



**BEFORE ALOK KUMAR JAIN, SOLE ARBITRATOR**

**.IN REGISTRY**

**NATIONAL INTERNET EXCHANGE OF INDIA(NIXI)**

**INDRP ARBITRATION**

**INDRP Case No. 1585**

**Disputed Domain Name: <IASSC.ORG.IN>**

**ARBITRATION AWARD**

**Dated 12.8.2022**

**IN THE MATTER OF:**

**PEOPLECERT INTERNATIONAL LIMITED**

**40 Themistocles Dervi Street Nicosia,**

**Cyprus 1066.**

**... Complainant**

**versus**

**CHINTU PANCHAL**

**Sector 63, Noida - 201301**

**Respondent**

**1. The Parties**

The Complainant is Peoplecert International Limited, a Company incorporated under the laws of Cyprus having its office at 40, Themistocles Dervi Street Nicosia, Cyprus 1066. The Complainant is represented in these proceedings by its authorized

representative Fatema Feroz Hussain ,K & S Partners Chimes – 61,  
Sector 44, Gurgaon 122 003 ,Phone No: +91 124 4708 700  
Mobile No: +91 92897 35110 E-mail: [fatema@knspartners.com](mailto:fatema@knspartners.com)

The Respondent is Chintu Panchal having address as Sector-  
63,Noida,Mobile no.9996879021,having email Id :  
[chintupanchalpunkstar@gmail.com](mailto:chintupanchalpunkstar@gmail.com)

The Respondent is the Registrant of disputed domain name.

2. **Domain Name and Registrar:-**

The Disputed Domain name is <www. IASSC.ORG.IN>

The accredited Registrar with whom the Disputed Domain Name is  
registered is GoDaddy.com

**Procedure History:**

- 3.1. This arbitration proceeding is in accordance with the .IN Domain  
Name Dispute Resolution Policy (the "Policy") adopted by the  
National Internet Exchange of India ("NIXI") and the INDRP Rules  
of Procedure (the "Rules") which were approved in accordance with  
the Indian Arbitration and Conciliation Act, 1996. By registering the  
Disputed Domain Name with a NIXI accredited Registrar, the  
Respondent agreed to the resolution of disputes pursuant to the said  
Policy and the Rules.

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As per the information received from NIXI, the history of the proceedings is as follows:

- 3.2. The Complaint was filed by the Complainant with NIXI against the Respondent . On 21.7.2022 I was appointed as Sole Arbitrator to decide the disputes between the parties. I submitted statement of Acceptance and Declaration of Impartiality and Independence as required by rules to ensure compliance with Paragraph 6 of the Rules.

NIXI notified the Parties of my appointment as Arbitrator *via* email dated 21.7.2022 and served by email an electronic Copy of the Complainant with Annexures on the Respondent at the email addresses of the Respondent.

- 3.3. I issued notice to the parties vide email dated 21.07.2022 directing the Complainant to serve complete set of Complaint on the Respondent in soft copies as well as in physical via courier /Post. The Complainant served Copy of the Complaint with Annexures on the Respondent at its email address. The Respondent was directed to file its response within 7 days from the date of notice. No response was received from the Respondent till 28.07.2022. On 29.7.2022, I granted further time to the Respondent to file reply within 3 days. However again no response was received from the

Respondent. Thereafter, I granted further time to Respondent to file reply twice. But no reply was received from the Respondent till 9.8.2022. On 10.8.2022 I informed the parties that now the matter will be decided on merits of the case. Accordingly now the complaint shall be decided on merit. No personal hearing was requested by any party.

- 3.4 A Complete set of Complaint was served by NIXI in electronic form by email to the Respondent on 21.7.2022 at the email provided by the Respondent with WHOIS, while informing the parties about my appointment as Arbitrator. Thereafter I issued notice to the parties through the same trailing mail. Complainant also served the Respondent at its email address as given in WHOIS details. All communications were sent to Complainant, Respondent and NIXI by email. Therefore I hold that there is sufficient service on the Respondent through email as per INDRP rules. The Respondent has not filed any response to the Complaint despite four opportunities.
- 3.5. Clause 8(b) of the INDRP Rules requires that the Arbitrator shall at all times treat the Parties with equality and provide each one of them with a fair opportunity to present their case.
- 3.6. Clause 12 of INDRP Rules provides that in 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 law.

3.7 As stated above, Initially on 21.7.22 I gave 7 days time to the Respondent to file a Response .No response was received from the Respondent. Thereafter I granted further time to Respondent thrice to file reply . However the Respondent failed to file any Response to the Complaint despite four opportunities and chose not to answer the Complainant's assertions or controvert the Complaint and the contentions raised. As a result, I find that the Respondent has been given a fair opportunity to present his case but has chosen not to come forward and defend itself.

3.8 Further Clause 13(a) of the Rules provides that an Arbitrator shall decide a Complaint on the basis of the pleadings submitted and in accordance with the Arbitration & Conciliation Act, 1996 amended as per the Arbitration and Conciliation (Amendment) Act, 2015 read with the Arbitration & Conciliation Rules, Dispute Resolution Policy, the Rules of Procedure and any by-laws, and guidelines and any law that the Arbitrator deems to be applicable, as amended from time to time.

In these circumstances the Tribunal proceeds to decide the complaint on merit in accordance with said Act, Policy and Rules on

Respondent's failure to submit a response despite having been given sufficient opportunities and time to do so.

**4. Grounds for Arbitration Proceedings.**

**INDRP Policy para 4.Class of Disputes provides as under:**

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

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

**5. The Case of the Complainant :-**

The Complainant has filed the present complaint seeking transfer of disputed domain name in its favour. In support of the case the Complainant has stated in the Complaint, inter alia, as under.

- 5.1. That the Complainant is the global leader in the assessment and certification of professional and language skills, partnering with multi-national organizations and government bodies to develop and

deliver market leading exams worldwide. In 2020, the Complainant acquired International Association For Six Sigma Certification, LLC (“IASSC”) which is as a Professional Association dedicated to growing and enhancing the standards within the Lean Six Sigma Community. The IASSC is an independent third-party certification body that does not provide Lean Six Sigma related training, mentoring, coaching or consulting services. Its products/services are aimed at exclusively facilitating and delivering centralized universal Lean Six Sigma Certification Standards testing and Lean Six Sigma Accreditations. The Complainant is a global leader in exam delivery and the certification of professional skills The Complainant is headquartered at Athens, with offices in Cyprus, London, Istanbul and Dubai. And the Complainant is a private company.

5.2 It is further stated that the Complainant began issuing certification solutions in 2000 with ECDL Foundation, the most established certificate for ICT skills globally. The Complainant then expanded their offering from a single product to a comprehensive portfolio of 700+ exams delivered in 25 languages across 200 countries every year, including the global programs of ITIL and PRINCE2 as the exclusive provider, and now also the owner, of AXELOS. The Complainant’s stakeholder network consists of 700 employees and 21,000 external



associates from 40 nationalities working across 2,200 test centers and 30,000 venues worldwide. In the year 2021 and 2022 (till May), the Complainant reported a gross revenue of about US \$ 10,00,524.46.

5.3 That the Complainant's Online Proctoring, its proprietary, award winning online exam proctoring technology for the delivery of exams anytime, anyplace, 24/7/365, won the Innovation Award at the 2016 Business IT Excellence Awards. The Company has secured 40 additional awards in Entrepreneurship, Business, Technology and Sustainability for its industry-leading developments in these fields.

5.4 It is further submitted that the mark 'IASSC' is an acronym for The International Association for Six Sigma Certification and the Complainant offers services under the said mark. Annexure 4 is printout from the Complainant's website <https://orders.iassc.org/> showcasing the Complainant's products containing the mark 'IASSC', that are available for download and use. Further, the Complainant has partnered with other well-known companies such as Microsoft, IBM, NASA, Language CerT, Axelos, ITSM Group etc., and has some well renowned customers such as Amazon, BMW, Cisco, Auburn, Pepperdine, Arizona State University, University of Texas Arlington, United States Army, Navy, Air Force and Marines. Hence, over years of extensive and widespread

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use, the mark 'IASSC' has come to be exclusively associated with the Complainant.

5.5 That the Complainant has taken active steps towards the protection of its brand and intellectual property and has been granted protection for the mark 'IASSC' under application number 87195593 in class 35 in USA. Annexure 5 to the Complaint is an extract from the US Patent and Trademark Office's website of the Complainant's application under 87195593.

5.6 It is stated that the Complainant, today, holds all the rights, benefits and interests in connection with and arising out of the mark 'IASSC,' and all other intellectual property rights associated with the IASSC products.

5.7 The Complainant further averred that the Complainant duly obtained the registration of the domain name <iassc.org> and currently hosts an interactive website at <https://iassc.org/> which can be accessed by internet users around the world including those in India. Annexure 6 to the Complaint are printouts from the Complainant's website <https://iassc.org/> showing prominent use of the mark 'IASSC.'

5.8 It is stated that the Complainant's Company is also listed on the websites of multiple instructional services companies, once they receive the accreditation from the Complainant's company. Presently over 100 companies have received such accreditation. Annexure 7 are

details of the authorized accreditation centres and training associates of client in India.

5.9 It is stated that in India, the Complainant has three Accredited Training Organizations, four Exam Administration Providers and five Accredited Training Associates, through which it routinely conducts its business. Additionally, the Complainant's services have also been availed by numerous Indians who have purchased Exam Vouchers through its retail sales program.

5.10 The Complainant stated that it recently learnt of the existence of the domain name <iassc.org.in> which prominently contains the mark IASSC and is virtually identical to the Complainant's subject domain name <iassc.org>. The Complainant immediately conducted a Whois search to ascertain the registrant of the said domain name and to gather further details thereof. It was revealed that the domain name in question <iassc.org.in > is registered in the name of Chintu Panchal, an entity situated in Delhi. The said subject domain name resolves to a website, the layout and contents of which are nearly identical to that of the Complainant on the website <https://iassc.org.in/>.

6.1 **Condition 4(a): ) the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights;**

I have gone through the complaint and perused all the documents annexed with the Complaint. Complainant avers that : The impugned domain name <iassc.org.in> is identical to the Complainant's mark 'iassc' and complainant's domain name <iassc.org>. It is further averred that the squatting over the domain name <iassc.org.in> by the Respondent is clearly dishonest and violates the statutory and common law rights of the Complainant in its well-reputed IASSC mark. Pursuant to the long, continuous and extensive use by the Complainant and its predecessors, the mark IASSC has come to be associated exclusively with the Complainant and its business activities. The Respondent's dishonesty and bad faith is evident from the fact that not only is the subject domain name nearly identical to the Complainant's domain name, but the overall layout of the website resolving from the subject domain name is also virtually identical to the look and layout of the Complainant's website at <https://iassc.org/>. In fact, the Respondent has used a logo i.e. (Impugned Logo) that is virtually identical to that of the Complainant.

The Respondent has not filed any response to the complaint as such all the averments of the complainant has remained un rebutted. The Complainant satisfies the identity/confusing

similarity requirement of the first INDRP element. It is evident from above submissions and documents annexed with the complaint that the complainant has sufficiently established its rights in and to the ownership of the Mark 'IASSC'. A mere perusal of the disputed domain name 'IASSC.ORG.IN' of the Registrant/Respondent shows that the Respondent has used the Complainant's trading mark 'IASSC' and domain name 'IASSC.ORG' in its entirety. It is well established that the mere addition of the Country Code Top Level Domain 'in' does not add any distinctive or distinguishing element. Following cases may be referred in this regard:

i). *Lego Juris AIS v. Robert Martin (INDRI/125)* wherein the Learned Arbitrator observed that it is well recognized that incorporating a trademark in its entirety, particularly if the mark is an internationally well-known mark, is sufficient to establish that the domain name is identical or confusingly similar to the Complainant's registered mark.

ii) In *Zipo Manufacturing Company Inc. v. Zhaxia*, Case No. INDRP/840, the arbitrator noted that: '... the Respondent has picked up the mark ... without changing even a single letter ... when a domain name wholly incorporates a complainant's registered mark, that is sufficient to establish identity or

*confusing similarity for purposes of the Policy'.*

iii) *In the case of Designs Corp v. Stavros Fernandes (INDRP/1209) wherein the Learned Arbitrator observed that it is well established that the mere addition of the Country Code Top Level Domain '.in' does not add any distinctive or distinguishing element. In view of the same the Learned Arbitrator adjudged that the domain name www.incase.in of the respondent was identical to the trade mark INCASE of the Complainant.*

iv) *In The Gillette Company v. Mr Gaurav Kana (INDRJI/049) wherein the disputed domain name was www.gillete.in and the complainant was the proprietor of the trademark and trading name GILLETTE. The Learned Arbitrator in the matter observed that: "The Complainant has been using the trade name GILLETTE in many countries including the United States. As such, consumers looking for GILLETTE may instead reach the Respondent's website. Therefore I hold that the domain name www.gillette.in is confusingly similar to the Complainant's trademark.*

In view of the above facts and submissions of the complainant, and on perusal of the documents annexed with the Complaint, I hold that the Disputed Domain Name <IASSC.ORG.IN> of the Registrant is identical or confusingly similar to the trademark

IASSC of the Complainant and the domain name  
**www.IASSC.ORG.**

**Condition no.4 (b) the Registrant has no rights or legitimate  
interests in respect of the domain name;**

Complainant stated that Given the longstanding use, registration, publicity and promotion of the mark IASSC by the Complainant, the registration of the domain name <https://iassc.org/> since 2009 and extensive depiction of the mark IASSC on the corresponding website, the said mark and the Complainant's business under it have acquired significant goodwill and reputation is bound to be exclusively associated with the Complainant and none else. Due to such goodwill and reputation, the Respondent is bound to be aware of the Complainant and its business, which is evident from the fact that it depicts itself as an affiliate entity of the Complainant on the website that resolves from the subject domain name. It is, therefore, clear that the Respondent does not have any legitimate rights and interests in the subject domain name. To the best of the Complainant's knowledge the Respondent has not registered their use of the mark and said domain name with the Trade Marks Registry.

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The Respondent has not filed any response as such the facts stated in the complaint had remained unrebutted.

A perusal of the documents, above averments and averments made in the complaint shows that the Complainant has not authorized the Respondent at any point of time to register the impugned domain name. Further, the Respondent cannot assert that it is using the domain name in connection with a *bona fide offering of goods and services* in accordance with Paragraph 6(a) of the .IN Policy, .The Complaint has established its rights in the mark 'IASSC'. Thus it is evident that the Respondent has no rights or legitimate interests in respect of the impugned domain name. Further the Respondent has failed to satisfy the conditions contained in clause 6(a),(b) and 6(c) of INDRP Policy.

On the contrary the Complainant has established that the Registrant has no rights or legitimate interest in respect of the Disputed Domain Name and has never been identified with the Disputed Domain Name or any variation thereof. The Registrant's use of the Disputed Domain Name will inevitably create a false association and affiliation with Complainant and its well-known trade mark IASSC.

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Therefore, in view of the submissions made in the complaint and on perusal of the accompanying documents, I am of the opinion that the Respondent has no rights or legitimate interests in respect of the domain name;

Accordingly I hold that the Registrant has no rights or legitimate interests in respect of the Disputed Domain Name.

**6.3 Condition 4(C): the Registrant's domain name has been registered or is being used in bad faith**

It is stated by the Complainant that :

- I. That the Respondent is using the domain name <iassc.org.in> to ride upon the goodwill and reputation enjoyed by the Complainant, that it has accrued over decades of consistent use and promotion. It is apparent that the Respondent has registered the disputed domain name with the sole purpose of taking undue advantage of the reputation and goodwill enjoyed by the Complainant in its world-famous mark "IASSC" and mislead consumers into believing that it is the Indian counter part of the Complainant. It is clear that the

Respondent has registered the domain name only with the unlawful intention of cybersquatting and eventually selling the products/services on the website by causing confusion amongst the public and making them believe that the products/services are origination from the Complainant.

II. That Anyone coming across domain name <iassc.org.in> is bound to associate the same with the Complainant, especially in view of the virtual identity between the logos used by the Complainant and the Respondent on their respective websites, their respective "ABOUT US" pages and the use of the Complainant's address on the Respondent's website. The squatting over the domain name <iassc.org.in> by the Respondent is clearly dishonest and violates the statutory and common law rights of the Complainant in its well-reputed IASSC mark. Pursuant to the long, continuous and extensive use by the Complainant and its predecessors, the mark IASSC has come to be associated exclusively with the Complainant and its business activities. The Respondent's dishonesty and

bad faith is evident from the fact that not only is the subject domain name nearly identical to the Complainant's domain name, but the overall layout of the website resolving from the subject domain name is also virtually identical to the look and layout of the Complainant's website at <https://iassc.org/>. As such, users of the said websites are bound to entertain a belief as to a possible nexus between the Complainant and the Respondent and/or sponsorship, affiliation, or endorsement of the Respondent's activities by the Complainant, which is clearly not the case. Such adoption and use on part of the Respondent is a clear indication of its mala fide/bad faith and the same is highly likely to cause dilution of the reputation and goodwill attached to the Complainant's mark "IASSC" as anyone coming across the subject domain name and corresponding website is likely to be misled into thinking that the Complainant is conducting its business in India through the domain name <iassc.org.in>, which is not the case.

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III. That the Complainant has received several complaints from various customers availing the services of the Respondent from the Respondent's website <https://iassc.org.in/>, who by impersonating the Complainant has not just offered fake services and received monetary benefit out of the same but has also never responded to the queries/problems of its consumers. Extracts of e-mails received by the Complainant from the Respondent's customers raising complaints with regards to the services offered by the Respondent which include but is not limited to fake vouchers and certificates are attached herewith collectively and marked as Annexure 9. Further, the Respondent has not provided any training that is advertised on the website <https://iassc.org.in/> under the Complainant's mark "IASSC". Such actions on part of the Responding is causing serious reputational harm to the goodwill of the Complainant as consumers are under the mistaken belief that it is the Complainant that is defrauding them. This evident scamming scheme of the Respondent further proves that the Respondent

is acting in mala fide/bad faith likely to unlawfully ride on the reputation and goodwill attached to the Complainant's mark "IASSC" and mislead consumers into believing that it provides the Complainant's services in India.

IV. The Respondent's acts, in as much as they relate to adoption and use of "IASSC" as part of the disputed domain name violates the prior rights of the Complainant in its coveted mark "IASSC" and the associated domain name <iassc.org>. Accordingly, the Respondent's registration of the disputed domain name <iassc.org.in> is contrary to and in violation of paragraph 4 of the INDRP Policy.

I have perused the above submissions of the Complainant, documents annexed and averments made in the complaint. It is evident that the Respondent registered the impugned domain name which is identical to the Complainant's registered trademarks having prior knowledge of the Complainant's "IASSC" marks. The Respondent's conduct and adoption of the identical impugned domain name amounts

to bad faith. The Respondent intentionally adopted the identical impugned domain name in order to attract the internet users to the disputed domain and its website thereon with a view to derive unfair monetary advantage.

The Panel decision in *M/s Merck KGaA v Zeng Wei INDRP/323* can be referred in the facts of the case wherein it was stated that:

*“The choice of the domain name does not appear to be a mere coincidence, hut a deliberate use of a well-recognized mark... such registration of a domain name, based on awareness of a trademark is indicative of bad faith registration. ”*

The Respondent had no reason to adopt an identical name/mark with respect to the impugned domain name except to create a deliberate and false impression in the minds of consumers that the Respondent is somehow associated with or endorsed by the Complainant, with the sole intention to ride on the massive goodwill and reputation associated with the Complainant and to unjustly gain enrichment from the same.

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It is shown by the complainant that the Complainant is a well known reputed and global entity with extensive operations around the world. The Registrant was most certainly aware of the repute and goodwill of the Complainant. Therefore adoption of the substantially identical Disputed Domain Name by the Registrant along with identical services is with the sole intention to trade upon and derive unlawful benefits from the goodwill accruing to the Complainant. The Registrant has in fact knowingly adopted the Disputed Domain Name which wholly contains the Complainant's prior trademark IASSC to attract customers to the Disputed Domain Name by creating confusion with the Complainant's reputed trademark IASSC and corresponding domain name. Evidently such registration is in bad faith.

In view of above facts, submissions of the Complainant and on perusal of the documents annexed with the Complaint, I find that the Complaint has proved the circumstances referred in Clause 7 of INDRP policy and has established that the registration of disputed domain name is in bad faith.

The facts and contentions enumerated in the complaint establish that Respondent's domain name registration for

<IASSC.ORG.IN> is clearly contrary to the provisions of paragraph 4(c) of the INDRP and is in bad faith.

Accordingly I hold that the Registrant's Domain Name has been registered in bad faith.

### Decision

7.1. In view of the foregoing, I hold that the Disputed Domain Name is identical and or confusingly similar to the Complainant's well-known 'IASSC' Trademarks and that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and that the Disputed Domain Name was registered in bad faith.

In accordance with the INDRP Policy and Rules, I direct that the Disputed Domain Name registration be transferred to the Complainant.

7.2 In the facts and circumstances of the case , as discussed above, I deem it appropriate to order the Respondent to pay cost of Rs.50,000/- for present proceedings to the Complainant.

Delhi  
Dated 12.08.2022

*Alok Kumar Jain*  
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Sole Arbitrator