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Description of Document : Article 4 Affidavit
Property Description : NIXI AWARDS PASSED BY SOLE ARBITRATOR SRIDHARAN RAMKUMAR IN INDRP 1523
Consideration Price (Rs.) : 101
(One Hundred And One only)
First Party : SRIDHARAN RAJAN RAMKUMAR
Second Party : SRIDHARAN RAJAN RAMKUMAR
Stamp Duty Paid By : SRIDHARAN RAJAN RAMKUMAR
Stamp Duty Amount(Rs.) : 101
(One Hundred And One only)

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**BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN
NAME DISPUTE RESOLUTION POLICY
INDRP ARBITRATION
THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]
INDRP CASE NO: 1523
ARBITRAL TRIBUNAL CONSISTING OF SOLE ARBITRATOR
SRIDHARAN RAJAN RAMKUMARN, ADVOCATE,
DELHI HIGH COURT
COMPLAINT UNDER .IN DOMAIN NAME DISPUTE
RESOLUTION POLICY (INDRP)**

IN THE MATTER OF:

1. Landmark Online India Pvt. Ltd.
77, Town Centre, Building no. 3, 4th Floor,
East Wing, Off HAL Airport Road,
Yemlur P.O., Bangalore-560037
Email: ramesh.agnihotri@landmarkgroup.in

2. Lifestyle International Pvt. Ltd.
77, Town Centre, Building no. 3, 4th Floor,
East Wing, Off HAL Airport Road,
Yemlur P.O., Bangalore-560037
Email: ramesh.agnihotri@landmarkgroup.in

...Complainants

Versus

Santosh Kumari
Flat no. 704, Elsa, Omaxe Heights,
Faridabad-121002
Haryana, India
Ph: +91-95607728285
Email: chughsk704@gmail.com

...Respondent



ARBITRATION AWARD

I. THE PARTIES:

1. COMPLAINANT

The Complainants in this administrative proceeding are Landmark Online India Private Limited, a company incorporated in India under the Companies Act, 2013 and Lifestyle International Pvt. Ltd., a company incorporated in India under the Companies Act, 1956, who have filed the present Complaint under the Rules framed under the INDRP. A copy of the .IN Domain Name Dispute Resolution Policy was annexed with the Complaint and marked as **Annexure-B 1**.

The Complainant's authorized representative in this administrative proceeding is:

Mr. Arun C. Mohan

Mohan Associates

Ceebros Building, D-4, 3rd Floor,

32, Cenotaph Road, Teynampet,

Chennai – 600018

Ph.: +91 44 24339983/4/5

Email: acm@mohanlaw.in

2. RESPONDENT

The Respondent's details are:

Santosh Kumari

Flat no. 704, Elsa, Omaxe Heights,

Faridabad-121002

Haryana, India

Ph: +91-95607728285

Email: chughsk704@gmail.com

A copy of the complete WHOIS details of the Respondent / Registrant as provided by NIXI was annexed with the Complaint and marked as **Annexure G**.



The Respondent did not engage any counsel / advocate in the present administrative proceeding and neither did the Respondent file any reply to the instant domain complaint. Hence, this Complaint has been proceeded *ex-parte*.

II. THE DOMAIN NAME AND REGISTRAR:

The Disputed Domain Name is: www.lifestylestore.in

The Disputed Domain Name is registered with IN Registry.

The accredited Registrar of the Disputed Domain Name is GoDaddy India Domains and Hosting Services India Pvt. Ltd.

The Registrar's contact information is as under:

GoDaddy India Domains and Hosting Services India Pvt. Ltd.

003, Tower 4A, DLF Corporate Park,

MG Road, Gurgaon,

India-122002

Email: abuse@godaddy.com; legal@godaddy.com;

The screenshots from the website being hosted at the disputed domain name were attached with the Complaint and marked as **Annexure A**. The Uniform Domain Name Dispute Resolution Policy adopted by ICANN incorporated into the Registration Agreement for the disputed domain name by the Registrar was attached with the Complaint and marked as **Annexure- B 2**.

III. PROCEDURAL HISTORY:

10 th March, 2022	Date of Complaint
23 rd March, 2022	Sole Arbitrator appointed to adjudicate the dispute
23 rd March, 2022	Arbitral proceedings were commenced by sending notice to Respondent through email as per Paragraph 4(c) of INDRP Rules of Procedure, marking copy of the same to Complainant's authorized

S. K. Sharma

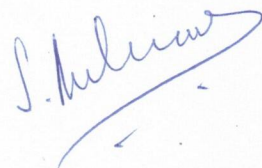
	representative and to the .IN Registry to file response to the Complaint within 15 days of receipt of the same.
7 th April, 2022	Respondent was served with copies of the Complaint and annexure thereto on 23 rd March, 2022 but failed and neglected to file its response within the 15 days' time period intimated to all parties, which expired on 7 th April, 2022.

Hence this award is proceeded with on basis of the available pleadings and documents only.

IV. FACTUAL AND LEGAL BACKGROUND:

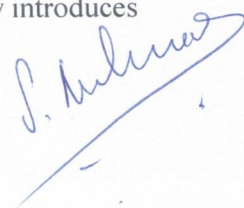
About the Complainant:

1. It was submitted that both the Complainants are prominent members of the Dubai based retail and hospitality conglomerate Landmark Group which was founded in 1973. It was submitted that the 1st Complainant started its operations in India on 19.12.2014. It was submitted that the 1st Complainant is in the business of operating online wholesale and retail across India for sale of apparels, footwear, fashion accessories, furniture, gift items, etc., inter-alia, viz., "Lifestyle", "Max" and "Home Centre" format/concepts of 2nd Complainant and 1st Complainant has designed, developed and operates catalog website www.lifestylestores.com, amongst other domains and its related sub-domains. It was submitted that the 2nd Complainant started its operations in India in the year 1999. It was submitted that the Landmark Group comprises of Lifestyle Stores (Large format Departmental stores), Home Centre (Home Improvement stores), Max (Value fashion chain), Melange etc., along with international fashion apparel brands such as UCLA, Bossini, Kappa, amongst others. It was submitted that today, the 2nd Complainant has evolved as India's leading shopping destination synonymous with fashion and gracious living. It was submitted that each of the 2nd Complainant's Lifestyle Stores bring together five concepts under one roof – apparel, footwear, children, homeware & furnishing and



beauty & accessories, offering a convenient one-stop shop for customers. It was submitted that the 2nd Complainant is present across major metros in India and is rapidly expanding its footprint across the country. It was submitted that the Complainants today offer a truly international shopping experience.

2. The Complainants submitted that they have been bestowed with numerous accolades owing to their excellent service. It was submitted that the 2nd Complainant has been awarded "Most Admired Fashion Retail Destination Of The Year At The Images Fashion Awards For Three Consecutive Years 2013, 2012 & 2011", 5th Asia Best 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, 'Best HR Strategy in line with business' at 4th Asia's Best Employer Brand Awards 2013, Images most admired beauty products retailer of the year: Department Store Chain Images Beauty & Wellness Awards 2013, Retail Supply Chain Excellence Award – Express Logistics & Supply Chain Conclave & Awards 2012, Lycra Images Fashion Awards For The 'Most Admired Large Format Retailer Of The Year' In 2006, 'ICICI – KSA Technopak Award For Retail Excellence' In 2005 and 'Most Respected Company In The Retail Sector' By Business World – IMRB In 2003 And 2004 For Lifestyle. It was submitted that the Respondent must be well aware that goods and services sold by 2nd Complainant under trade mark "Lifestyle" as it involves celebrity ambassadors for promoting goods and services under trade mark "Lifestyle". It was submitted that the brochures, leaflets, handouts, advertisements and promotional materials have also been used including the electronic media by Complainants to promote their products and services under the mark "LIFESTYLE" and such advertisement, leaflets etc., also contain the domain name owned by the 1st Complainant. It was submitted that this was sufficient evidence that domain name www.lifestylestores.com and the trademark "Lifestyle" are widely circulated to the public /consumers.
3. It was submitted that the 2nd Complainant has its own label merchandise of in-house designs and planned colour palettes for the season. It was submitted that the 2nd Complainant introduces a fresh collection of international designs specially customized to the Indian market in every segment of goods. It was submitted that the 2nd Complainant's brand adapts to the changing needs of the shopper every season and accordingly introduces



new designs at the same time to maintain utility and standard. It was submitted that the 2nd Complainant, presently operates over 82 stores and approx. 270 Max stores including in cities of Ahmedabad, Bangalore, Chandigarh, Chennai, Coimbatore, Calicut, Delhi, Gurgaon, Jalandhar, Jammu, Kanpur, Kolkata, Hyderabad, Jaipur, Surat, Mangalore, Mohali, Noida, Vijayawada, Mumbai, Nagpur, Ludhiana, Ghaziabad, Bhopal, Kolkata, Thane, and Pune across several other cities with over 6600 employees. It was further submitted that in the course of trade, the 2nd Complainant adopted a distinctive trademark LIFESTYLE in the year 1998 for retail services. It was submitted that the 2nd Complainant in order to protect its intellectual property rights applied for and obtained registration of its distinctive trademark LIFESTYLE under no. 1321531 in class 35. It was submitted that the said registration has been duly renewed and is still valid and subsisting. The Complainant submitted that it had obtained registration of trademark LIFESTYLE in various classes. Copies of trademark registration of 2nd Complainant's mark LIFESTYLE under registration no. 1321531 was attached with the Complainant as **Annexure-C**. A non-exhaustive list containing the various awards and recognition received by the 2nd Complainant was filed with the Complaint and marked as **Annexure-D**.

4. It was submitted that the 2nd Complainant's mark LIFESTYLE has attained tremendous reputation and goodwill with respect to its goods and services. It was submitted that the mark LIFESTYLE has become distinctive and has acquired secondary meaning to connote and denote the trade source and origin of the 2nd Complainant's goods. It was submitted that the trade and public exclusively identify the service mark / trade name LIFESTYLE with the services offered by the 2nd Complainant and none else. It was submitted that the 2nd Complainant's trade name/trademark LIFESTYLE has been etched in the memory of consumers.

5. It was submitted that the 2nd Complainant is using the trade name / trademark LIFESTYLE for its retail services since the year 1998. It was submitted that the trade name / trademark LIFESTYLE is associated exclusively with the 2nd Complainant and its quality products, namely, clothing and footwear. It was submitted that 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. A copy of the 2nd Complainant's self-certified certificate certifying the sales

J. Mohan

and advertising expenses was attached with the Complaint and marked as **Annexure-E**. It was submitted that the 2nd Complainant has advertised its goods under the mark LIFESTYLE in all forms of print and electronic media.

6. It was submitted that the 2nd Complainant's business and retail services are well known and well received among the general public. It was submitted that the 2nd Complainant entered into retail of clothes, footwear and allied products in the year 1998. It was submitted that the Complainants, in keeping with modern trends and for customer attraction, have coined and adopted various trademarks and devices with a view to identify their unique services and distinguish the same from third parties. It was submitted that 'LIFESTYLE' and other variants of the mark, including their distinctive colour scheme, logos and other artistic features have all earned sufficient goodwill and reputation in the market and are associated only with the 2nd Complainant.
7. It was submitted that the 2nd Complainant is the registered proprietor of the mark 'LIFESTYLE' with several suffixes in respect of clothes, footwear and allied products. It was submitted that the 2nd Complainant coined and adopted the said mark LIFESTYLE and the same forms a predominant feature in their promotional activities and also forms a predominant feature of the complainants' trading style. It was submitted that the 2nd Complainant's products are well known and popular all over India as they supply quality products that are durable and come from a reputable brand also on license basis. It was submitted that the 2nd Complainant's products are used by customers from all walks of life and different nationalities. It was submitted that the 2nd Complainant has openly, extensively and continuously used the mark LIFESTYLE in respect of various goods including clothes, footwear and allied products. The documents proving use of the mark LIFESTYLE since 1998 by the Complainants were filed with the Complaint and marked as **Annexure-F**.

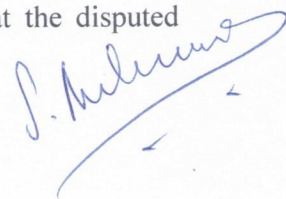
The Complainant relied upon the following grounds in support of the Complaint and its claim that the disputed domain name has been adopted in *malafide* manner:

A. **The Domain Name being used in Bad Faith**

8. It was submitted that the disputed domain name www.lifestylestore.in's WHOIS search result did not disclose the contact information of the domain owner for the reasons best known to its Registrar i.e., GoDaddy. The Complainant submitted that in spite of receipt of the Complainants' notices and reminders, the Respondent has neither replied nor complied with the Complainants' requisition in its notice or even stopped their allegedly infringing and illegal acts as on date. It was submitted that this was further brought to the attention of the domain name Registrar vide e-mail dated 04.10.2021, however, in vain as the Complainants had received no response regarding the contact information of the Respondent. The WHOIS search for www.lifestylestore.in and the details of Lifestyle Store Faridabad were attached with the Complaint and marked as **Annexure G**. The notices and reminders sent to the Respondent along with acknowledgement were attached with the Complaint and marked as **Annexure H**. Further, a copy of the e-mail sent to the domain name Registrar was also attached with the Complaint and marked as **Annexure I**.
9. It was submitted that in today's market, 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. The Complainant submitted that, in fact, every advertisement or promotional activities of the Complainants contain both the brand name and also the Complainants' domain name www.lifestylestores.com. It was submitted that the customers today frequently visit the 1st Complainant's website www.lifestylestores.com wherein the products of 2nd Complainant are sold and the customers also visit its retail outlets on a regular basis for different needs. It was submitted that when this is the scenario, it is prudent to assume that the public would confuse the services offered by the Respondent by way of online shopping as that of the services provided by the Complainants. It was submitted that the Complainants have a set of stringent rules in terms of the quality and brands under their trademark and the same cannot be offered by the Respondent which is seeking to free ride on the vast reputation and goodwill of the Complainants.

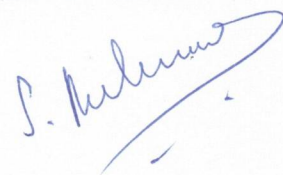
B. The disputed domain names are identical and confusingly similar to the marks of the Complainants (Policy, paras. 6; Rules, para. 3(1),(2)&(3))

10. It was submitted that the domain www.lifestylestore.in as that held by Respondent essentially capitalizes on the use of the trademark, trade name, corporate name and domain name of the Complainants per se. The Complainant also submitted that the disputed



domain name also directly conflicts with the domain name www.lifestylestores.com owned by the 1st Complainant. It was submitted that both the Complainants form part of the Landmark Group. Further, it was submitted that under certain business arrangement, the 1st Complainant sells the products of the 2nd Complainant on its website www.lifestylestores.com and also through various other marketplace models.

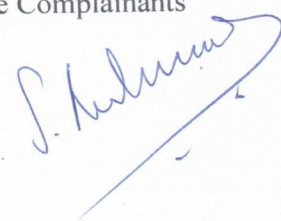
11. It was submitted that as the Complainants are well recognized in India as well as globally, the use of such a misleading term only adds to the confusion in the minds of an internet user that the domain name is associated with the Complainants. It was submitted that specifically, the fact that the disputed domain makes use of the Complainants' trademark only ride upon the hard-earned reputation and good will of the Complainants. It was submitted that this shall expose the Complainants to irreparable loss and hardship and would create an unsavory opinion of the Complainants in the mind of its customers. It was also submitted that the Respondent makes no effort to distinguish the disputed domain from the Complainant's trademark LIFESTYLE and website www.lifestylestores.com.
12. It was submitted that the disputed domain name misrepresents or has the potential to misrepresent to the trade and public that such website is related to the Complainants. It was submitted that since the disputed domain name in question is a ditto copy of the Complainants' website and trademark, it plants the seed of doubt in potential customer's minds. It was submitted that e-commerce is steadily gaining importance and more and more individuals resort to the internet to obtain information about a company instantaneously. It was submitted that most consumers type out what they believe is the likely domain name of a particular company, and in this case, 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.in is associated with the Complainants only. It was submitted that the Respondent has not only intentionally misrepresented the name of the 2nd Complainant, but by using the said domain name the Respondent has created a deliberately *malafide* domain which is identical to that of the 1st Complainant. It was submitted that the Complainants are in no way connected, concerned or have authorized the Respondent to represent themselves as somehow connected with the Complainants or use the Complainants' name in any manner.



13. It was submitted that additionally, the Complainants have earned an enviable goodwill and reputation over the years. It was submitted that in order to usurp on this value, the Respondent has deliberately used the domain name www.lifestylestore.in to blatantly mislead the public into believing that the Complainants are an inept group of companies that are incapable of maintaining their high standards and providing instant information to their consumers with the touch of a button. It was submitted that the Respondent's intention is to create disharmony between the Complainants and its loyal customers base and their actions were executed with a view to deceive the public. It was submitted that the Respondent's acts amount to infringement, passing off and misrepresentation.
14. It was submitted that 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 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. It was submitted that this is nothing but an attempt by the Respondent to bring the Complainants into disrepute, and their actions should be condemned.

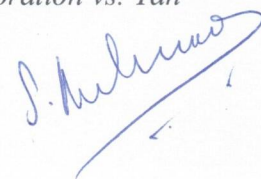
C. Respondent has no rights or legitimate interests in the domain names (Policy, paras. 6; Rules, para. 3(1), (2) & (3))

15. It was submitted that "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. It was submitted that the Complainants' trademarks have attained widespread goodwill and reputation in India.
16. It was submitted that in the disputed domain name, the Respondent had used the word LIFESTYLE to prevent the 2nd Complainant from using the same. It was submitted that the Respondent had no legitimate right to use the name LIFESTYLE. It was submitted that the 2nd Complainant has not permitted or licensed the Respondent to use the terms LIFESTYLE. It was submitted that the said disputed domain name has been contrived for the express purpose of passing off the Respondent's products and services as that of the 2nd Complainant's retail services apart from exploiting the goodwill of the Complainants



and to mislead the general public. It was submitted that the Respondent's domain name is phonetically, visually and conceptually identical to that of the Complainants and in such a nature which would likely cause confusion that the Respondent and the domain name is affiliated to the Complainants.

17. It was submitted that the trademark "LIFESTYLE" is unique to the Complainants and the Complainants have not authorized or licensed its use by the Respondent. It was submitted that the disputed domain name registered by the Respondent is clearly intended to create a perception of ineptitude on the part of the Complainants herein, and to prevent the Complainants from making *bona fide* use of its own trademark. It was submitted that the disputed domain name uses the 2nd Complainant's trademark, 1st Complainant's domain name and corporate name of the 2nd Complainant without any authority from the Complainants. The Complainants submitted that the Respondent's registration and use of the disputed domain name is a clear case of cyber-squatting, and their intention is to take advantage of the 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 and the said marks and unduly gain. It was submitted that there was prima facie proof of the Respondent's intent to disarm the hard-earned reputation of the Complainants and make illegal gains off the Complainants' lost business. It was submitted that the said usage of the disputed domain name by the Respondent had the propensity to cause irreparable loss to the goodwill and reputation of the Complainants.
18. The Complainant submitted that the Respondent cannot be said to have legitimately chosen to use the domain names unless it was seeking to make some use of an association with the Complainants. The Complainants, while placing reliance on the UNDRP decision of *Telstra Corporation Limited v. Nuclear Marshmallows* D2000-0003 and the INDRP decision of *Rediff.Com India Ltd vs. Abhishek Verma and Anr* INDRP/001, submitted that since there is no authorized association of the Registrant / Respondent with either of the Complainants, the Respondent's use of the disputed domain names cannot be said to be legitimate.
19. The Complainants further submitted that the decisions in the case of *ACCOR v. Tigertail Partners*, D2002-0625 (WIPO Decision) & in the case of *Microsoft Corporation vs. Yan*



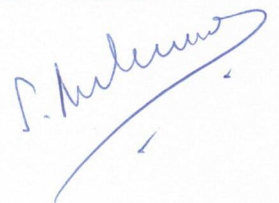
Wei (INDRP/145) provided adequate grounds for such registration made with intention to illegally capture on the Complainants' hard-earned reputation and goodwill to be treated as having been done in bad faith and without any legitimate interest in the same.

20. It was submitted that the use of the term LIFESTYLE by the Respondent prevents the 2nd Complainant who is rightful owner of the trademark from reflecting the trademarks in corresponding domain names that they wish to register. It was submitted that by using the term LIFESTYLE in the Disputed Domain Name, which belongs to the 1st Complainant, the Respondent has demonstrated a pattern of conduct calculated to ensure that the Complainants are unable to use the domain names best suited to its organizational interests and statutory rights.
21. The Complainant lastly submitted that it was amply clear that Respondent had engaged in a clear and discernible pattern of conduct, aimed to prevent the Complainants from registering their domain names in desirable combinations and to misuse the wide recognition that the Complainants enjoy.

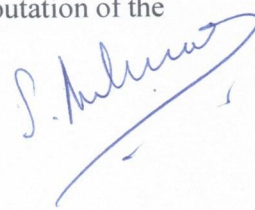
V. PARTIES CONTENTIONS:

A. Complainant:

- a. The disputed domain name has been registered and is being used in bad faith by the Respondent.
- b. The Respondent is looking to free ride upon the vast reputation and goodwill of the Complainants.
- c. The disputed domain name www.lifestylestore.in is identical and confusingly similar to the first Complainant's registered domain name www.lifestylestores.com and the second Complainant's "LIFESTYLE" trademarks, trade name, corporate name and its variants.
- d. The use of the disputed domain name by the Respondent leads to confusion in the minds of internet users that the disputed domain name is associated with the Complainants.
- e. The Respondent has made no effort to distinguish the disputed domain name from the Complainant's trademark LIFESTYLE and website www.lifestylestores.com.



- f. The disputed domain name plants the seed of doubt in the potential customers of the Complainants about the Complainants' possible relation with the disputed domain name.
- g. The Respondent has intentionally misrepresented the name of the 2nd Complainant by using the disputed domain name and deliberately created the disputed domain name which is identical to the domain name of the 1st Complainant.
- h. The Respondent has deliberately used the disputed domain name www.lifestylestore.in to mislead the public into believing that the Complainants are inept and incapable of maintaining their high standards and in providing instant information to their consumers.
- i. The Respondent's intention is to create disharmony between the Complainants and its loyal customers base and their actions were executed with a view to deceive the public.
- j. 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 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.
- k. The Respondent has no right or legitimate interest in using the word LIFESTYLE in the disputed domain name.
- l. The disputed domain name www.lifestylestore.in has been contrived for the express purpose of passing off the Respondent's products and services as that of the 2nd Complainant's retail services, apart from exploiting the goodwill of the Complainants and to mislead the general public.
- m. The disputed domain name has been created to prevent the Complainants from making *bonafide* use of their LIFESTYLE trademarks.
- n. The Respondent's registration of the disputed domain name is a clear case of cyber-squatting with the intention of taking advantage of the Complainant's reputation and goodwill.
- o. The use of the disputed domain name www.lifestylestore.in by the Respondent has the propensity to cause irreparable loss to the goodwill and reputation of the Complainants.



B. RESPONDENT

The Respondent did not file its reply to contest the claims of the Complainant and thus this award is based on pleadings and documents filed by the Complainant only.

VI. DISCUSSION AND FINDINGS:

The INDRP (.IN Domain Name Dispute Resolution Policy), adopted by NIXI, provides that a domain name owner must transfer its domain name registration to a complainant/trademark owner if:

- i. The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
- ii. The Registrant has no rights or legitimate interests in respect of the domain name; and
- iii. The Registrant's domain name has been registered or is being used in bad faith.

I have gone through the pleadings i.e., the Complaint filed by Complainants. I have also gone through documents filed by the Complainants with the Complaint. After giving due consideration to pleadings, documents, facts and legally settled principles, I hold that in the present case all three requirements for transfer of the disputed domain name have been met. I hold that the disputed domain name of the Respondent is visually, phonetically, structurally and conceptually deceptively similar to the trademark and domain name of the Complainant no. 1 over which the Complainants, who are prior adopter, prior user and registered proprietor of the "LIFESTYLE" marks and variants thereof and the domain name www.lifestylestores.com have absolute and sole rights. Consequently, I hold that the Respondent does not have any rights or legitimate interest over the disputed domain name www.lifestylestore.in and hence the same needs to be transferred to the Complainants. I hold that the company name / trade name / trade mark / house mark "LIFESTYLE" has exclusively become associated and recognized with the Complainants. I hold that due to such exclusive association of the "LIFESTYLE" word mark and its variants with the Complainants, and also

S. Kulkarni

considering the prior registered domain name of the Complainants being www.lifestylestores.com, the Complainant alone has the right to utilize the word "LIFESTYLE" as a domain name registered with the .IN Registry. I hold that the Respondent is not entitled to register the disputed domain name as the Respondent has failed to establish any right over the "LIFESTYLE" word and formative marks or over the disputed domain name www.lifestylestore.in and the same are associated only with the Complainants.

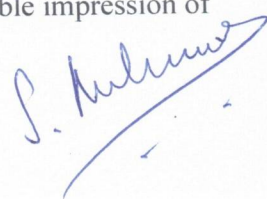
A. The domain name is identical or confusingly similar to a trademark in which the Complainant has rights:

I hold that the Complainants have successfully demonstrated by way of its Complaint that the Disputed Domain Name www.lifestylestore.in is identical and / or confusingly similar to the "LIFESTYLE" marks in which the Complainant has unquestionable rights for the following reasons:

- a. I find that the disputed domain name www.lifestylestore.in as that held by the Respondent essentially capitalizes on the use of the trademark, trade name, corporate name and domain name of the Complainants per se. I find that the disputed domain name also directly conflicts with the domain name www.lifestylestores.com owned by the 1st Complainant. I find that both the Complainants form part of the Landmark Group. I find that under certain business arrangement, the 1st Complainant sells the products of the 2nd Complainant on its website www.lifestylestores.com and also through various other marketplace models.
- b. I find that as 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 that the disputed domain name is associated with the Complainants. I find that the fact that the disputed domain makes use of the Complainants' trademark is only to ride upon the hard-earned reputation and good will of the Complainants. I find that this shall expose the Complainants to irreparable loss and hardship and would create an unsavory opinion of the Complainants in the mind of its customers. I also find that the Respondent has

made no effort to distinguish the disputed domain from the Complainant's trademark LIFESTYLE and website www.lifestylestores.com.

- c. I find that the Disputed Domain Name has the potential to misrepresent to the trade and public that such website is related to the Complainants. I find that since the website in question is a ditto copy of the Complainants' website and trademark, it plants the seed of doubt in potential customer's minds. I find that since e-commerce is steadily gaining importance and more and more individuals are resorting to the internet to obtain information about a company instantaneously, and since most consumers type out what they believe is the likely domain name of a particular company, it is only natural that the disputed domain name www.lifestylestore.in would be associated with the Complainants by unwary consumers. I find that the Respondent has not only intentionally misrepresented the name of the 2nd Complainant, but by using the disputed domain name the Respondent has created a deliberately *malafide* domain which identical to that of the 1st Complainant. It was submitted that the Complainants are in no way connected, concerned or have authorized the Respondent to represent themselves as somehow connected with the Complainants or use the Complainants' name in any manner.
- d. I find that the Complainants have earned an enviable goodwill and reputation over the years. I find that in order to usurp on this value, the Respondent has deliberately used the disputed domain name www.lifestylestore.in to blatantly mislead the public into believing that the Complainants are an inept company incapable of maintaining their high standards and providing instant information to their consumers with the touch of a button. I find that the Respondent's intention is to create disharmony between the Complainants and its loyal customer base and their actions were executed with a view to deceive the public.
- e. I also find that the acts of the Respondent in registering the disputed 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 source / origin of such domain name creates an irrefutable impression of



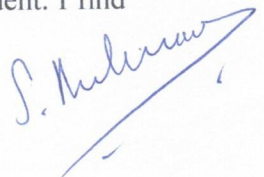
an association / sponsorship / relationship between the Complainants and the domain name, which is not the actual case in any manner whatsoever. I find that this is nothing but an attempt by the Respondent to bring the Complainants into disrepute.

- f. Therefore, in view of the abovesaid findings, I hold that the conditions under Paragraph 4(a) of the INDRP stand suitably established.

B. The Respondent has no rights or legitimate interests in the domain name:

I hold that the Complainant has successfully demonstrated by way of its Complaint that the Respondent has no right or legitimate interest in the disputed domain name www.lifestylestore.in for the following reasons:

- a. I find that "LIFESTYLE" which is the trademark that the 2nd Complainant is popularly known for and which is also the predominant part of many of the trademarks of the 2nd Complainant. I find that the "LIFESTYLE" trademarks of the Complainant have attained widespread goodwill and reputation in India.
- b. I find that in the disputed domain name, the Respondent has used the word LIFESTYLE to prevent the 2nd Complainant from using the same. I find that Respondent has no legitimate right to use the name LIFESTYLE. I further find that the 2nd Complainant has not permitted or licensed the Respondent to use the terms LIFESTYLE. I find that the said disputed domain name has been contrived for the express purpose of passing off the Respondent's products and services as that of the 2nd Complainant's retail service, apart from exploiting the goodwill of the Complainants and to mislead the general public. I also find that the Respondent's disputed domain name is phonetically, visually and conceptually identical to as that of the Complainants and in such a nature which would likely cause confusion that the Respondent and the domain name is affiliated to the Complainants.
- c. I find that the trademark "LIFESTYLE" is unique to the Complainants and the Complainants have not authorized or licensed its use to the Respondent. I find



that the disputed domain name registered by the Respondent is clearly intended to create a perception of ineptitude on the part of the Complainants herein, and to prevent the Complainants from making *bona fide* use of its own trademark. I find that the disputed domain name uses the 2nd Complainant's trademark, 1st Complainant's domain name and corporate name of the 2nd Complainant without any authority from the Complainants. I find that the Respondent's registration and use of the disputed domain name is a clear case of cybersquatting, and their intention is to take advantage of the 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 and the said marks and unduly gain. I find that there is prima facie proof of the Respondent's intent to disarm the hard-earned reputation of the Complainants and make illegal gains off the Complainants' lost business. I find 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.

- d. I find that the Respondent cannot be said to have legitimately chosen to use the domain names unless it was seeking to make some use of an association with the Complainants. I hold that since there is no authorized association of the Registrant / Respondent with either of the Complainants, the Respondent's use of the disputed domain names cannot be said to be legitimate. I also find that the registration of the disputed domain name has been made by the Respondent in bad faith and without any legitimate interest to illegally capture on the Complainants' hard-earned reputation and goodwill.
- e. I find that the use of the term LIFESTYLE by the Respondent prevents the 2nd Complainant, who is rightful owner of the trademark "LIFESTYLE", from reflecting the trademarks in corresponding domain names that they wish to register. I find that by using the term LIFESTYLE in the Disputed Domain Name, which belongs to the 1st Complainant, the Respondent has demonstrated a pattern of conduct calculated to ensure that the Complainants are unable to use the domain names best suited to its organizational interests and statutory rights.

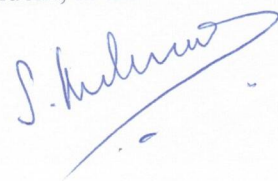
e. I find that the use of the term LIFESTYLE by the Respondent prevents the 2nd Complainant, who is rightful owner of the trademark “LIFESTYLE”, from reflecting the trademarks in corresponding domain names that they wish to register. I find that by using the term LIFESTYLE in the Disputed Domain Name, which belongs to the 1st Complainant, the Respondent has demonstrated a pattern of conduct calculated to ensure that the Complainants are unable to use the domain names best suited to its organizational interests and statutory rights.

S. Melimato

- f. Therefore, in view of the abovesaid findings, I hold that the Respondent has no rights or legitimate interests in respect of the disputed domain name under the provisions of Paragraph 4(b) and Paragraph 6 of .IN Policy.

C. The domain name is registered and being used in bad faith.

- a. I find that in today's market, 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. I find that every advertisement or promotional activities of the Complainants contains both the brand name and also their domain name www.lifestylestores.com. I find that customers today frequently visit the 1st Complainant's website www.lifestylestores.com wherein the products of 2nd Complainant are sold and the customers also visit its retail outlets on a regular basis for different needs. I find that in this scenario, it is prudent to assume that the public would be confused the services offered by the Respondent by way of online shopping as that of the services provided by the Complainants. I was submitted that the Complainants have a set of stringent rules in terms of the quality and brands under their trademark and the same cannot be offered by the Respondent which is seeking to free ride on the vast reputation and goodwill of the Complainants.
- b. I find that the use of the mark 'LIFESTYLE' in the Disputed Domain Name is without due cause and has been done solely to gain illegal benefit from the goodwill of the same, which has been created by the Complainants. I hold that the registration of the disputed domain name has been done in bad faith and with dishonest intention to mislead the innocent public. I find that the adoption of the disputed domain name is contrary to the honest commercial practices of trade.
- c. I find it opportune at this juncture to place reliance on the WIPO Case no. D2017-2232 titled *Yahoo Holdings, Inc. v. Harry G* wherein it has been held that where a domain name incorporates a sufficiently well-known trade mark, and the Respondent knew, or ought to have known, of the trade mark's existence, and the Respondent has no legitimate rights or interests in it, the domain name is considered to have been registered in bad faith. I find that the Respondent, in the



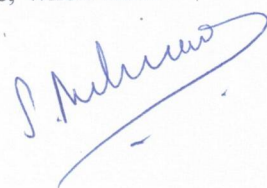
case at hand, is well-aware of the immense goodwill and reputation of the Complainants' well-known trade mark "LIFESTYLE".

d. I also find that as per the information available about the disputed domain name on WHOIS domain lookup, the disputed domain name was created only on 12.02.2015. On the other hand, I find that the Complainant no. 1's domain name www.lifestylestores.com, from which the disputed domain name has been inspired, was created on 27.01.1999. Hence, not only is the registration of the disputed domain name in bad faith by the Respondent, but it is also much subsequent to the domain name registration of the Complainant. Hence, I hold that the Respondent is also junior registrant in respect of the domain name incorporating the word "LIFESTYLE".

e. Finally, in light of the above submissions, I hold that it is overwhelmingly clear that the Respondent's registration of the disputed domain name www.lifestylestore.in is in bad faith, without sufficient cause and is intended to take advantage of the Complainants' immense reputation and prominent presence on the internet in order to confuse the public to the detriment of the Complainants.

In view of all the above facts and well-known legal precedents, I find and hold as under:

- That the disputed domain name of the Respondent is identical and confusingly similar to the Complainant's "LIFESTYLE" word mark and the variants thereof and the Complainants' prior registered domain name www.lifestylestores.com.
- That the use of the disputed domain name www.lifestylestore.in is likely to lead to enormous confusion *quia* its origin due to the use of the Complainant's trade mark "LIFESTYLE" as a whole in the disputed domain name being phonetically, visually and structurally identical to the Complainants' trade mark LIFESTYLE.
- That the disputed domain name was registered in bad faith by the Respondent.
- That the disputed domain name is strictly identical to the Complainants' distinctive mark, consumers would certainly mistakenly assume that a website / disputed domain name www.lifestylestore.in is operated or endorsed by the Complainants, when such



would not be the case.

- That the Respondent has deliberately attempted to create a false impression in the minds of the consumers that the Respondent is somehow associated with or endorsed by the Complainants to ride on the goodwill and reputation associated with the Complainants and to unjustly enrich from the same.
- That the Respondent has no rights or legitimate interests in respect of the disputed domain name.
- That there is also an imminent likelihood of damage which may be caused to the public at large and also cause irreparable damage to the Complainants' reputation and goodwill through the disputed domain name.
- That the Respondent does not have any affiliation or connection with the Complainants and/or its goods / services under the name/mark LIFESTYLE and consequently it is inconceivable that the Respondent's adoption of the name www.lifestylestore.in which is identical to the Complainants' "LIFESTYE" trademark, trade name, corporate name, and domain name www.lifestylestores.com can be seen as merely coincidental.

VII. DECISION

- a) In view of the above facts and circumstances, it is clear that the Complainants have succeeded in their complaint.
- b) That the .IN Registry of NIXI is hereby directed to transfer the domain name/ URL of the Respondent <WWW.LIFESTYLESTORE.IN> to the Complainants;
- c) In the facts and circumstances of the case no cost or penalty is imposed upon the Respondent. The Award is accordingly passed on this 23rd day of April, 2022.



Sridharan Rajan Ramkumar
Sole Arbitrator

Date: 23/04/2022