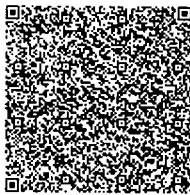


Government of National Capital Territory of Delhi

Certificate No.	: IN-DL50466488097032U
Certificate Issued Date	: 23-Jun-2022 01:18 PM
Account Reference	: IMPACC (IV)/ dl717303/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDL71730384763760975330U
Purchased by	: AJAY GUPTA ARBITRATOR
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: AJAY GUPTA ARBITRATOR
Second Party	: OTHERS
Stamp Duty Paid By	: AJAY GUPTA ARBITRATOR
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA

Disputed Domain Name: “ELECTROTHERM.IN”

ELECTROTHERM (INDIA) LIMITED

...Complainant

VERSUS

MUKESH BHANDARI

... Respondent

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shoolestamp.com' or using e-Stamp Mobile App of Stock Holding.

2. The onus of checking the legitimacy is on the users of the certificate.

any discrepancy please inform the Competent Authority.

April 13

[illegible][illegible]

**INDRP ARBITRATION CASE NO.1562
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)**

**ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA**

Electrotherm (India) Limited

VERSUS

Mukesh Bhandari Electrotherm India Limited

DISPUTED DOMAIN NAME: "ELECTROTHERM.IN"



**INDRP ARBITRATION CASE NO.1562
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)**

**ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA**

Disputed Domain Name: "ELECTROTHERM.IN"

**ELECTROTHERM (INDIA) LIMITED
A-1, Skylark Apartment, Satellite Road
Satellite, Ahmadabad-380015 (GUJARAT). ... Complainant**

VERSUS

**MUKESH BHANDARI
Electrotherm India Limited
A-1, Skylark Apartment, Satellite Road
Satellite, Ahmedabad-380015 (GUJARAT). ... Respondent**



AWARD

(1) The Parties :

- 1.1 The Complainant in this arbitration proceedings is Electrotherm (India) Limited., which is in the business of the steel and foundry industry, transformer manufacturing, steel making, ductile iron pipe making, manufacturing of battery-operated vehicles, renewable energy, transmission line tower, and education, etc and its address is A-1, Skylark Apartment, Satellite Road, Satellite, Ahmadabad-380015 (GUJARAT) [INDIA]. The complainant in this proceeding is represented by its authorized representative M/s Cylaw Solutions at 805, Kaveri Kaustubh I, Bain Bazar, Sikandra, Agra – 7 (UP).
- 1.2 The Respondent, in this arbitration proceeding, is, Mukesh Bhandari Electrotherm India Limited at A-1, Skylark Apartment, Satellite Road, Satellite, Ahmadabad-380015 (GUJARAT) [INDIA]. Email : mukesh.bhandari@electrotherm.in, as per the details given by the WHOIS database maintained by the National Internet Exchange of India (NIXI).

(2) The Domain Name and Registrar

- 2.1 The disputed domain name is <electrotherm.in>. The Registrar with which the disputed domain name is registered is Endurance Digital Domain Technology LLP at Unit No. 501, 5th Floor, IT Building 3, Nesco IT Park, Nesco Complex, Western Express, Highway, Goregaon (E), Mumbai, Mumbai City-400063 (MAHARASHTRA).

(3) Procedural History [Arbitration Proceedings]

- 3.1 This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy [INDRP] and

INDRP Rules of Procedure [the Rules], adopted by the National Internet Exchange of India (NIXI). in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes according to the IN Dispute Resolution Policy and Rules framed thereunder.

3.2 The history of this proceeding is as follows :

3.2.1 The NIXI on 03.06.2022 formally notified the Respondent of the complaint, and appointed Ajay Gupta as the Sole Arbitrator for adjudicating the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Resolution Policy and the Rules framed thereunder. On 04.06.2022 Arbitrator submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by NIXI.

3.2.2 That commencing the arbitration proceedings an Arbitration Notice Dated 04.06.2022 was mailed to the respondent by this panel under Rule 5(c) of INDRP Rules of Procedure with direction to file a reply of the complaint, if any, within 10 days. That the soft Copy of the complaint along with annexures and records was served to the respondents by the NIXI vide its mail dated 03.06.2022.

3.2.3 That no reply of the notice or complainant was received by this panel from the respondent within the stipulated time of 10 days despite the receipts of emails sent to the respondent by this panel. However, this panel in the interest of justice on 15.06.2022 granted a further period of 4 more days to the respondent to file the reply of complaint if any, by 18.06.2022, and the same was communicated to the respondent by this panel vide its mail dated 15.06.2022.



Despite the further opportunity given to him, the Respondent failed to file the reply to the Arbitration notice and complaint even within the extended period of 4 days despite the receipt of mail dated 15.06.2022 of this panel. Subsequently, the respondent proceeded ex parte on 20.06.2022.

3.2.4 That this panel on 20.06.2022 received a mail from the representative of the Complainant, where he has drawn the attention of this panel to the relief clause in which it is prayed by the complainant to pass an interim order for immediate suspension of the Domain Name <electrotherm.in> by the Domain Registrar. The representative of the complainant further requested that the Disputed Domain Name be also ordered to be suspended by the Domain Registrar as soon as Award is passed to ensure against any further misuse of the Domain Name by the Domain Registrant till the time the Award is implemented in terms of Arbitration Act (i.e. after 90 days of the Award).

3.2.5 This panel while referring to the mail dated 20.06.2022 of the representative of Complainant, vide its mail 21.06.2022 in the interest of justice, gave one more opportunity to the respondent to file the reply, if any, within 2 days i.e by 23.06.2022. However, the respondent neither replied to the mail dated 21.06.2022 of this panel nor filed any reply in this regard. Since the respondent did not even respond to the further mail of this panel, this panel on 24.06.2022 once again fixed the matter for the passing of the Award.

(4) The Respondent's Default

4.1 The Respondent failed to reply to the notice regarding the complaint despite repeated opportunities. It is a well-established principle that once a Complainant makes a

prima facie case showing that a Respondent lacks rights to the domain name at issue; the Respondent must come forward with proof that it has some legitimate interest in the domain name to rebut this presumption. The disputed domain name in question is "electrotherm.in"

- 4.2 The INDRP Rules of Procedure require under Rule 8(b) that the arbitrator must ensure that each party is given a fair opportunity to present its case. Rule 8(b) reads as follows :

"In all cases, the Arbitrator shall ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case."

- 4.3 The Respondent was given notice of this administrative proceeding in accordance with the Rules. The .IN discharged its responsibility under Rules paragraph 2(a) to employ reasonably available means calculated to achieve actual notice to the Respondent of the complaint.
- 4.4 The panel finds that the Respondent has been given a fair opportunity to present his case. The Respondent was given direction to file a reply of the Complaint if any, but the Respondent neither gave any reply to notice nor to the complaint despite repeated opportunities. The 'Rules' paragraph 12 provides that "In the event, any party breaches the provisions of INDRP rules and/or directions of the Arbitrator, the matter can be decided ex parte by the Arbitrator and such arbitral award shall be binding in accordance to the law." In the circumstances, the panel's decision is based upon the Complainant's assertions, evidence, inferences, and merits only as the Respondent has not replied and is proceeded ex-parte.

(5) Background of the Complainant and its statutory and common law rights Adoption :

- 5.1 The Complainant states that the Complainant considers its trademark an important and extremely valuable asset. Thus,

to protect the same, they have secured trademark registrations for the mark "ELECTROTHERM" and variants in India since 1990. The said registrations are duly valid and subsisting as of this date. The Complainant submits that it is the exclusive owner and proprietor of the trademark registered under Classes 6, 11, 35, 37, and 42 since its adoption, and has annexed a list of trademark registration with the complaint. The Complainant further submits that the Complainant's trade name/mark is identified by the purchasing public exclusively with the Complainant and has acquired enormous goodwill in India and abroad. The Complainant submits that on account of the high degree of inherent and acquired distinctiveness, which the mark ELECTROTHERM is possessed of, the use of this mark or any other identical or deceptively similar mark, by any person other than the Complainant, would result in immense confusion and deception in the trade, leading to phishing off.

- 5.2 The Complainant has submitted the following domain names owned and actively operated by the Complainant most of them incorporate the mark 'ELECTROTHERM', electrotherm.com, yobykes.in, electrothermsteel.com, electrothermtlt.com, electrothermdipipes.com, electrotherm.co. and electrotherment.com. etc.
- 5.3 The Complainant submits that historically the business with the name Electrotherm (India) Limited was established in 1983, while the first Complainant Company Electrotherm Machines (India) Private Limited was incorporated on 17th October 1985 as an unlisted Company. The Complainant states that Electrotherm Machines (India) Private Limited was converted to a public limited company and as a result, the name was changed to Electrotherm (India) Limited with effect from 4th December 1991. Later, Electrotherm (India) Limited was amalgamated with Foremost Chemicals Limited

(a listed company) by order of Gujarat High Court dated 17th March 1994, and Electrotherm (India) Limited was dissolved. Finally, the name of Foremost Chemicals Limited was changed to Electrotherm (India) Limited with effect from 31st March 1994. The Complainant submits that today it is a Multi-divisional ISO: 9001:2015 certified global Company holding a 3,500,000 KW market share in the metal melting industry globally. It operates in diverse fields, catering to the steel and foundry industry, transformer manufacturing, steel making, ductile iron pipe making, manufacturing of battery-operated vehicles, renewable energy, transmission line tower, and education. Engineering innovations for the global metal melting industry have been possible due to Complainant's focused 5500 employees with State-of-the-art manufacturing facilities. The Complainant services the global markets around the world with a specific focus on the Middle East, Turkey, Pakistan, Bangladesh, and Africa, Far-East countries, Europe while catering to 58 countries around the world. Electrotherm commands more than 65% market share in induction melting equipment used by the steelmaking industry in India. The Complainant has been producing quality steel products from its manufacturing unit in Kutch, Gujarat since 2004. ET TMT BARS has emerged as the most preferred & Leading TMT brand in Gujarat and commands a premium. Electrotherm Ductile Iron pipes are a result of the Complainant's constant endeavor towards ensuring a better quality of life. DI pipes developed by Electrotherm provide an excellent medium of transporting water keeping its quality intact. Currently, the Complainant is one of the leading manufacturers of DI Pipe in India. The Complainant states that it is the first company in India to make battery-operated two-wheelers in line with the company's commitment to the environment. 'No Engine No Pollution' is the philosophy behind it, and in order to



promote the green energy initiative of the nation, it established a Renewable Energy division as well. The complainant submits that most of the above Complainant's information is available on its official website at:<electrotherm.com> and also available at its Wikipedia Page: <https://en.wikipedia.org/wiki/Electrotherm>.

- 5.4 The Complainant states that Complainant Company is a Public Limited Company, listed at NSE/BSE, a well-known entity in India, and shares of it are actively traded at the stock exchange.
- 5.5 The Complainant submits it is the oldest Company incorporated in 1985-86 having an online presence at <electrotherm.com> and the present official website is a comprehensive, unique and acclaimed introduction to the Complainant and its diversified businesses indicating: Engineering & Technologies, Steel & Pipes, Electric Vehicles, and more. There are different related companies under the ELECTROTHERM brand.
- 5.6 The Complainant further submits that the profile and popularity of the Complainant under the trademark "ELECTROTHERM" have been continuously increasing since the date of adoption and the trademark has received huge recognition. A simple Google search of the term "ELECTROTHERM" throws up a huge number of results, which exclusively pertain to the Complainant and its mark only and It also has been conferred with numerous accolades & awards to date. The information as to such accolades includes Construction World Global Awards (2019), Employee Engagement Achievers Awards (2017), National Energy Conservation Award (2016), Best Boiler User Industry (2015), and National Energy Conservation Award (2014), and more. Further, the media section on the

website here contains details as to media coverage, events, and so on.

(6) Submission of the Complainant about the Respondent its use of Disputed Domain Name

6.1 The Complainant states that in April 2022, it came to the attention of the IT Team of the Complainant Company that some third-party registered the disputed domain name with Complainant's Company details. The same was immediately brought to the knowledge of the Managing Director of the Complainant Company Shri. Shailesh Bhandari, who in turn wrote to various concerns including the domain registrar, hosting company, and NIXI as well. It is further stated by the complainant that initially on April 28, the disputed domain name was suspended by the Domain Registrar but later reactivated. On questioning the same, the Domain Registrar stated that some documents have been produced by the domain registrant, of which the Complainant has no knowledge.

6.2 The Complainant states that currently, the disputed domain name is parked, which is making use of the Complainant's registered mark. Moreover, the MX records of the disputed domain name are activated, which indicates fraudulent intentions on the part of the domain registrant, i.e. the Respondent.

6.3 The Complainant further submitted that it has not authorized or licensed the Respondent in any manner for the use of any trademarks, logo, email or the disputed domain name and, it is a case for impersonation, phishing and fraud/cheating as well in violation of Indian Laws. The complainant submits those aforesaid facts bring out a prima-facie case against the Respondent.



(7) The issues involved in the dispute

7.1 The complainant in its complaint has invoked paragraph 4 of the INDRP, which reads:

"TYPES OF DISPUTES

Any person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:-

The disputed domain name is identical or confusing similar to a trademark in which the Complainant has statutory /common law rights.

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

The disputed domain name has been registered or is /are being used in bad faith.

The Respondent is required to submit to a mandatory Arbitration proceeding in the event that a Complainant files a complaint to the .IN Registry, in compliance with this policy and Rules thereunder."

According to paragraph 4 of the INDRP, there are 3 essential elements of a domain name dispute, which are being discussed hereunder in the light of the facts and circumstances of this case.

(8) Parties' Contentions

8.1 **The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.**

Complainant

8.1.1 The Complainant submits that the Complainant was the first in India to have conceived and adopted the mark



ELECTROTHERM with respect to goods and services covered under various classes. It operates in diverse fields, catering to the steel and foundry industry, transformer manufacturing, steel making, ductile iron pipe making, manufacturing of battery-operated vehicles, renewable energy, transmission line tower, and education.

- 8.1.2 The Complainant submits that the impugned domain name is identical to Complainant's registered trademark, as well as domain names incorporating the mark **ELECTROTHERM**. The Complainant has placed reliance on the matter of *F. Hoffmann-La Roche Vs Relish Enterprises*, [WIPO-D2007-1629]: if the Complainant owns a registered Trademark then it satisfies the threshold requirement of having the Trademark rights and the Domain name is confusingly similar to Complainant's Trademark because disputed domain name looks and reads like Complainant's Trademark.
- 8.1.3 The Complainant submits that the impugned domain name is visually and phonetically identical and/or confusingly similar to the Complainant's trademark in which the complainant has statutory as well as common law rights. The Complainant submits that the Respondent has registered the disputed domain name, which incorporates in its entirety the Complainant's reputed trademark **ELECTROTHERM**, with malafide intentions to cause confusion and deception in the minds of the public. The Complainant has placed reliance on - *CEC Entertainment Concepts v. Samir Vasaya* [Domain: chuckecheese.in; INDRP/1154]; *Havells India Limited v. WHOIS Foundation* [WIPO-D2016-1775] which states that a domain name that wholly incorporates a Complainant's registered mark may be sufficient to establish identicalness or confusing similarity, despite the addition of other words to such marks.



8.1.4 The Complainant further submits that the ccTLD “.in” is necessary for India-specific top-level domains on the Internet and is not taken into consideration while comparing the disputed domain name with the Complainant’s well-known trademark. Thus, the disputed domain name is identical / confusingly similar to the Complainant’s registered marks.

Respondent

8.1.5 The respondent has not replied to the complainant's contentions.

Panel Observations

8.1.6 On pursuing the documents and records submitted by Complainant it is observed by this panel that Complainant’s mark “ELECTROTHERM” is being used in diverse fields, catering to the steel and foundry industry, transformer manufacturing, steel making, ductile iron pipe making, manufacturing of battery-operated vehicles, renewable energy, transmission line tower, etc. in India and other countries for several years. This panel while going through the documents and records submitted by the complainant observe that the Complainant is a registered proprietor of the device mark and related marks in India and has been continuously and exclusively using the same in relation to its business since 1990

8.1.7 This panel observes that the Complainant has an active online presence at electrotherm.com, electrotherm.co.in, electrothermlt.com, and also uses more domain names incorporating the Complainant’s mark. The adoption, use, and registration of the mark by the Complainant have also predated the registration of the disputed domain.



8.1.8 It is observed by this panel that the Respondent is using the mark "ELECTROTHERM" for products and services identical to that of the Complainant. The suffix "in" and the word "electrotherm" are not sufficient to distinguish the Domain Name from trade Mark electrotherm, hence disputed domain name is identical/confusingly similar to the Complainant's registered marks "ELECTROTHERM".

8.1.9 This panel observes that the disputed domain name "electrotherm.in" will cause the user to mistakenly believe that it originates from, is associated with or is sponsored by the complainant, and further the addition of "in" is not sufficient to escape the finding that the domain is confusingly similar to complainant's trademark.

8.1.10 Therefore, the panel is of opinion that the disputed domain name "electrotherm.in" being identical/confusingly similar to the trademark of the complainant will mislead the public and will cause an unfair advantage to the respondent. The Panel is of the view that there is a likelihood of confusion between the disputed domain name and the Complainant, its trademark, and the domain names associated. The disputed domain name registered by the Respondent is confusingly similar to the trademark "ELECTROTHERM" of the Complainant.

8.1.11 It has to be noted that the paragraph no.4 of the INDRP policy starts with the following words:

"Any person who considers that a registered domain name conflicts with his legitimate rights or interest may file a complaint to the registry on the following premises."

This is a positive assertion and sentence. Further paragraph 4(a) also constitutes a positive assertion and sentence. The above clearly indicates that the onus of proving the contents of Para 4(a) is upon the complainant. To succeed he must prove them."

8.1.12 It has been proved by the Complainant that it has trademark rights and other rights in the mark "ELECTROTHERM" by submitting substantial documents in support of it. This panel while following the rule of law thinks that while considering the trademark "ELECTROTHERM" in its entirety, the disputed domain name "electrotherm.in" is confusingly similar to the trademark of the complainant.

8.1.13 Paragraph 3 of the INDRP states that it is the responsibility of the Respondent to find out before registration that the domain name he is going to register does not violate the rights of any proprietor/brand owner.

8.1.14 Paragraph 3 of the INDRP is reproduced below :

"The Respondent's Representations :

By applying to register a domain name, or by asking a Registrar to maintain or renew a domain name registration, the Respondent represents and warrants that :

1. the statements that the Respondent made in the Respondent's Application form for Registration of Domain Name are complete and accurate;
2. to the Respondent's knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;
3. the respondent is not registering the domain name for an unlawful purpose; and
4. the Respondent will not knowingly use the domain name in violation of any applicable laws or regulations.

It is the Respondent's responsibility to determine whether the Respondent's domain

name registration infringes or violates someone else's rights".

8.1.15 The respondent has not replied to the Complainant's contentions despite the repeated opportunities given for the same.

8.1.16 This Panel, therefore, in light of the contentions raised by the Complainant concludes that the disputed domain name is confusingly similar to the Complainant's marks. Accordingly, the Panel concludes that the Complainant has satisfied the first element required by Paragraph 4(a) of the INDR Policy.

8.2 The Respondent has no rights or legitimate interests in respect of the domain name

Complainant

8.2.1 The Complainant submits that it has painstakingly built up a global reputation since 1983 and has invested substantial amounts of resources in promoting its product under the mark Electrotherm, since its first trademark registration in 1990. The Complainant is a public limited Company and services the global markets around the world with a specific focus on the Middle East, Turkey, Pakistan, Bangladesh, Africa, Far-East countries, and Europe while catering to 58 countries around the world. It is further submitted by the Complainant that Electrotherm commands more than 65% market share in induction melting equipment used by the steelmaking industry in India and as a result, the Complainant's mark "ELECTROTHERM" has acquired secondary meaning through continuous and extensive use since the last three to four decades. In this regard, the Complainant has relied upon the matter of AOL LLC v. DiMarco, [NAFFA1275978] "Secondary Meaning" is acquired when "in the minds of the public, the primary significance of

a product feature... is to identify the source of the product rather than the product itself.'

8.2.2 The Complainant submits that hence, any person or entity using the mark/name Electrotherm in any manner is bound to lead customers and users to infer that its product or service has an association or nexus with the Complainant and lead to confusion and deception. The Complainant further submits that it is indeed extremely difficult to foresee any justifiable use that the Respondent may have with the disputed domain name, this combination overall is certainly not a descriptive term serving to indicate specific characteristics of any goods or services.

8.2.3 The Complainant submits that the disputed domain name has a recent registration date of April 5, 2022, while the Complainant has been using the mark ELECTROTHERM for almost four decades. The Complainant submits that it has an active online presence at electrotherm.com, electrotherm.co.in, electrothermlt.com, and also uses more domain names incorporating the Complainant's mark. The Complainant further submits that, it is apparent that the Respondent knew of the Complainant's mark and its business activities, which is also reflected from the parked page at the disputed domain name and the WHOIS information that reflects the Complainant's name as well.

8.2.4 The Complainant submitted that the Respondent was never authorized by the Complainant to register, hold or use the disputed domain name in any manner. However, the current website at the disputed domain name has a parking page, which includes Complainant's registered trademark and links to Complainant's social media pages as well. The Complainant's mark ELECTROTHERM is a distinctive term that one would legitimately choose as a domain name

without having specific rights to such a combination. The registration of the disputed domain name gives rise to the impression of an association with the Complainant, which is not based in fact. [Daniel C. Marino, Jr. v. Video Images Productions, et al. WIPO-D2000-0598].

8.2.5 The Complainant has placed reliance on the INDRP matter of ATC IP LLC v. Rakul Kumar [INDRP/1221 atc-tower.in; 2020], where it was held the Respondent cannot be said to be having any rights or legitimate interest in the use of the ATC Trademarks and hence the Respondent has no rights or legitimate interests in the disputed domain name. The adoption of the disputed domain name by the Respondent is a deliberate attempt to piggyback on the goodwill and reputation of the Complainant and or/ATC Group in relation to the ATC Trademarks and illegally direct traffic to the disputed domain name. The Respondent's sole intention is to mislead ATC's prospective customers and to reap illegal monetary benefits from the same, by creating an illusion of association with the Complainant.

8.2.6 The Complainant submits that in terms of INDRP clause 6, that is the requirement for the Respondent to establish legitimate interests: 15 a) Respondent's use of the domain name is not in connection with a bona fide offering of goods or services in terms of Para 6(a) of INDRP; b) Respondent is not commonly known by the disputed domain name or the trademark in terms of Para 6 (b) of INDRP; c) Respondent is not making a legitimate non-commercial or fair use of the domain name, in terms of para 6 (c) of INDRP.

8.2.7 The Complainant submits that there is no showing that before any notice to the Registrant of the dispute, the Registrant's use of the domain name in connection with a bona-fide offering of goods or services. Rather, in addition,

the WHOIS records and the active MX records are evidence of the fraudulent intentions of the domain registrant.

8.2.8 The Complainant submits that the word “Bona fide” has been better explained in the UDRP decision of Medtronic, Inc. v. Aytekin Yilmaz of Medo Tekstil Elektronik [WIPO-D2021- 1758]: The words “bona fide” must encompass the Respondent’s knowledge and motives in choosing the name in question – if done deliberately to trade-off, or take advantage of the Complainant’s name or reputation, and then the “bona fide” requirement is not met.

8.2.9 The Complainant submits that it is apparent that the webpage to which the disputed domain name resolves is designed to mislead the recipients of the emails issued through the active MX records to create an impression that an official communication has been issued by the Complainant. It is further submitted that obviously, the Respondent may have been indulging in phishing or other fraudulent activity through email IDs ending with „@electrotherm.in” to misleadingly divert consumers/ internet users with ulterior motives. Reliance is placed on Graybar Services Inc. v. Graybar Elec, WIPO-D2009-1017 (“Respondent has used the domain name to pretend that it is the Complainant and in particular to create false emails pretending that they are genuine emails coming from the Complainant and one of its senior executives”).

8.2.10 The Complainant submits that the parking page and the WHOIS made available only reinforces the (false) association between the Complainant and the disputed domain name. In the matter of Accuity, Inc. v. Kenneth Hunter [WIPO-D2022- 0397]: “Based on the Respondent’s use made of the Disputed Domain Name to impersonate the Complainant, create and host a website identical to the

Complainant's original website, to configure emails using MX records to potentially perpetuating a phishing scheme does not confer rights or legitimate interests on the Respondent. The Complainant relied on WIPO Overview 3.0, section 2.13.1 ("Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent."). Thus, the Panel concludes that nothing on the record before it would support a finding that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name. Rather, the Panel finds that the Respondent is using the Disputed Domain Name for commercial gain with the intent to mislead by defrauding the Complainant's customers. Moreover, such use cannot conceivably constitute a bona-fide offering of a product/service within the meaning of paragraph 4(c)(i) of the Policy."

- 8.2.11 The Complainant submits that accordingly, there is prima facie proof of the Respondent's intent to usurp the reputation of the Complainant and make illegal gains off its worldwide reputation and goodwill. 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 Complainant. The Complainant has referred to WIPO matter of Paris Hilton v. Deepak 17 Kumar [WIPO-D2010-1364] where it was held: that if the owner of the domain name is using it in order "*... to unfairly capitalize upon or otherwise take advantage of similarity with another's marking then such use would not provide the registrant with a right or legitimate interest in the domain name. The Respondent's choice of the*

Domain Name here seems to be a clear attempt to unfairly capitalize on or otherwise take advantage of the Complainants' trademarks and resulting goodwill."

8.2.12 The Complainant submits that similarly, the facts & circumstances of this case evidence that the Respondent is not making a legitimate non-commercial or fair use of the domain name, but has an intention for commercial gain to misleadingly divert consumers and tarnish the trademark at issue, given (a) the distinctive nature of the mark; (b) huge popularity of the Complainant and its Trademark ELECTROTHERM; (c) attempt of the Respondent to defraud prospective customers by the use of the email, as evident from active MX records; (d) Lastly, the unauthorized use of Complainant's name, trademark and link to the social media pages through the disputed domain name.

8.2.13 The Complainant submits that, although the WHOIS provides the organization name as ELECTROTHERM India Limited with Gujarat address, it is false WHOIS information used and belongs to the Complainant only. Hence, the Respondent is not commonly known by the disputed domain name in terms of the Policy. Rather, the Respondent has attempted to defraud the prospective customers by taking advantage of the Complainant's reputation, giving a false impression that the Respondent has some authorization from the Complainant in terms of a direct nexus or affiliation, which is definitely not the case. Similarly, in Sezzle Inc. Vs Sezzle Inc. [NAF-FA1988843] "the pertinent WHOIS information identifies the registrant of the domain name as "sizzle inc.", thus mimicking Complainant's corporate name, the facts before us show that Respondent makes no active use of the domain name as well as that Respondent has no relationship with Complainant and no authority to act in Complainant's name. On this record, we

conclude that Respondent has not been commonly known by the contested domain name so as to have acquired rights to or legitimate interests in it within the ambit of Policy 4(c)(ii)."

8.2.14 The Complainant has referred to the UDRP matter of *American Machinery Works v. Registration Private* [WIPO-D2021-3006]: "UDRP panels have categorically held that use of a domain name for illegal activity, including the impersonation of the complainant, phishing, and other types of fraud, can never confer rights or legitimate interests on a respondent. Circumstantial evidence can support a credible claim made by a complainant asserting the respondent is engaged in such illegal activity, including that the respondent has improperly masked its identity to avoid being contactable. WIPO Overview 3.0, section 2.13.

8.2.15 The Complainant, therefore, submits that Respondent has no rights or legitimate interests in respect of the disputed domain name.

Respondent

8.2.16 The respondent has not replied to the complainant's contentions.

Panel Observations

8.2.17 This Panel holds that the second element that the Complainant needs to prove and as is required by paragraph 4(b) of the INDRP is that the Respondent has no legitimate right or interests in the disputed domain name.

8.2.18 It is submitted by the Complainant that the Complainant has painstakingly built up a global reputation since 1983 and has invested substantial amounts of resources in promoting its product under the mark

Electrotherm, since its first trademark registration in 1990 and as a result, the Complainant's mark "ELECTROTHERM" has acquired secondary meaning through continuous and extensive use since the last three to four decades. It is further submitted by Complainant, that any person or entity using the mark/name Electrotherm in any manner is bound to lead customers and users to infer that its product or service has an association or nexus with the Complainant and lead to confusion and deception

8.2.19 The respondent failed to rebut the contention of the Complainant that the Respondent knew of the Complainant's mark and its business activities, which is also reflected from the parked page at the disputed domain name and the WHOIS information that reflects the Complainant's name as well. Whereas, the disputed domain name has a recent registration date of April 5, 2022, while the Complainant has been using the mark ELECTROTHERM for almost four decades.

8.2.20 It is observed by this panel that the Respondent has failed to rebut the allegations of the Complainant that the respondent was never authorized by the Complainant to register, hold or use the disputed domain name in any manner.

8.2.21 It is observed by this panel that the respondent failed to rebut the allegation that the webpage to which the disputed domain name resolves is designed to mislead the recipients of the emails issued through the active MX records to create an impression that an official communication has been issued by the Complainant. And the Respondent may have been indulging in phishing or other fraudulent activity through email IDs ending with „@electrotherm.in" to misleadingly divert consumers/internet users with ulterior motives.

8.2.22 It is observed by this panel that the respondent has also failed to rebut the allegations of the complainant that there is prima facie proof of the Respondent's intent to usurp the reputation of the Complainant and make illegal gains off its worldwide reputation and goodwill.

8.2.23 It is further observed by this panel that the respondent has failed to rebut the allegations of the complainant that although the WHOIS provides the organisation name as ELECTROTHERM India Limited with Gujarat address, it is false WHOIS information used and belongs to the Complainant only. The Respondent further failed to rebut the allegation that the Respondent is not commonly known by the disputed domain name in terms of the Policy and rather, the Respondent has attempted to defraud the prospective customers by taking advantage of the Complainant's reputation, giving a false impression that the Respondent has some authorization from the Complainant in terms of a direct nexus or affiliation,

8.2.24 The respondent further failed to rebut the contention of the complainant that that Respondent has not been commonly known by the contested domain name so as to have acquired rights to or legitimate interests in it within the ambit of Policy ¶4(c)(ii)."

8.2.25 Once the Complainant makes a prima facie case showing that the respondent does not have any rights or legitimate interest in the domain name, the burden to give evidence shifts to the Respondent to rebut the contention by providing evidence of its rights or interests in the domain name. It is observed by this panel that the respondent failed to put on record any evidence to rebut any of the contentions of the complainant.



8.2.26 It is further observed by this panel that para 6 of the .IN Domain Name Dispute Resolution Policy (INDRP) states :

8.2.27 Any of the following circumstances, in particular but without limitation, if found by the Arbitrator to be proved based on its evaluation of all evidence presented, shall demonstrate the Registrant's rights to or legitimate interests in the domain name for Clause 4 (b):

(a) before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; (b) the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or (c) the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

8.2.28 This panel while evaluating all the evidence, observe that the respondent by not filing the reply and rebutting the allegations of the complainant has also failed to full fill any of the requirements as mentioned in para 6 of INDRP Policy which demonstrates the Registrant's rights to or legitimate interests in the domain name for the purposes of Clause 4 (b).

8.2.29 For these above-mentioned reasons, this Panel holds that the Complainant has proved that the respondent does not have any rights or legitimate interests in the disputed domain name.

8.3 The Respondent has registered or is been using the disputed domain name in bad faith:

Complainant

8.3.1 The Complainant submits that it is beyond doubt that the disputed domain name was both registered and is being used by the Respondent in Bad Faith to cause confusion and mislead the Complainant's customers as well as the general public. It is further submitted by the Complainant that given the immense popularity and goodwill enjoyed by the Complainant's trademark and their impeccable market reputation, it is clear that the Complainant's trademark ELECTROTHERM is well-known and it is inconceivable that the registration of the disputed domain name was made without full knowledge of the existence of the Complainant and its "well-known" trademark.

8.3.2 The Complainant submits that the examples of bad faith registration and use set forth in the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found. Clearly, paragraph 6 of the Policy, as it states „circumstances but without limitations“, is similar to UDRP- Telstra Corporation v. Nuclear Marshmallows [WIPO-D2000- 19 0003]: “Furthermore, it must be recalled that the circumstances identified in paragraph 4(b) are „without limitation“ - that is, paragraph 4(b) expressly recognizes that other circumstances can be evidence that a domain name was registered and is being used in bad faith”.

8.3.3 The Complainant submits that the overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trademark of another [Match.com v. Bill Zag, WIPO D2004-0230]. The following factors contribute to

establishing the Respondent's bad faith conduct in the circumstances of this case: Actual or Constructive Notice

8.3.4 The Complainant submits that the registration of a domain name that is confusingly similar to another's mark, despite actual or even constructive knowledge of the mark holder's rights, constitutes bad faith registration and use, pursuant to Policy 4(a)(iii). In *Samsonite Corp. v. Colony Holding* [NAF-FA94313] found that evidence of bad faith includes actual or constructive knowledge of a commonly known mark at the time of registration. The WIPO Overview 3.0, Section 3.1.4 very clearly lays down as follows: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith".

8.3.5 The Complainant submits that even a preliminary search over the Internet or survey among the public, in general, reveals that the "ELECTROTHERM" brand is associated with the Complainant and it has been used by them in their trade and business for decades. The Complainant asserts that it is inconceivable that the registration of the disputed domain name was made without full knowledge of the existence of the Complainant and its well-known trademark. The Complainant further submits that, It has been laid down in the INDRP matter of *ITC Limited v Travel India* [INDRP/065] that registration of Domain Name which is identical to a trademark, with actual knowledge of the trademark holder's rights, is strong evidence that the domain name was registered in bad faith.

8.3.6 The Complainant submits that the WHOIS information with Complainant details, active MX records, and current setup



at the disputed domain name evidences the Respondent's actual knowledge of the Complainant and its mark. In the INDRP matter of Inter Globe Aviation Limited v. Sonu [INDRP/1115]: "the Respondent is impersonating the Complainant and actively using its name and brand image in respect to website contents shows that the disputed domain name is being used by the Respondent in bad faith. The use of the disputed domain name constitutes bad faith if it effectively impersonates and/or suggests sponsorship or endorsement by the trademark owner."

8.3.7 The Complainant submits that it is evident that the Respondent knowingly chose to register and use the disputed domain name to divert customers from the Complainant's official website and draw damaging conclusions as to the Complainant's operations through the disputed domain name, thus adversely affecting the Complainant's goodwill and reputation and its right to use the disputed domain name. Doing so, it also violated Rule 3 clause (b) of INDRP, whereby a domain registrant at the time of domain name registration declares that he would not infringe the trademark of others. And given the above facts, the Respondent is thus guilty of willful misrepresentation as well as false WHOIS Information

8.3.8 The Complainant further submits that the WHOIS information for the disputed domain name indicates the details of the Complainant Company, with its Gujarat address. The Complainant submits it has not authorized or permitted any third party to register the disputed domain name. Moreover, providing false WHOIS information to a Domain Registrar is another indication of the Respondent's bad faith under the Policy. AIDA Cruises v. Birol Atlihan, WIPO-D2013-2096 (finding bad faith use and registration where the registrant provided false WHOIS information and failed to respond to the complainant's demand letter).



8.3.9 The Complainant submits that it owns and uses various domain names, all incorporating its trademark ELECTROTHERM including electrotherm.com, electrothermsteel.com, electrothermlt.com, etc., and also Indian-specific ccTLDs. Hence, any individual coming across the disputed domain name or an associated email ID ending with "@electrotherm.in" may assume it to be the Complainant's website/email and instantly associate the same with the Complainant.

8.3.10 The Complainant has relied on Flunch v. yrvine Moundanga WIPO-D2021-3828: "In this case, the Respondent configured an MX server under the disputed domain name. Although the MX server was not actually used to send phishing messages, such a threat looms over the Complainant. The Complainant further submits that Prior UDRP panels have held that configuring MX servers may in certain circumstances be indicative of registration in bad faith (Robertet v. Marie Claude Holler, WIPOD2018-1878, and section 3.4 of the WIPO Overview 3.0". In similar circumstances, in the UDRP matter of CMA CGM v. Jeanne Deduit, WIPOD2021-2733: "This circumstance, along with the DNS setup of the Domain Name (with active MX records) and the composition of the Domain Name, lead the Panel to consider that the Domain Name could be used to deceive Internet users by impersonating the Complainant. In these circumstances, the Domain Name constitutes a potential threat hanging over the head of the Complainant."

8.3.11 The Complainant submits that it is evident that the Respondent has plans for sending bulk emails through Amazon.com Inc server/IPs. For the same purpose, the disputed domain name has been parked with Complainant's trademark / registered logo with the aim to give an

impression that the disputed domain name is affiliated with the Complainant. The Complainant submits that in WSI Holdings Ltd. v. WSI House, WIPO-D2004-1089, it was held that the Respondent appears to be engaged in „phishing“ for mistaken potential employees of the Complainant [...] Respondent: (1) has adopted a confusingly similar domain name, (2) it has used the trade dress of the Complainant's website, and (3) it has sought to attract users to its site by creating confusion between its site and the Complainant's. It has clearly engaged in activity which fulfills the bad faith requirements of Paragraph 4(b)(iv) of the Policy.”

8.3.12 The Complainant submits given facts and also satisfies the doctrine of passive holding. The Complainant has relied on AB Electrolux v. Simon Gavrels, WIPO-D2021-3470, where it was held: “Indeed, the Panel believes that the passive holding of the disputed domain name proves that the Respondent acts in bad faith. The particular circumstances of this case that lead to this conclusion are:

- the fact that the Complainant's ELECTROLUX trademark is well known;
- the fact that the Respondent has not provided any answer to the Complainant's contentions nor to the Complainant's prior cease-and-desist letter and reminder;
- the fact that the disputed domain name has been set up with MX records, which poses a threat of abusive use of the disputed domain name by the Respondent through impersonation of the Complainant;
- the Respondent's failure to provide complete or accurate WHOIS information to the Registrar, evidenced by the Center's inability to deliver its written communication to the Respondent;
- taking into account all of the above, it is not possible to conceive of any plausible actual or contemplated good faith use of the disputed domain name by the Respondent.

Therefore, in view of all the circumstances of this case, the Panel holds that the

Respondent has registered and is using the disputed domain name in bad faith according to the Policy, paragraphs 4(a)(iii) and 4(b)."

8.3.13 The Complainant submits that the Respondent is not authorized by the Complainant to make use of the disputed domain name in any form, rather it has been created to impersonate in order to create consumer confusion, and lure prospective customers seeking the Complainant's products. Indeed, it is evidence of bad faith registration and use in terms of Para 7 (c) of INDRP: "by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location". It has been held: "where a domain name is found to have been registered with an intention to attract Internet users by exploiting the fame of a well-known trademark, it constitutes bad faith registration" [Lego Juris V Robert Martin, INDRP/125 - lego.co.in].

8.3.14 The Complainant further submits that the recent suspension of the disputed domain name and activation thereafter by the Domain Registrar for the undisclosed reasons, also proves that the Respondent is aware that the Complainant has objections to the use of the disputed domain name, but instead of coming forward and making communication with the Complainant, it has continued to operate discreetly, behind the curtains.

8.3.15 The Complainant submits that it is settled law that registration of an identical or confusingly similar domain name that is patently connected with a particular trademark

owned by an entity with no connection with the trademark owner is indicative of bad faith as understood in the Policy. The very use of domain name by Respondent who had no connection whatsoever with Complainant's mark and product suggests opportunistic bad faith: see *America Online Inc. v. Chinese ICQ Network*, WIPO-D2000-0808.

- 8.3.16 The Complainant submits that the Respondent is guilty of registering and using the disputed domain name "electrotherm.in" in bad faith in terms of Para 7 of the INDRP. The Complainant further prayed for exemplary damages to set a precedent so that never another .IN domain name is used for any intended fraudulent purposes against a well-known brand like ELECTROTHERM.

Respondent

- 8.3.17 The respondent has not replied to the complainant's contentions despite repeated opportunities afforded to him.

Panel Observation

- 8.3.18 Paragraph 7 of the INDRP provides that the following circumstances are deemed to be evidence that Respondent has registered and used a domain name in bad faith :

"(a) Circumstances indicating that the Respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrar's documented out of pocket costs directly related to the domain name; or

(b) the Respondent has registered the domain name to prevent the owner of the trademark or service mark from reflecting the

mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or

(c) by using the domain name, the Respondent has intentionally attempted to attract internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its Website or location or a product or services on its website or location."

8.3.19 The panel is of the view that the documents/records and evidence put before it by the Complainant have established that the Respondent has no previous connection with the disputed domain name and any use of the disputed domain name by the Respondent, would result in confusion and deception of trade, consumers and public, who would assume a connection or association between the Complainant and the Respondent. The complainant also by submitting the evidence on record has been able to establish that the Respondent knowingly chose to register and use the disputed domain name to divert customers from the Complainant's official website and draw damaging conclusions as to the Complainant's operations through the disputed domain name, thus adversely affecting the Complainant's goodwill and reputation and its right to use the disputed domain name.

8.3.20 It is rightly submitted by the Complainant that the WHOIS information with Complainant details, active MX records, and current setup at the disputed domain name evidences the Respondent's actual knowledge of the Complainant and its mark. It is very unlikely that Respondent before registering the domain name "electrotherm.in" had no knowledge of Complainant's rights in the trademark ELECTROTHERM, which evidences bad faith.

8.3.21 It is also a well-settled principle that the registration of a domain name that incorporates a well-known mark by an entity that has no relationship to the mark is evidence of bad faith. [Relevant Decision: The Ritz Carlton Hotel Company LLC vs. Nelton Brands Inc., INDRP/250, December 30, 2011]

8.3.22 By registering the disputed domain name with actual knowledge of the Complainant's trademark "ELECTROTHERM", the Respondent acted in bad faith by breaching its service agreement with the registrar because the Respondent registered a domain name that infringes upon the Intellectual Property rights of another entity, which in the present case is the Complainant Electrotherm (India) Limited.

8.3.23 It is observed by this panel and also has been convincingly proved by the Complainant that the WHOIS information for the disputed domain name indicates the details of the Complainant Company, with its Gujarat address. This panel while going through the record and WHOIS information of the disputed domain registrant observed that the details of the address of the respondent are exactly similar to that of the Complainant Address in other words the respondent has provided the details of the address of the Complainant. The Complainant further submits it has not authorized or permitted any third party to register the disputed domain name. Thus, providing false WHOIS information to a Domain Registrar is another indication of the Respondent's bad faith under the Policy.

8.3.24 It is further observed by this panel that suspension of the disputed domain name and activation thereafter by the Domain Registrar also proves that the Respondent is aware

that the Complainant has objections to the use of the disputed domain name, and the complainant has rightly submitted that instead of coming forward and making communication with the Complainant, it has continued to operate discreetly, behind the curtains. It is also observed by this panel that despite repeated emails sent to the respondent and which were duly received by the Respondent, the Respondent has neither filed the reply of complaint nor came forward to clear his position even by responding to the Notices/ mails of this panel.

8.3.25 The respondent has not replied to the Complainant's contentions despite the repeated opportunities given for the same.

8.3.26 The Respondent's registration of the domain name "electrotherm.in" thus meets the bad faith elements outlined in Para 7(c) of the INDRP. Therefore the Panel concludes that the registration by Respondent is in bad faith. Consequently, it is established that the disputed domain name was registered in bad faith or used in bad faith.

(9) Remedies Requested

The Complainant requests the following reliefs:-

- i. Pass an interim order for the immediate suspension of the Domain Name by the Domain Registrar;
- ii. Transfer the disputed domain name to the Complainant;
- iii. Order for payment of exemplary costs of Rupees 5 Lakh; 25
- iv. Pass any such further and other orders as this Hon"ble Tribunal may deem fit in the circumstances of the case may require.

(10) Decision

10.1 The following circumstances are material to the issue in the present case:

10.1.1 The complainant through its contentions based on documents /records and evidence has been able to establish that the complainant has been carrying on their business activities exclusively under the well-known trademark/name ELECTROTHERM and it has a presence not only in India but many other countries. The Complainant has also been able to establish that apart from significant common law rights in the Mark ELECTROTHERM, the complainant has statutory rights in the Mark ELECTROTHERM through registration of the Mark in India. The Respondent, however, has failed to provide any evidence that it has any rights or legitimate interests in respect of the domain name or has been authorized by the Complainant in this regard, and the Respondent is related in any way to the Complainant. The Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the Disputed Domain Name.

10.1.2 Taking into account the nature of the disputed domain name and in particular, the “.in” extension alongside the Complainant’s mark which is confusingly similar, which would inevitably associate the disputed domain name closely with the Complainant’s group of domains in the minds of consumers, all plausible actual or contemplated active use of disputed Domain Name by the Respondent is and would be illegitimate.

10.1.3 The Respondent also failed to comply with Para 3 of the INDRP, which requires that it is the responsibility of the Respondent to ensure before the registration of the

impugned domain name by him that the domain name registration does not infringe or violate someone else's rights. The Respondent should have exercised reasonable efforts to ensure there was no encroachment on any third-party rights. {Relevant Decisions: Graco Children's Products Inc. V. Oakwood Services Inc. WIPO Case No.2009-0813: Ville de Paris V. Jeff Walter, WIPO Case No.D2009-1278}.

10.1.4 The Complainant has given sufficient evidence to prove extensive trademark rights on the disputed domain name. Whereas, the Respondent's adoption and registration of the disputed domain name are dishonest and done in bad faith.

10.1.5 This panel is of the view that it is for the Complainant to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name and the Respondent has failed to prove it. Thus it is clear that the Respondent has registered the disputed name and is using it in bad faith.

10.1.6 This panel holds that the Respondent's registration and use of the domain name [electrotherm.in] are in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name and also the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

RELIEF

In view of the above findings and discussions, upon having gone through the evidence and material on record filed by the Complainant, the complainant is hereby allowed the following relief(s):-

- (1) That as interim relief to the Complainant, the Domain Registrar is directed to suspend the disputed domain name "electrotherm.in" as soon as possible, on receipt of the copy of this award;
- (2) That the disputed domain name [electrotherm.in] be transferred from the Respondent to the Complainant within the time limit, in accordance with INDRP Policy and Rules and Arbitration Act; with a request to NIXI to monitor the transfer.

This award is made and signed by me on 29th June, 2022 in New Delhi.


[AJAY GUPTA]
Sole Arbitrator