions and as per the Paragraph 4(a) of INDRP Policy, I conclude that the complainant has failed to prove its claim on the domain name <www.eliteclassmatrimony.in>.
2. Whether the Respondent has no rights or legitimate interests in respect of the Domain Name <www.eliteclassmatrimony.in> ?
- a. I have perused the pleadings, affidavit & documents/ Annexures placed on record and their submissions.
- b. And also in view of analysis of issue no 1 discussed as mentioned here-in-before, I am not satisfied that respondents are violating rights or legitimate interests of the complainant. As per the documents respondent owns the trademark "ELITECLASSMATRIMONY";
- c. After analyzing the submissions & details made herein-before, the documents placed on record and the judgments cited, I conclude that the complainant has failed to prove its claims, rights or legitimate interests to use the trademark "ELITECLASSMATRIMONY" and thus respondents has rights or legitimate interests in respect of carrying out business from the disputed domain name <www.eliteclassmatrimony.in>.
- d. I conclude that the respondents have not acted in contravention of paragraph 4(b) of INDRP Policy.



3. Whether the impugned domain name <www.eliteclassmatrimony.in> was registered or is being used in bad faith?
- a. I have perused the complaint, affidavit & documents/ Annexures placed on record and their submissions.
 - b. And after perusing Annexures/ documents placed on record, submissions made, it is apparent that the respondents are bonafide owner of trademark "ELITECLASSMATRIMONY" and is carrying out business activities.
 - c. And also in view of analysis of issue no 1 discussed as mentioned here-in-before, I am satisfied that respondents have registered domain name using the trademark "ELITECLASSMATRIMONY" have exclusive rights or legitimate interests over the trademark "ELITECLASSMATRIMONY" and the registration of the Impugned Domain <www.eliteclassmatrimony.in> has not been done in bad faith and with dishonest intention to mislead the innocent public.
 - d. After analyzing the submissions & details made herein-before and the documents placed on record, I conclude that the the domain name <www.eliteclassmatrimony.in> has not been registered or used in bad faith by the respondent. I further conclude that the respondent have not acted in contravention of paragraph 4(c) of INDRP Policy.
4. Remedies Requested – *REMEDIES REQUESTED : The Complainant requests the arbitral Panel appointed in this arbitral proceeding to issue a decision that the disputed Domain Name <www.eliteclassmatrimony.in> be transferred to the Complainant.*
- a. Analysis of the issue (D) Relief – Regarding the prayer for relief as prayed, I have perused the pleadings & documents placed on record as annexures; And also in view of analysis of issues discussed & mentioned here-in-before, I conclude that the the complainant has not impleaded necessary parties to this complaint; Thus I decline the prayer of the complainant to transfer the



ownership of domain name <www.eliteclassmatrimony.in> and accordingly complaint is dismissed.

- b. Regarding the prayer for relief as to award of cost, I conclude that the parties to bear their own costs.

I. **AWARD**

1. I AWARD AND DIRECT, that the complaint filed by complainant regarding transfer of ownership of domain name <www.eliteclassmatrimony.in> be dismissed.
2. I AWARD AND DIRECT, that the parties to bear their own costs.

This is my final award made and published by me on this 27th day of May 2023, at New Delhi, the seat of arbitration.

Kamal Dave


KAMAL DAVE
Arbitrator
FCI Arb., FAMINZ (Med / Arb), FMI Arb., BA
LLB., PGD EDI/e-commerce, PGD IR & PM, DLL
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