

Government of National Capital Territory of Delhi

₹100

e-Stamp

₹100 ₹100 ₹100 ₹100

Certificate No.	: IN-DL64912486133990V
Certificate Issued Date	: 17-Feb-2023 04:24 PM
Account Reference	: SELFPRINT (PU)/ dl-self/ NEHRU/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDL-SELF02449753185931V
Purchased by	: SHEETAL VOHRA
Description of Document	: Article 12 Award
Property Description	: PASSING OF ARBITRATION AWARD
Consideration Price (Rs.)	: 0 (Zero)
First Party	: SRIDHARAN RAJAN RAMKUMAR
Second Party	: NOT APPLICABLE
Stamp Duty Paid By	: SRIDHARAN RAJAN RAMKUMAR
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



¥100

SELF PRINTED CERTIFICATE TO BE
VERIFIED BY THE RECIPIENT AT
WWW.SHCILESTAMP.COM

IN-DL64912486133990V

Please write or type below this line

J. Williams

Statutory Alert:

- Statutory Alert:**
1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
 2. The onus of checking the legitimacy is on the users of the certificate.
 3. In case of any discrepancy please inform the Competent Authority.

BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME
DISPUTE RESOLUTION POLICY
INDRP ARBITRATION
THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]
INDRP CASE NO: 1653
ARBITRAL TRIBUNAL CONSISTING OF SOLE ARBITRATOR
MR SRIDHARAN RAJAN RAMKUMAR, LLB, ADVOCATE,
COMPLAINT UNDER .IN DOMAIN NAME DISPUTE RESOLUTION POLICY
(INDRP)

IN THE MATTER OF:

Morgan Stanley

1585 Broadway

New York, New York- 10036

United States of America

...Complainant

Versus

Gayatri Technologies

Kamdurga Society

Ahmedabad

Gujarat- 380013

...Respondent

ARBITRATION AWARD

I. THE PARTIES:

1. COMPLAINANT

The Complainant in this administrative proceeding is **Morgan Stanley** (hereinafter referred to as "*The Complainant*"), a corporation incorporated under the laws of New York, USA, which has filed the present complaint under rules framed under the INDRP. The Complainant's authorized representative / counsel in this administrative proceeding is:



Name:	Sujata Chaudhri
Address:	Sujata Chaudhri IP Attorneys 2106 Express Trade Towers 2 1 st floor, B-36, Sector 132 Expressway, NOIDA Uttar Pradesh 201301
Telephone:	+91 8860130723
Email:	sujata@sc-ip.in ; trademarks@sc-ip.in _

The Power of Attorney executed by the Complainant in favour of Sujata Chaudhri IP Attorneys was annexed and marked as **Annexure-1**.

2. RESPONDENT

The Respondent/Registrant of the Disputed Domain Name is Gayatri Technologies of the address Kamdurga Society, Ahmedabad, Gujarat-380013.

The Respondent's contact details are:

Name: **Gayatri Technologies**
Address: Kamdurga Society,
Ahmedabad, Gujarat-380013
Telephone: (+91) 8141359999
Email: [gayatritechnologies@gmail.co](mailto:gayatritechnologies@gmail.com)
m

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: THEMORGANSTANLEY.IN

The accredited Registrar of the Disputed Domain Name is **GoDaddy.com LLC**.

The Registrar's contact information is as under:

Address: 14455 N. Hayden Rd.
Ste. 226 Scottsdale
AZ 85260 USA

Telephone: +1 (480) 505-8800

Fax: +1 (480) 505-8800

Email: UDRPdisputes@godaddy.com, abuse@godaddy.com

III. PROCEDURAL HISTORY:

January 13, 2023	Date of Complaint
January, 19,2023	Sole Arbitrator appointed to adjudicate the dispute
January, 19,2023	Arbitral proceedings were commenced by sending notice to Respondent through email to their email ID gaayatri technologies@gmail.com , as per Paragraph 4(c) of INDRP Rules of Procedure, marking copy of the same to Complainant's authorized representative and to the .IN Registry to file response to the Complaint .
	Pleadings completed as Respondent failed and neglected to file its response to the domain complaint or to the email dated January, 19, 2023 sent to them or the reminder mails sent on February 3, 2023 and February 8, 2023.

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



IV. FACTUAL AND LEGAL GROUNDS:

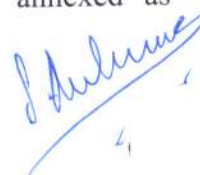
1. FACTUAL GROUNDS

ABOUT THE COMPLAINANT AND ITS GLOBAL BUSINESS

- a. It was submitted that founded in the year 1935, the Complainant is a leading global financial services company. It was submitted that the Complainant through its subsidiaries and affiliates, provides a full range of financial, investment and wealth management services in its three (3) business segments, namely, institutional securities, wealth management and investment management, to a broad spectrum of clients, including corporations, governments, institutions and individuals.
- b. It was submitted that the Complainant conducts its business from its headquarters in New York City, United States of America, its regional offices and branches through the United States, and its offices in important financial centers around the world, such as Mumbai, India; Bengaluru, India; London, United Kingdom; Tokyo, Japan; and Hong Kong SAR. As of November 2022, the Complainant had offices in more than thirty (30) countries around the world, including India, and more than sixty thousand (60,000) employees worldwide.
- c. It was submitted that as early as the year 2004, the Complainant was listed as the number 1 company in global equity trading, global equity underwriting and the global IPO market share. It was further submitted that in the same year, it had the number 2 position in global debt underwriting and completed global mergers and acquisitions.
- d. It was submitted that the Complainant was listed on the New York Stock Exchange (ticker is MS) in the 1980s. It was submitted that it has been, and continues to be, one of the highest-ranking companies in the Fortune 500 list. It was submitted that since the year 2010, the Complainant has been consistently listed among the world's top Fortune 500 companies. Copy of the printouts from the www.rankingthebrands.com website showing the ranking of the Complainant for the years 2010-2021 was annexed as **Annexure 2**.



- e. It was submitted that in the year 2022, the Complainant was ranked first in the Institutional Investor's All-Asia Research Team Survey. It was submitted that the Complainant has been so ranked for eight (8) consecutive years from 2015 until 2022. It was submitted that the Institutional Investor's 2022 All-Asia Research Team Rankings Survey reflect the opinions of 4,800 investment professionals from more than 1,400 institutions. Copies of the Complainant's press release and an article evidencing the aforesaid information was annexed as **Annexure 3**.
- f. It was submitted that Interbrand, a leading branding consultancy firm has ranked the Complainant among the top Best Global Brands in the year 2022. It was submitted that the Complainant has consistently featured in Interbrand's list of the most valuable brands in the world. It was submitted that in 2022, for instance, the Complainant was ranked 66th in Interbrand's global brand rankings with an estimated brand value of 11,039 million dollars. Copy of the printout from Interbrand's website evidencing the Complainant's ranking and brand value was annexed as **Annexure 4**.
- g. It was submitted that the Complainant's success is evidenced by the impressive increase in its revenues over the years. It was submitted that in the year 2020, the Complainant's net annual revenues were in excess of USD 48,198 million. It was submitted that in the year 2021, the Complainant's net revenues were in excess of USD 59,755 million. Copy of the extracts from the Complainant's Annual Reports showing the net revenue figures for the years 2020 and 2021 are annexed as **Annexure 5**. It was further submitted that the combined net revenue for the first three quarters of 2022 was in excess of USD 40,919 million. Copy of the extracts from the Complainant's third quarter report for the year 2022 was annexed as **Annexure 6**.
- h. It was submitted that each year, the Complainant spends millions of US dollar on promoting and advertising its financial services. It was submitted that for instance, in year 2019, 2020 and 2021, the Complainant spent around USD 660 million, USD 434 million and 643 million on its marketing and business development activities in the respective years. Copy of the extracts from the Complainant's Annual Reports showing the above-noted figures for marketing and business development for the years 2020 and 2021 was annexed as



Annexure 7. It was submitted that in the year 2022, the Complainant has spent around USD 610 million on promoting and advertising its financial services till September 2022. Extracts from the Complainant's third quarter report for the year 2022 was annexed as **Annexure 8.**

The Complainant's Business in India

- i. It was submitted that the Complainant has been doing business in India for more than twenty-eight (28) years. It was submitted that through its Indian offices, the Complainant provides a range of services to its clients. It was submitted that from 1999 to October 2007, the Complainant operated two joint ventures with the JM Financial Group, under the names JM Morgan Stanley Limited and JM Morgan Stanley Securities Limited. It was submitted that these joint ventures were terminated in the year 2007. It was submitted that thereafter, the Complainant has operated, and continues to operate, under the name Morgan Stanley India Company Private Limited. Morgan Stanley India Company Private Limited provides a variety of financial services, including, but not limited to, investment banking, capital markets, equities, fixed income, commodities and derivative products as well as financial research. It was submitted that the Complainant also operates other companies in India such as Morgan Stanley India Financial Services Private Limited, Morgan Stanley Investment Management Private Limited and Morgan Stanley Solutions India Private Limited. Copies of the printouts of the records of the Registrar of Companies showing the "active" status of some of these companies was annexed as **Annexure 9.**
- j. It was submitted that in 2003, the Complainant established a new global in-house centre in Mumbai to support its institutional securities, wealth management and investment management businesses worldwide. It was submitted that at present, the Complainant has five (5) offices located in Mumbai and Bengaluru that have a workforce of more than six thousand (6000) employees. It was submitted that the Complainant's website located at www.morganstanley.com has an India-specific page located at www.morganstanley.com/about-us/global-offices/asia-pacific/india on which consumers can obtain information about the Complainant's Indian operations.

Copies of the printouts from the Complainant's website confirming the aforesaid information was annexed as **Annexure 10**.

The Complainant's Marks

- k. It was submitted that since the year 1935, the Complainant has used and continues to use, the mark MORGAN STANLEY, marks that incorporate the MORGAN STANLEY mark and the corporate name Morgan Stanley (hereinafter collectively referred to as the "MORGAN STANLEY Name and Marks") in relation to its financial services.
- l. It was submitted that the Complainant and its business under the MORGAN STANLEY Name and Marks has been subject to press and media attention from around the world, including, in India. Copy of evidence of such media attention in India and other countries was annexed as **Annexure 11**.
- m. It was submitted that the Complainant owns registrations for the MORGAN STANLEY Name and Marks in countries and jurisdictions around the world, including in India, Australia, Austria, Brazil, Canada, the European Union, Mexico, Hong Kong, Japan, Malaysia, the United Kingdom and the United States. Copies of Certificates of Registration issued by the Trade Marks Offices of some of these countries and/or printouts from the online databases of Trade Marks Offices of these countries was annexed as **Annexure 12**.
- n. It was submitted that with specific reference to India, the Complainant owns the following registrations:

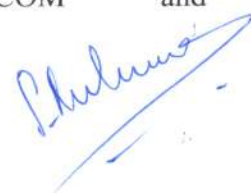
Mark	Registration No.	Class(es)	Registration/ Application Date
MORGAN STANLEY	594285	16	April 18, 1993
MORGAN STANLEY	1242410	36	October 10, 2003

Photocopies of Certificates of Registration issued by the Trade Marks Registry, and/or evidence of renewal, as well as extracts from the online records of the Trade Marks Registry showing particulars of the trademark registrations was annexed as **Annexure 13**.

- o. It was submitted that owing to the extensive and continuous use of the MORGAN STANLEY Name and Marks by the Complainant all over the world, the MORGAN STANLEY Name and Marks have developed a stellar reputation and this reputation has spilled over into India. It was submitted that not only have the MORGAN STANLEY Name and Marks acquired trans-border reputation in India, they have also become well-known owing to their extensive and continuous use in India. It was submitted that the MORGAN STANLEY Name and Marks qualify as 'well-known trade marks', as envisaged by Section 2(l)(zg) and Section 11(6) of the Trade Marks Act, 1999 as well as Article 6bis of the Paris Convention which cover protection of well-known marks.
- p. It was submitted that a number of decisions of the National Arbitration Forum, which has been established by the Internet Corporation for Assigned Names and Numbers (ICANN) and adjudicates disputes over generic top-level domains, have held the Complainant's Marks to be well-known marks. It was submitted that these decisions include *Morgan Stanley v Jorge Stephan*, FA 1219168 (Nat. Arb. Forum, Sep. 12, 2008), *Morgan Stanley v Jorge Stephan*, FA 671304 (Nat. Arb. Forum, May 22, 2006), *Morgan Stanley y. Albert Jackson*, 244092 (Nat. Arb. Forum, April 19, 2004), *Morgan Stanley y. Wang Zezhu*, FA 2203001989435 (Nat. Arb. Forum, April 25, 2022). It was submitted that additionally, the MORGAN STANLEY Name and Marks have been held to be well-known by The National Internet Exchange of India [NIXI] in *Morgan Stanley v. Ding Riguo* INDRP/370 (July 28, 2012).

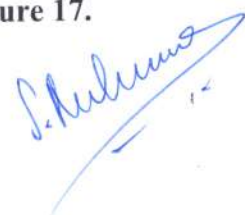
The Complainant's Internet Presence

- q. It was submitted that the Complainant is the owner of the generic top-level domain names (hereinafter referred to as "gTLDs") such as MORGANSTANLEY.COM, MORGAN-STANLEY.COM and



MORGANSTANLEY.NET and numerous other variations in the .com domain and other gTLDs. Printouts of WHO IS records relating to the domain names MORGANSTANLEY.COM, MORGAN-STANLEY.COM and MORGANSTANLEY.NET was annexed as **Annexure 14**. It was submitted that all three domain names resolve to the same active website located at www.morganstanley.com that is accessible to users all over the world, including in India. A print out of the home page of www.morganstanley.com was annexed as **Annexure 15**. Clearly, the Complainant's highly accessible website features the MORGAN STANLEY Name and Marks prominently.

- r. It was submitted that the Complainant is also the owner of the country-code top level domain name MORGANSTANLEY.IN. It was submitted that this domain name currently also resolves to the Complainant's website located at www.morganstanley.com. It was submitted that the Complainant acquired this domain name through a decision of the Council of the National Internet Exchange of India (NIXI) in *Morgan Stanley y. MIS Keep Guessing*, INDRP/024 (June 27, 2007). The Complainant is also the owner of the country-code top level domain name MORGANSTANLEYBANK.CO.IN. This domain name was obtained through a decision of the NIXI in *Morgan Stanley y Bharat Jain*, INDRP/156 (October 27, 2010)
- s. It was submitted that over the years, the Complainant has actively policed domain names registered by third parties that incorporate the MORGAN STANLEY Name and Marks. It was submitted that a list of some of the proceedings brought by the Complainant before the National Arbitration Forum was annexed as **Annexure 16**.
- t. It was submitted that over the years, the Complainant has expanded its reach on the World Wide Web by establishing official accounts on Facebook, Twitter and Instagram, three of the world's most popular social networking sites, as well as on YouTube, the highly trafficked video sharing website. These sites have been enormously popular with consumers worldwide, including India. It was submitted that the MORGAN STANLEY Name and Marks feature prominently on these sites. Printouts of pages from the Complainant's social media accounts was annexed as **Annexure 17**.



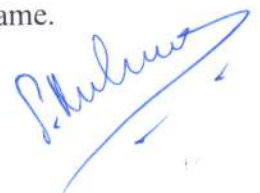
The Registrant and the Disputed Domain Name

- u. It was submitted that the disputed domain name is THEMORGANSTANLEY.IN. It was submitted that the details of the Registrant have been provided by National Internet Exchange of India (NIXI). Copy of extract of the records of the disputed domain name was annexed as **Annexure 18**.
- v. It was submitted that the disputed domain name does not resolve to an active site. Copy of printout evidencing this was annexed as **Annexure 19**.

2. LEGAL GROUNDS

I. The Registrant's Domain Name is Identical and/or Confusingly Similar to a Mark in Which the Complainant has Rights

- a. It was submitted that it is well-settled that a domain name has all the characteristics of a trademark. *MIS Satyam Infoway Ltd, y. MIS Siffynet Solution (P) Ltd.*, JT 2004 (5) SC 541. It was submitted that a trademark and a domain name, although used in a different manner, can be identical or confusingly similar. It was submitted that the Complainant has prior demonstrated statutory and common law rights in the MORGAN STANLEY Name and Marks. It was submitted that the Complainant owns registrations for the MORGAN STANLEY Name and Marks in various countries and jurisdictions around the world, including India. It was submitted that the earliest registration in India dates back to 1993. It was submitted that WIPO panellists, over the years, have concurred that if a complainant owns a trade mark registration, then it generally satisfies the threshold requirement of trade mark rights *ByteDance Ltd Jing Ren*, INDRP/1228 (July 07, 2020). It was submitted that the Registrant, on the other hand, has registered the disputed domain name on September 12, 2022. It was submitted that it is clear that the Complainant's rights in the MORGAN STANLEY Name and Marks predate registration of the disputed domain name and, therefore, the Complainant has prior rights in the MORGAN STANLEY Name and Marks. It was further submitted that the Complainant's use of the MORGAN STANLEY Name and Marks also precedes the date of registration of the disputed domain name.



- b. It was submitted that it is clear that the disputed domain name, THEMORGANSTANLEY.IN, is nearly identical to the MORGAN STANLEY Name and Marks. It was submitted that the domain name incorporates the MORGAN STANLEY Name and Marks in their entirety, (*ONEY BANK, y. Xiao Long Lin, A La Si Jia*, D2020-2968, (WIPO Mediation and Arbitration Centre, December 23, 2020)), (the Panel held that a domain name which wholly incorporates a complainant's registered mark may be sufficient to establish confusing similarity). It was submitted that the mere addition of a word "the" and country-code top level domain, .IN, before and after the mark MORGAN STANLEY does nothing to distinguish the domain name from the MORGAN STANLEY Name and Marks, (*Dareos Ltd., Dareos Inc y. Evgeniy Hlintsey*, D2020-1727 (WIPO Mediation and Arbitration Centre, September 28, 2020) the panel held that as a common practice in appropriate circumstances the Top-Level Domain ("TLD") section of domain names is disregarded for the purposes of the comparison.) It was submitted that accordingly, the disputed domain name, THEMORGANSTANLEY.IN, is closely identical and/or confusingly similar to the MORGAN STANLEY Name and Marks under INDRP Policy Paragraph 4 (a).

II. The Registrant Has No Right or Legitimate Interest in the Domain Name

- a. It was submitted that the Registrant cannot have any right or legitimate interest in the disputed domain name because the disputed domain name incorporates the MORGAN STANLEY Name and Marks in which the Complainant has sole and exclusive rights and that have become well-known owing to the Complainant's efforts.
- b. It was submitted that the Registrant is not a licensee of the Complainant, nor has the Registrant ever been authorized by the Complainant to use the MORGAN STANLEY Name and Marks or register the disputed domain name. It was submitted that the Complainant has no relationship whatsoever with the Registrant. (*Charles Jourdan Holding AG AAIM* D2000-0403 (WIPO, June 27, 2000) (finding no rights or legitimate interests where respondent was not a licensee of the complainant).

- c. It was submitted that the Registrant is not making any legitimate, non-commercial or fair use of the disputed domain name because there is no web site associated with the disputed domain name. This is also evidence of the Registrant's lack of rights or legitimate interest in the domain name. *Kenneth Cole Productions Inc. v Viswas Infomedia*, INDRP/93 (April 10, 2009).

III. The Registrant has Registered or Used the Domain Name in Bad Faith

- a. It was submitted that it is well-settled that 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. *The Ritz Carlton Hotel Company LLC v. Nelton! Brands Inc.*, INDRP/250 (December 30, 2011). It was submitted that thus, the Registrant, who has no relationship whatsoever to the Complainant or the Complainant's Marks, registered the disputed domain name in bad faith.
- b. It was submitted that it is clearly more than a coincidence that the Registrant chose and registered a domain name that is confusingly similar to the Complainant's MORGAN STANLEY Name and Marks. It was submitted that the Complainant has a long and well-established reputation in the Complainant's MORGAN STANLEY Name and Marks through its exclusive use in the financial and investment services industries throughout the world, including in India. It was submitted that there can be no doubt that the Registrant was aware of the Complainant's MORGAN STANLEY Name and Marks when he chose and registered the disputed domain name, and in fact chose the domain name because it was confusingly similar to the Complainant's MORGAN STANLEY Name and Marks, that are well-known marks and intended to capitalize on that confusion. It was submitted that this constitutes evidence of bad faith *Kenneth Cole Productions Inc. v. Viswas Infomedia*, INDRP/93 (April 10, 2009)
- c. It was submitted that the Registrant's domain name does not resolve to any web site, nor is it being used for any legitimate commercial use. It was submitted that it

is well settled that registration of a domain name that incorporates a third-party mark without any legitimate commercial interest is evidence of bad faith. *Kenneth Cole Productions Inc. v. Viswas Infomedia*, INDRP/93 (April 10, 2009). It was submitted that the Registrant's domain name has been registered, and is being used, in bad faith under INDRP Policy Paragraph 4(c) read with Paragraph 7.

V. PARTIES CONTENTIONS:

A. COMPLAINANT

- a. The Disputed Domain Name THEMORGANSTANLEY.IN is identical and/or confusingly similar to the well-known MORGAN STANLEY Name and Marks of the Complainant as well as the Complainant's registered domain names.
- b. The Respondent has no right or legitimate interest in the Disputed Domain Name THEMORGANSTANLEY.IN;
- c. The adoption / use of the Complainant's well-known registered mark MORGAN STANLEY as part of the Disputed Domain Name or in any manner whatsoever results in the infringement and passing off of the rights of the Complainant in its MORGAN STANLEY trademarks.
- d. The Respondent has incorporated the well-known mark MORGAN STANLEY of the Complainant in the Disputed Domain Name THEMORGANSTANLEY.IN only with the aim of making illegal gains from the goodwill and reputation of the Complainant.
- e. The disputed domain name incorporates the well-known MORGAN STANLEY Name and Marks, over which the Complainant has sole and exclusive rights.



- f. The use of MORGAN STANLEY trademark in the Disputed Domain Name is without due cause and has been done to capitalize from the well-established reputation of the same.
- g. The Disputed Domain Name THEMORGANSTANLEY.IN does not have any legitimate commercial interest and has been registered in bad faith with dishonest intention only to create confusion.

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 Complainant. I have also gone through the documents filed by the Complainant with the Complaint. Further, I have gone through case laws relied upon by the Complainant. 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 further hold that the disputed domain name of the Respondent is visually, phonetically, structurally and conceptually identical to the trademark of the Complainant and the Disputed Domain name contains the MORGAN STANLEY



trademark of the Complainant in its entirety. The disputed domain name of the Respondent is <THEMORGANSTANLEY.IN> over which the Respondent has no rights. Further, the Complainant is prior adopter, prior user and registered proprietor of the well-known MORGAN STANLEY trademarks and the domain names with the word MORGAN STANLEY, and has absolute, exclusive and sole rights. Consequently, I hold that the Respondent does not have any rights or legitimate interest over the Disputed Domain Name <THEMORGANSTANLEY.IN> and hence the same needs to be transferred to the Complainant. I hold that the company name / trade name / trade mark / domain name MORGAN STANLEY is exclusively and solely associated and recognized with the Complainant alone. I hold that due to such exclusive association of the MORGAN STANLEY Name and Marks thereof with the Complainant, and also considering the prior registered domain name of the Complainant containing the MORGAN STANLEY marks, the Complainant alone has the right to utilize the MORGAN STANLEY trademark 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 MORGAN STANLEY mark and the same is associated only with the Complainant.

A. The domain name <THEMORGANSTANLEY.IN> is identical to the MORGAN STANLEY Mark in which Complainant has rights.

I hold that the Complainant has successfully demonstrated by way of its Complaint that the Disputed Domain Name THEMORGANSTANLEY.IN is identical and / or confusingly similar to the MORGAN STANLEY marks in which the Complainant has unquestionable rights for the following reasons:

- (i) I find that the Complainant has demonstrated prior statutory and common law rights in the MORGAN STANLEY Name and Marks. I find that the Complainant owns registrations for the MORGAN STANLEY Name and Marks in various countries and jurisdictions around the world, including India. I find that that the earliest registration in India dates back to 1993. I find that the Registrant, on the other hand, has registered the disputed domain name on September

12, 2022. I find that it is clear that the Complainant's rights in the MORGAN STANLEY Name and Marks predate registration of the disputed domain name and, therefore, the Complainant has prior rights in the MORGAN STANLEY Name and Marks. I find that the Complainant's use of the MORGAN STANLEY Name and Marks also precedes the date of registration of the disputed domain name. The decisions rightly relied upon by the Complainant in support of the present Complaint are as follows:

- *MIS Satyam Infoway Ltd, y. MIS Siffynet Solution (P) Ltd.*, JT 2004 (5) SC 541 wherein it was held that a domain name has all the characteristics of a trademark.
- *ByteDance Ltd Jing Ren*, INDRP/1228 (July 07, 2020) wherein it was concurred by WIPO panelists that if a complainant owns a trade mark registration, then it generally satisfies the threshold requirement of trade mark rights.

(ii) I find that it is clear that the disputed domain name, THEMORGANSTANLEY.IN, is nearly identical to the MORGAN STANLEY Name and Marks. I find that the domain name incorporates the MORGAN STANLEY Name and Marks in their entirety. I find that the mere addition of a word "the" and country-code top level domain, .IN, before and after the mark MORGAN STANLEY does nothing to distinguish the domain name from the MORGAN STANLEY Name and Marks. The decisions rightly relied upon by the Complainant in support of the present Complaint are as follows:

- *ONEY BANK, y. Xiao Long Lin, A La Si Jia*, D2020-2968, (WIPO Mediation and Arbitration Centre, December 23, 2020) wherein the Panel held that a domain name which wholly incorporates a complainant's registered mark may be sufficient to establish confusing similarity.
- *Dareos Ltd., Dareos Inc y. Evgeniy Hlintsey*, D2020-1727 (WIPO Mediation and Arbitration Centre, September 28, 2020) wherein the panel held that as a common practice in appropriate circumstances

the Top-Level Domain ("TLD") section of domain names is disregarded for the purposes of the comparison.)

- (iii) Thus, I find that the disputed domain name, THEMORGANSTANLEY.IN, is closely identical and/or confusingly similar to the MORGAN STANLEY Name and Marks under INDRP Policy Paragraph 4 (a).

B. The Registrant has no right or legitimate interest in the domain name

- (i) I find that the Registrant cannot have any right or legitimate interest in the disputed domain name because the disputed domain name incorporates the MORGAN STANLEY Name and Marks in which the Complainant has sole and exclusive rights and that have become well-known owing to the Complainant's efforts.
- (ii) I find that the Registrant is not a licensee of the Complainant, nor has the Registrant ever been authorized by the Complainant to use the MORGAN STANLEY Name and Marks or register the disputed domain name. Indeed, the Complainant has no relationship whatsoever with the Registrant. I find that the Complainant has rightly relied upon *Charles Jourdan Holding AG AAIM D2000-0403* (WIPO, June 27, 2000) wherein it was held that no rights or legitimate interests were vested with the respondent who was not a licensee of the complainant.
- (iii) I find that the Registrant is not making any legitimate, non-commercial or fair use of the disputed domain name because there is no web site associated with the disputed domain name. This is also evidence of the Registrant's lack of rights or legitimate interest in the domain name. I find that the Complainant has rightly relied upon *Kenneth Cole Productions Inc. v Viswas Infomedia*, INDRP/93 (April 10, 2009) in support of this contention.

C. The registrant has registered or used the domain name in bad faith

I find that the Registrant, who has no relationship whatsoever to the Complainant or the Complainant's Marks, registered the disputed domain



name in bad faith. I find that the Complainant has rightly relied upon *The Ritz Carlton Hotel Company LLC v. Nelton! Brands Inc.*, INDRP/250 (December 30, 2011) wherein it was held that 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.

- (i) I find that it is clearly more than a coincidence that the Registrant chose and registered a domain name that is confusingly similar to the Complainant's MORGAN STANLEY Name and Marks. I find that the Complainant has a long and well-established reputation in the Complainant's MORGAN STANLEY Name and Marks through its exclusive use in the financial and investment services industries throughout the world, including in India. I find that there can be no doubt that the Registrant was aware of the Complainant's MORGAN STANLEY Name and Marks when he chose and registered the disputed domain name, and in fact chose the domain name because it was confusingly similar to the Complainant's MORGAN STANLEY Name and Marks, that are well-known marks and intended to capitalize on that confusion. I find that this constitutes evidence of bad faith. I find that the Complainant has rightly relied upon *Kenneth Cole Productions Inc. v. Viswas Infomedia*, INDRP/93 (April 10, 2009) in support of this contention.
- (ii) I find that the Registrant's domain name does not resolve to any web site, nor is it being used for any legitimate commercial use. I find that the Complainant has rightly relied upon *Kenneth Cole Productions Inc. v. Viswas Infomedia*, INDRP/93 (April 10, 2009) wherein it was held that registration of a domain name that incorporates a third-party mark without any legitimate commercial interest is evidence of bad faith. I find that the Registrant's domain name has been registered, and is being used, in bad faith under INDRP Policy Paragraph 4(c) read with Paragraph 7.



I find that in light of the above, it is apparent that the registration and use of the disputed domain name <THEMORGANSTANLEY.IN> by the Respondent is not *bona fide* and the Respondent has *prima facie* registered and is using the disputed domain name in bad faith.

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

- i. That the disputed domain name of the Respondent <THEMORGANSTANLEY.IN> is identical and confusingly similar to the Complainant's MORGAN STANLEY Name and Marks.
- ii. That the use of the disputed domain name <THEMORGANSTANLEY.IN> is likely to lead to enormous confusion *qua* its origin due to the use of the Complainant's trade mark MORGAN STANLEY as a whole in the disputed domain name being phonetically, visually and structurally identical to the Complainant's trade mark MORGAN STANLEY.
- iii. That the disputed domain name was registered in bad faith by the Respondent.
- iv. That the disputed domain name is strictly identical to the Complainant's distinctive mark, consumers would certainly mistakenly assume that a website / disputed domain name <THEMORGANSTANLEY.IN> is operated or endorsed by the Complainant, when such would not be the case.
- v. That the Respondent has deliberately attempted to create a false impression in the minds of the public that the Respondent is somehow associated with or endorsed by the Complainant to ride on the goodwill and reputation associated with the Complainant and to unjustly capitalise from the same.
- vi. That the Respondent has no rights or legitimate interests in respect of the disputed domain name.
- vii. 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 Complainant's reputation and goodwill through the disputed domain name.
- viii. That the Respondent does not have any affiliation or connection with the Complainant and/or its goods / services under the name/mark MORGAN STANLEY and consequently it is inconceivable that the Respondent's adoption

of the name <THEMORGANSTANLEY.IN> which is identical to the Complainant's 'MORGAN STANLEY' trademarks and domain names with MORGAN STANLEY can be seen as merely coincidental.

VII. DECISION

- a) In view of the above facts and circumstances, it is clear that the Complainant has succeeded in its complaint.
- b) That the .IN Registry of NIXI is hereby directed to transfer the registration of Domain name/URL of the Respondent <THEMORGANSTANLEY.IN> to the Complainant;
- 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 27th day of February, 2023.


Mr. Sridharan Rajan Ramkumar
Sole Arbitrator

DATE: 27/02/2023