

15/8/5/1/2023



INDIA NON JUDICIAL

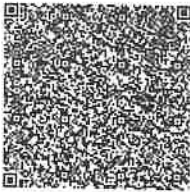
Government of National Capital Territory of Delhi

₹100

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Certificate No.	: IN=DL42388203073418V
Certificate Issued Date	: 05-Jan-2023 12:40 PM
Account Reference	: IMPACC (IV)/ dl978703/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL DL97870358679324344358V
Purchased by	: R K KASHYAP
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: R K KASHYAP
Second Party	: Not Applicable
Stamp Duty Paid By	: R K KASHYAP
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



₹100



Please write or type below this line

IN=DL42388203073418V

NATIONAL INTERNET EXCHANGE OF INDIA
B Wing, 9th Floor, Statesman House Building
148, Barakhamba Road,
New Delhi-110001

LANDMARK ONLINE INDIA PRIVATE LIMITED
LIFESTYLE INTERNATIONAL PVT. LTD.,
V/s
SUNNY SINGH

Page | 1

Sunny Singh

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.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority

AWARD

1. THE PARTIES

The Complainants are **landmark online India private limited and lifestyle international pvt. ltd.**, having respective offices at 77□, Town Centre, Building No. 3, 4th Floor, East Wing, Off HAL Airport Road, Yemlur P.O., Bangalore- 560 037 and 77□, Town Centre, Building No. 3, 4th Floor East Wing, Off HAL Airport Road, Yemlur P.O., Bangalore- 560 037., E-mail: ramesh.agnihotri@landmarkgoup.in, by its authorized representative Mohan Associates, having their office at Ceebros Building, D-4, 3rd Floor, 32, Cenotaph Road, Teynampet, Chennai- 600 018, India, Mobile No. +91 44 24339983/ 4/ 5, Email: acm@mohanlaw.in.

The Respondent is Sunny Singh, Lifestyle International, Bangalore, Delhi-110041, Mobile NO. +91 9953523771, E-mail sunny775771@gmail.com.

2. THE DOMAIN NAME AND REGISTRAR:

This Arbitration pertains to a dispute regarding the Domain name <www.lifestylestore.co.in>
The disputed Domain name is < www.lifestylestore.co.in >
The abovesaid domain registered particulars in detail is provided along with the complaint.

Registrar Name: GoDaddy.com, LLC

IANA ID : 146

Date of creation: 16.01.2022

Date of Expiry : 16.01.2023

Registrant Client ID : CR529906393

Registrant ROID: C17A2C44714444384B512486D2AAFA147-IN

Email: sunny775771@gmail.com

Phone: (+91) 9953523771

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3. PROCEDURAL HISTORY

- (a) The Complainant has filed a complaint on 19.10.2022 with the NATIONAL INTERNET EXCHANGE OF INDIA. The Complainant made the registrar verification in connection with the Domain name at issue. The annexures received with the complaint are **Annexure-A to G**. The exchange verified the complaint, satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the 'Policy') and the Rules framed thereunder.
- (b) The NIXI has appointed Sh. R.K.Kashyap, Advocate as the Sole Arbitrator vide Email dated 10.11.2022. The Arbitrator has duly submitted his Statement of acceptance and Declaration of Impartiality and Independence on 14.11.2022, as required by the Exchange.
- (c) The Arbitrator, as per the INDRP Policy and the Rules, has duly issued the notice on 01.12.2022 and directed the complainant to serve the Respondent with a copy of the Complaint alongwith annexures on the given e-mail as well as on physical address. In the Notice, it has also been mentioned that the respondent to file the reply/response within 10 days from the receipt of notice. The direction of the arbitrator to serve the respondent has duly been complied with vide Email dated 05.12.2022 and 21.12.2022, refer mails dated 05.12.2022 and 21.12.2022 in this regard, and they have not received any bounce back or undelivered message till date. The respondent till date has not filed any reply/response within the stipulated time, hence, the respondent proceeded Ex-parte and Ex-parte Award is being passed.

Prasanna Reddy

4. **Factual Background:**

The following information has been derived from the Complaint and the various supporting annexure to it, the Arbitrator has found the following facts:

Complainant's Activities

1. Both the Complainants are prominent members of the Dubai based retail and hospitality conglomerate Landmark Group which was founded in the year 1973. The 1st Complainant started its operations in India on December 19th, 2014 and operates an online retail business for sale of apparel, footwear, fashion accessories, furniture, gift items, etc., under various brands and owns and operates the website www.lifestylestores.com. The 2nd Complainant started its operations in India in the year 1999. The Landmark Group comprises of Lifestyle Stores (Large format Departmental stores), Home Centre (Home Improvement stores), Max (Value fashion chain), Mélange etc., amongst others. Today, the 2nd Complainant has evolved as India's leading shopping destination synonymous with fashion and gracious living. Each of the 2nd Complainant's Lifestyle Stores bring together five concepts under one roof – Apparel, Footwear, Children, Home-ware & Furnishing and Beauty & accessories, offering a convenient one-stop shop for customers.
2. The 2nd Complainant has been awarded most Admired Fashion Retail Destination Of The Year At The Images Fashion Awards For Three Consecutive Years 2011, 2012 & 2013, 5th Asia Best

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Employer Brand Award, Year 2014, Most Admired Retailer Of The Year, Department Store Category at The Images Retail Awards 2012, 2011 & 2008, Recognized as 42nd Best Workplace in the Country, 2nd Best Company to work for in the Retail Sector in India by Great Place To Work Institute Survey 2013. The Respondent must be well aware of that goods and services sold by 2nd Complainant under trade mark "Lifestyle". The domain name www.lifestylestores.com and the trademark "Lifestyle" are widely circulated to and well known amongst the public/ consumers in India. The 2nd Complainant, presently operate over 82 stores and more than 270 Max stores including in various cities, mentioned in the complaint.

3. In the course of trade, the 2nd Complainant adopted a distinctive trademark "LIFESTYLE" in the year 1998 for retail services, having its registrations, refer **Annexure-B** in this regard. The various awards and recognition received by the 2nd Complainant is available in **Annexure-C**.
4. The 2nd Complainant states that they are using the trade name/ trademark LIFESTYLE for its retail services since the year 1998. The 2nd Complainant has also spent substantial sums of money every year towards advertisement and sales, promotion activities of their products under the trademark / trade name LIFESTYLE, the information are duly provided in **Annexure-D**. The proof of

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documents using lifestyle trade mark since 1998, by the complainant is provided in **Annexure-E**.

5. DISCUSSION AND FINDINGS:

The Rules instructs this Arbitrator as to the Principles to be used in rendering its decision, in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any Rules and Principles of Law that it deems applicable”.

According to the Policy, the Complainant must prove that:-

- A) The registrant’s domain name is identical or confusingly similar to a name, trademark or service mark in which the complainant has rights;
- B) The registrant’s has no rights or legitimate interests in respect of the domain name that is the subject of complaint; and
- C) The registrant’s domain name has been registered or is being used in bad faith.

(A). Identical or Confusingly Similar:

The Complainants are well recognized in India as well as globally, the use of such a misleading term only adds to the confusion in the minds of an internet user and the domain name is associated with the Complainants, who may wrongly assume that the Respondent is connected in some manner to the Complainants. It is also highlighted that the Respondent’s domain name redirects to the 2nd Complainant’s website, in specific to the kid’s section of the said website. This clearly implies that the Respondent has willfully adopted illicit practices to have

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a free ride over the goodwill and reputation of the Complainants and want only create some manner of impression.

Since the website in question is a blatantly illegal copy of the Complainants' website and trademark. Since the Complainants have made extensive use of their trademark "LIFESTYLE" and domain name www.lifestylestores.com, it is only natural that the disputed domain name www.lifestylestore.co.in is associated with the Complainants only. The Respondent has not only intentionally misrepresented the name of the 2nd Complainant, but by using the said domain name has created a deliberately malafide domain which identical to that of the 1st Complainant. The Complainants state, that they have in no way connected, concerned or authorized the Respondent to represent themselves as connected with the Complainants or use the Complainants' name in any manner.

The Complainants have also earned an enviable goodwill and reputation over the years. In order to usurp on this value and cheat the public for their personal gains, the Respondent has deliberately used the domain name www.lifestylestore.co.in to blatantly mislead the public and for having a free ride over the well-built reputation of the Complainants and to create disharmony between the Complainants and its loyal customers base and their actions were executed with a view to deceive the public. The Respondent's acts amount to infringement, passing off and misrepresentation.

The acts of the Respondent in registering a domain name comprising of the Complainants' well-known trademark / trade name in its entirety and in a manner clearly intended to cause confusion / deception as to the

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source / origin of such domain name creates an irrefutable impression of an association / sponsorship / relationship between the Complainants and the domain name, which is not the case in any manner whatsoever.

(B). The Respondent has no Rights or Legitimate Interests :

The Lifestyle which is the trademark that the 2nd Complainant is popularly known for and which is the predominant part of many of the trademarks of the 2nd Complainant, is a coined term, as explained in the foregoing. The trademarks have attained widespread goodwill and reputation in India.

In the disputed domain name, the Respondent had used the word LIFESTYLE to create a mirage in the mind of the public that they are associated with/originate from the Complainants website. The Respondent had no legitimate right to use the name LIFESTYLE and the 2nd Complainant has not permitted or licensed the Respondent to use the trade name LIFESTYLE. The Respondent's domain name is phonetically, visually and conceptually identical to as that of the Complainants and is of such a nature, which would likely cause confusion that the Respondent and the disputed domain name is in some manner affiliated to the Complainants.

The trademark "LIFESTYLE" is unique to the Complainants and the Complainants have not authorized or licensed its use by the Respondent. The disputed domain name registered by the Respondent is clearly intended to prevent the Complainants from making bona fide use of its own trademark. The Respondent's intention is to take advantage of the

Praveen Kumar

Complainants' substantial reputation and goodwill in order to prevent the Complainants from using the same and to confuse the public, potentially divert business, tarnish the repute and goodwill of the Complainants. The Respondent's intent to disarm the hard-earned reputation of the Complainants and make illegal gains off the Complainants'. Suffice it to state that the said usage of the Disputed Domain Name by the Respondent has the propensity to cause irreparable loss to the goodwill and reputation of the Complainants.

The complainant refer the following judgments:-

Telstra Corporation Limited v. Nuclear Marshmallows D2000-0003.
(WIPO Decision) Rediff.Com India Ltd Vs AbhishekVerma and Anr
INDRP/001 ACCOR v. Tigertail Partners, D2002-0625
(WIPO Decision) Microsoft Corporation vs. Yan Wei INDRP/145

WIPO case no. D2009-1529

INDRP case no. INDRP/167

WIPO case no. D2001-0903

WIPO case no. D2010-1017

WIPO case no. D2003-0269

The complainant is the sole legitimate owner of the trade mark **Lifestyle** and domain name **www.lifestylestore.com**. The complainant neither licensed nor permitted the respondent to use trade/service mark **Lifestyle** and domain name **www.lifestylestore.com** or to apply for any domain name incorporating the said trade marks.

(C). Registered and Used in Bad Faith:

The complainant duly sent the notice dated 21.07.2022 and also sent mail but the same has not been replied. Refer **Annexure F & G**, in this regard.

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Online shopping has become immensely popular and is increasingly the preferred way to shop especially in respect of the goods offered for sale by the 1st Complainant along with the 2nd Complainant. In fact, all advertisement or promotional activities of the Complainants contain both the brand name and the domain name www.lifestylestores.com. It is prudent to assume that the public would be confused with similar domain name. In fact, the Respondent is misusing the domain http://www.lifestylestore.co.in/ by re-directing their domain name to 1st Complainant's domain name to mislead the public and customers that the services provided by the Complainants are also being provided by the Respondent.

Bad faith has already been found where a domain name is so obviously connected with a well-known trademark that its very use by someone with no connection to the trademark suggests opportunistic bad faith, referred the following judgements:-

WIPO Case No. D2010-0494
WIPO Case No. D2006-0303
WIPO Case No. D2008-0226
WIPO Case No. D2000-0270
WIPO Case No. D2006-0464
WIPO Case No. D2008-0287
WIPO Case No. D2007-0077
WIPO Case No. D2000-0055
WIPO Case No. D2008-0281

The respondent is taking undue advantage of Complainant's trademark to generate profits. The use of a well-known trademark to attract Internet users to a website for commercial gains constitutes a use in bad faith pursuant to the policy and relied upon:-

WIPO Case No. D2007-0956

Pradeep

WIPO Case No. D2009-1231
WIPO Case No. D2007-1736

It is finally submitted that the disputed domain name was registered and is being used in bad faith. If the respondent is not restrained from using the disputed domain name and the same is not transferred to the complainant, loss and hardship will be caused to the complainant.

The very use of a domain name by someone with no connection with the Complainant suggests opportunistic bad faith, refer **INDRP case No. 1167**.

6. DECISION

In light of the foregoing findings, namely, that the disputed Domain name is confusingly/deceptively similar to Complainant's well-known brand "**LIFESTYLE**" and domain name **www.lifestylestore.com**, a mark in which the Complainant has rights and the Respondent has no claims, rights or legitimate interests in respect of the disputed Domain name and the disputed Domain name was registered in bad faith and is being used in bad faith, in accordance with the policy and the rules. Hence, the Arbitrator orders that the disputed Domain name "**www.lifestylestore.co.in**" be transferred to the Complainant.

This Award is passed at New Delhi on this 5th Day of January, 2023

R. K. Kashyap
05/01/2023

R. K. KASHYAP
SOLE ARBITRATOR