



सत्यमेव जयते

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Unique Doc. Reference : SUBIN-TNTNSHCIL0149600150733910X
Purchased by : SAISUNDER N V
Description of Document : Article 12 Award
Property Description : NA
Consideration Price (Rs.) : 0
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Stamp Duty Paid By : SAISUNDER N V
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NV SAISUNDER
SOLE ARBITRATOR
.IN REGISTRY- INTERNET EXCHANGE OF INDIA
INDRP CASE NUMBER: 2010
DISPUTED DOMAIN NAME: <neweracaps.in>



N V SAISUNDER

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IN THE MATTER OF ARBITRATION BETWEEN:

New Era Cap, LLC
160 Delaware Avenue Buffalo
New York 14202
United States of America

..... **Complainant**

Versus

Afroz Khan
Newera
near panna compound
Bhiwandi thane bhiwandi 421302
Mumbai, Maharashtra 400008
India

..... **Respondent**

ARBITRATION AWARD

DATED: 11/08/2025

1. PARTIES:

The Complainant in this proceeding New Era Cap, LLC is an American headwear company having its principal place of business at 160 Delaware Avenue Buffalo New York 14202, United States of America. The Complainant is represented by Convey S.r.l. , Corso Bernardino Telesio n. 20, Turin (Italy) 10146.

The Respondent in this proceeding is Afroz Khan located near panna compound Bhiwandi thane Bhiwandi 421302, Mumbai, Maharashtra as per the WHOIS details disclosed by NIXI.

2. DOMAIN NAME AND REGISTRAR:

The disputed domain name <neweracaps.in> is registered with HOSTINGER operations, UAB.

3. PROCEDURAL HISTORY:



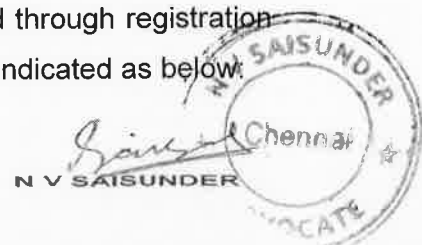
The Statement of Acceptance and Declaration of Impartiality was submitted by me on 9th July 2025 as required by NIXI. Further, in accordance with Rules 3 and 5(b), NIXI appointed me as the sole arbitrator for deciding on the complaint filed in respect of the disputed domain name on 11th July, 2025 to arbitrate the dispute between the Parties in accordance with the Arbitration and Conciliation Act, 1996 and accordingly notified the Parties of the same on the same date. Thereafter, the Complainant was directed on 14th July 2025 to serve the hard and soft copy of the complaint on the Respondent and furnish proof of such despatch as required under the INDRP. The Complainant complied with the directions and also sent proof of service of both hard copy and soft copy of the complaint on 15th July 2025. In accordance with Rule 5(c), a notice to the Respondent was issued on 15th July 2025 by the Arbitrator whereby the Respondent was called upon to submit his response, if any, within 10 (ten) days from the date of issuance of the notice. The Arbitrator did not receive any formal response from the Respondent, nor have I received any substantiation through documentary evidence till date. Therefore, the complaint is decided based on the submissions, materials and evidence placed before the Arbitrator.

4. FACTUAL BACKGROUND:

The Complainant is a cap wear manufacturing company, originally founded in 1920 under the name E. Koch Cap Company. It was later renamed to New Era Company. Since its inception, the Complainant has grown into a globally recognized brand and has been the exclusive supplier of baseball caps for Major League Baseball (MLB) since 1993. Over the years the company claims that it has expanded its global presence with currently producing more than 30 million caps and selling it across more than 40 countries around the world.

It has entered into agreements with major leagues such as 2021 Rugby league World Cup, Major League Baseball, Manchester United, Australian cricket's Big Bash League, Canadian Football League (CFL), National Hockey League (NHL), and sports organizations and has been known to be their official cap provider, merchandise partner and official outfitter.

The Complainant has secured ownership of numerous trademark registrations for the mark "New Era" ("**Trade Mark**") and its formative marks evidenced through registration certificates annexed with the complaint. Few of the trademarks are indicated as below:



- a. US Trademark Registration number 74450431 for NEW ERA (figurative mark), registered on January 21, 1997 under class 25;
- b. Trademark Registration number 964861 for New Era (device mark), registered on October 19, 2000, under class 25;
- c. Trademark Registration number 1330468 for NEW ERA FITS (word mark), registered on January 6, 2005 under class 25.

The Complainant also owns and operates several websites using the Trademark in the domain name <neweracap.com> registered on 13th November 1996 and <neweracap.in> registered on 29th March 2012.

The Disputed Domain Name was registered on 9th Nov 2023. The Complainant's Trademark registrations and domains containing the Trademark predates the registration of the Disputed Domain Name.

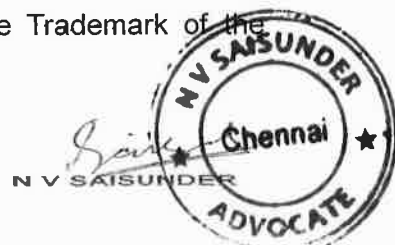
At the time of filing of the complaint, the Disputed Domain Name redirected to a website selling similar products to those of the Complainant having reference to Complainant's Trademark "NEW ERA". Before filing of the Complaint, the Complainant has issued a cease-and-desist letter to the owner of the Domain Name but did not receive any response from the Respondent. Currently the Disputed Domain Name resolves to an inactive webpage.

5. PARTIES CONTENTIONS:

A. Complainant:

The Complainant has contended that all three elements of the INDRP are applicable to the present case.

The Complainant submits that it has established rights in the trademark "NEWERA" for purposes of paragraph 4(a) of the .IN Policy and the Disputed Domain Name is confusingly similar to the Complainant's Trademark. The Complainant submits that addition of the word "cap" and the letter "s" to show plural, does not prevent the Disputed Domain Name from being confusingly similar to the Trademark of the Complainant.



The Complainant contends that the Respondent is not a licensee, authorised agent or in anyway authorised by the Complainant to use the Trademark and such unauthorised use of the Trademark by the Respondent as a part of the Disputed Domain Name is only with intention to commercially gain using the Trademark which does not amount to legitimate interest.

The Complainant submits that the Respondent was very well aware of the Trademark and has registered the Disputed Domain Name to gain economic benefit by selling products similar to those sold by the Complainant thereby misappropriating the goodwill and reputation of the Complainant. In view of the same, the Complainant asserts that the disputed domain name was registered and is being used in bad faith in accordance with Paragraph 4(c) of the .IN Policy.

B. Respondent:

The Respondent did not file any response to the submissions of the Complainant.

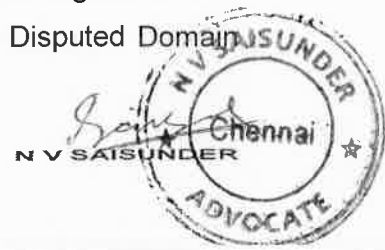
6. DISCUSSION AND FINDINGS:

Under the INDRP, the following three elements are required to be established by the complainant in order to obtain the remedy of transfer of the disputed domain name to the complainant:

- (i) The disputed domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and,
- (ii) The Respondent lacks rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered or is being used in bad faith.

A. Identical or confusingly similar:

It is a well-accepted principle that the first element functions primarily as a standing requirement. The threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. The Complainant has submitted evidence of its trademark registrations that establish that the Complainant has statutory rights in the mark for the purpose of policy and specifically also holds registration in India for the mark "NEW ERA", the country where the Respondent is purportedly operating out of. The Trademark of the Complainant has been reproduced within the Disputed Domain



Name along with the addition of the letter "cap" and "s". This addition and the ccTLD extension ".in" do not diminish the confusing similarity with the Complainant's Trademark. Although the addition of other terms (here, "cap" and "s") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Disputed Domain Name and the Trademark for the purposes of the Policy. The Panel therefore finds the first element of the Policy has been established.

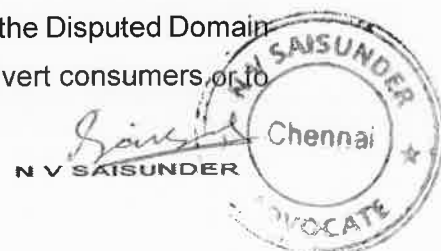
B. Rights or Legitimate interest

Paragraph 6 of the Policy provides a list of circumstances in which the registrant of a domain name may demonstrate rights or legitimate interests in a disputed domain name. While the overall burden of proof in the proceedings is on the Complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Having reviewed the evidences submitted along with the Complaint, the Panel wishes to place on record that the Complainant has not submitted any evidence to show the date of incorporation of the Complainant company and the proof of the corporate name change to as it stands today. Though the Complainant claims of the well-known status achieved by its trademark and the popularity of the Complainant, the same could have been substantiated through more documentary evidences that can be relied upon by panels to form a prima facie view about the well-known status and popularity of the Complainant and its trademarks "New Era".

Nevertheless, the Panel finds the following from the records placed before it:

- a. The Respondent does not appear to engage in any legitimate non-commercial or fair use of the Disputed Domain Name, nor any use in connection with a *bona fide* offering of goods or services. In fact, the Panel has reasonable grounds to believe that the Respondent has made a commercial use of the Disputed Domain Name, with the intent for commercial gain to misleadingly divert consumers or to



tarnish the trademark at issue which is evidenced from the earlier content of the webpage of the Disputed Domain (Annexure 4 purportedly offering caps for sale similar to those offered for sale by the Complainant);

- b. the Respondent has not been commonly known by the Disputed Domain Name; or,
- c. the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Disputed Domain name.

Having reviewed the record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name.

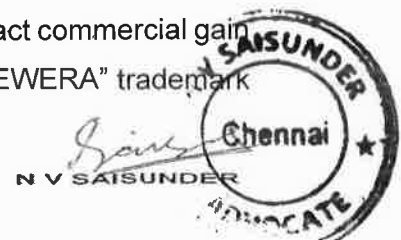
In the light of the facts and circumstances discussed, it is accordingly found that the Complainant has made out a prima facie case that the Respondent lacks rights and legitimate interests in the Disputed Domain Name. The second element under paragraph 4(b) of the Policy has been met by the Complainant.

C. Registered and/or used in bad faith:

The Panel notes that, for the purposes of paragraph 4(c) of the Policy, paragraph 7 of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and/or use of a domain name in bad faith.

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent ought to have been aware of the Complainant's trademark registrations and rights to the "NEW ERA" mark when it registered the Disputed Domain Name. The evidence submitted by the Complainant with respect to the content that was displayed by the Respondent on the Disputed Domain Name directly points out that the Respondent was very well aware of the Trademark and the business reputation of the Complainant thereby indicating the opportunistic bad faith of the Respondent.

The Respondent has adopted the Disputed Domain merely to attract commercial gain by creating a likelihood of confusion with the already existing "NEWERA" trademark



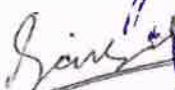
of the Complainant. It is accepted by the Panel that the use of the similar marks registered of the Complainant by the respondent may disrupt the Complainant's business by driving users to a different website which would amount to use of a domain name in bad faith. The use of the Disputed Domain Name to display cap wear for sale, similar to that of the Complainant in its official webpages directly misleads the internet users as to the Disputed Domain Name's association with the Complainant which affects the brand image built by the Complainant. Further, it is seen that the Respondent neither responded to the cease and desist notice of the Complainant nor transferred the Disputed Domain Name to the Complainant in the manner suggested in the notice, but has merely taken down the content of the webpage. All of the aforementioned indisputably indicates the bad faith registration and use by the Respondent.

For reasons stated above, it is established that the Disputed Domain Name was registered and used in bad faith and the third element under paragraph 4(c) of the Policy has been met by the Complainant

7. DECISION:

In view of the above findings, it is ordered that:

- a. The disputed domain name <neweracaps.in> be transferred to the Complainant.
- b. The Respondent pay the Complainant a sum of INR 1,50,000/- (Indian Rupees One Lakh and Fifty Thousand only) towards costs of these proceedings.


N V SAISUNDER
Arbitrator
Date: 11/08/2025

