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BEFORE THE SOLE ARBITRATOR UNDER .IN DOMAIN NAME DISPUTE RESOLUTION POLICY

(Appointed by the National Internet Exchange of India)

ARBITRATION AWARD

Disputed Domain Name <runwaycatalog.in>

INDRP Case No. 2105

IN THE MATTER OF

9562532 Canada Inc.
1060 Rue Renoir
Brossard Quebec, Canada J4x2g6, …Complainant

VERSUS

Shakira Adam, Runway Cat
27, Meadow Bunglow,
Avenue Estate Bangalore, Karnataka – 560063, India … Respondent

I. PARTIES TO THE ARBITRATION

1. The Complainant is **9562532 CANADA INC. 1060 RUE RENOIR BROSSARD QUEBEC, CANADA J4X2G6,** represented by their power of attorney Anand and Anand.

2. The respondent is **Shakira Adam Runway Cat, 27, Meadow Bunglow, Avenue Estate, Bangalore, Karnataka, India 560063**, represented by her power of attorney Advocate Binita Shahi.

II. THE DOMAIN NAME, REGISTRAR & REGISTRANT

The Present arbitration proceeding pertains to a dispute concerning the registration of the Domain name 'www.runwaycatalog.in' as found in the .IN Registry database, the WHOIS records provided by NIXI, the registrar is GoDaddy. The complainant has provided extracts of the WHOIS search, annexed at **Annexure-E Colly** of the Complainant

III. APPLICABLE LAWS AND JURISDICTION

The .IN Domain Name Dispute Resolution Policy

The present arbitration proceeding is under and in accordance with the .IN Domain Name Dispute Resolution Policy (the Policy) which was adopted by the National Internet Exchange of India (NIXI) and sets out the legal framework for resolution of disputes between a domain name registrant and a Complainant arising out of the registration and use of an .IN Domain Name. By registering the domain name 'www.runwaycatalogue.in' with the NIXI accredited Registrar, the Respondent has agreed to the resolution of disputes under the .IN Dispute Resolution Policy and Rules framed thereunder. The Policy and the IN-Domain Name Dispute Resolution Rules of Procedure posted 2020 (the Rules) were approved by NIXI in accordance with the Arbitration and Conciliation Act, 1996.

IV. PROCEDURAL HISTORY

1. The Sole Arbitrator, MS. ANUPAM SANGHI was appointed on 13th March 2026 for the present INDRP case no. 2105.

2. Immediately after, this Tribunal issued the Notice of Arbitration under 5(c) of the Rules to the parties for commencement of Arbitral Proceedings on 13th March 2026. and directed the parties file pleading along with the Authorisation letter. Complainant was required to serve the said Notice to the Respondent both Online and Offline to the address mentioned therein and the service on the Respondent was done in accordance with Rule 2(a) of the Rule. The Respondent was given an opportunity to file a response in writing in opposition to the Complaint, if any along with evidence in support of its stand or contention on or before seven working days from the date of receipt of the said Notice. Counsel for respondent sought extension of one week to file reply. Time was granted till 17th April 2026. Accordingly, reply was submitted by the Respondent on time.

3. The domain name complaint was initially filed by Mohammad Younus on behalf of the Complainant. However, Advocate Younus was not responding to Complainant's calls and emails so they changed their power of attorney in favour of the firm Anand and Anand. This was informed to the arbitrator by email dated 27th April 2026 sent from Advocate Safir R Anand from

Anand and Anand. The arbitrator directed the newly appointed Complainant counsel to serve amended copies of complaint to the respondent on 27th April 2026. The same was complied with on 29th April 2026. Rejoinder was filed by the newly appointed counsel on 27th April 2026. Time was sort to file surrejoinder and the same was granted to be filed by 10th May 2026.

4. The arbitrator found serious allegations relating to suppression of facts and misleading/manipulated evidence, therefore, arbitrator called the parties for an online meeting for clarification of their submissions and allegations relating to their technical issues. The online video conferencing took place on 15 June 2026 at 2 pm, after which the parties shared certain written submissions to support their allegation related to misrepresentation and manipulation of website.

5. The arbitrator examined complex factual and legal / technical allegations and submissions. Therefore, could not submit the award within 90 days and passed the Award on 01.08.2026.

FACTUAL BACKGROUND

V. CONTENTIONS OF THE COMPLAINANT

1. The Complainant has been engaged in luxury fashion retail and e-commerce, and has built a reputation for offering genuine designer products under the commercial name and mark **"RUNWAY CATALOG".** The Complainant sells through its e-commerce services which has acquired substantial goodwill

and recognition of consumers internationally. The Complainant's website (www.runwaycatalog.com) has regular traffic from consumers across multiple jurisdictions, who associate runway catalog as a unique e-commerce platform. Accordingly, due to such online presence and customer recognition, the Complainant enjoys common-law trade mark rights in the mark RUNWAY CATALOG, independent of and in addition to statutory rights arising from trade mark registration under trade mark laws in India and USA.

2. The Complainant has obtained registration of the mark RUNWAY CATALOG in USA vide Registration No. 7,845,207 under class 35 for service description inter alia "*Retail, online retail and wholesale store services featuring blazers; retail, online retail and wholesale store services featuring blouses; retail, online retail and wholesale store services featuring women's blouses; retail, online retail and wholesale store services featuring bras; online retail store services featuring boots; online retail store services featuring leather goods being jackets, pants, shoes and purses; retail, online retail and wholesale store services featuring casual pants; retail, online retail and wholesale store services featuring pants; retail, online retail and wholesale store services featuring crop tops; retail and online retail store services featuring earrings; online retail store services featuring sandals; retail and online retail store services featuring sandals; retail and online retail store services featuring jackets; retail and online retail store services featuring jackets; retail and online retail store services featuring dresses; retail and online retail store services*

featuring jumper dresses; retail and online retail store services featuring necklaces; online retail store services featuring handbags, wallets, and luggage; online retail store services featuring clothing, footwear, handbags, headwear, jewellery, belts, scarves, and gloves; online retail store and retail store services featuring clothing, hoodies, t-shirts, sweatpants; retail and online retail store services featuring t-shirts".

3. The Complainant has placed on record the following documents: -

   a. Registration of mark RUNWAY CATALOG in USA vide Registration No. 7,845,207 under class 35 (Annexure-A.),

   b. Copy of WHOIS record as on 16.08.2014 showing registration of domain name www.runwaycatalog.com (Annexure-B) and,

   c. Copy of trade mark registration certificates in India (Annexure-C (Colly)),

   d. Copy of WHOIS record of the domain name www.runwaycatalog.in registered on 28 December 2020 with registrar: Name.com, INC (Annexure-E(colly)), where there is no mention of registrant name but name of organization mentioned is Runway Cat.

   e. Specific allegations relating to misrepresentation against Respondent are that the Respondent has reproduced substantial portions of the Complainant's website, including its business details, corporate identity, privacy policy, terms and conditions, refund policy and contact information, thereby creating a false impression of association with the Complainant. In support of these allegations, the Complainant has relied upon screenshots of the Respondent's website, WHOIS records relating to the disputed domain name, and extracts from the Respondent's Privacy Policy, Terms and Conditions and Refund Policy (Annexures D to H).

4. The Complainant alleges that the respondent has provided inconsistent and incomplete identification details as reflected in the WHOIS record and the disputed website https://runwaycatalog.in, raising serious concerns regarding bonafide registration of domain name – that the respondent's website misrepresent that its company has been incorporated under Canadian laws, however, the office address mentioned therein is that of India and not Canada, as per website extract shown in Annexure-D of the Complaint.

5. Accordingly, the Complainant seeks transfer of the disputed domain name under the INDRP based on the following grounds:

   a. The disputed domain name is identical / confusingly similar to the Complainant's domain name www.runwaycatalog.com, in all material respects, differing only in country specific extension ".in";

b. The Complainant has legitimate rights and interest over the mark *"RUNWAY CATALOG"* – the Complainant already has registration of its mark RUNWAY CATALOG under class 35 in the USA. Even the WHOIS record shows that domain name 'runwaycatalog.com' is a registered active website from 16th October 2014 (instead of 16th August 2014 as per Annexure B of Complaint). Further, the Complainant is the registered proprietor of trademark "RUNWAY CATALOG" in India under various classes:

Sr. No.	Trademark	Class	Status
1.	RUNWAY CATALOG	14	5998497
2.	RUNWAY CATALOG	18	5998498
3.	RUNWAY CATALOG	25	5998499
4.	RUNWAY CATALOG	35	5998500

c. The Respondent has no rights or legitimate interests in respect of the disputed domain name registered as *runwaycatalog.in;*

d. Accordingly, the Respondent does satisfy all the following circumstances set out under Paragraph 7(a)-(d) of the INDRP establishing bad faith registration and no rights or legitimate interests in the said domain name and mark - The disputed domain name runwaycatalog.in was registered subsequent to the Complainant's prior adoption and long-standing use of the mark and domain name www.runwaycatalog.com. Further, the Respondent has unauthorizedly copied substantial content from the Complainant's website and is offering identical or closely similar goods and services, which negates any bona fide commercial use. Further, the

Respondent has wrongfully used the Complainant's corporate name, 9562532 Canada Inc., and associated address within the Privacy Policy displayed on the disputed website, thereby falsely representing an association with the Complainant. Such conduct demonstrates an intentional attempt to exploit the Complainant's reputation and goodwill for commercial gain, is detrimental to the Complainant's business and brand integrity, and squarely constitutes bad-faith registration and use under the INDRP. It is also alleged that the respondent dishonestly clearly established business interruption for the Complainant.

VI. CONTENTIONS OF THE RESPONDENT

1. The Respondent denies the allegations and contends that it independently adopted the trade name "Runway Catalog" and has been carrying on a bona fide commercial business through the disputed domain name runwaycatalog.in. It submits that the expression "Runway Catalog" is descriptive and incapable of exclusive appropriation and that the disputed domain name was adopted independently without any knowledge of the Complainant or its alleged rights. The Respondent disputes the authenticity of the screenshots relied upon by the Complainant and alleges that they have been manipulated. It contends that webpage content can be locally altered before conversion into PDF format and that the electronic records relied upon by the Complainant are therefore unreliable. In support of this contention, the Respondent relies upon screenshots of its website (Annexure 3), a flowchart demonstrating the process of local HTML manipulation (Annexure 4), a demonstration of such manipulation (Annexure 5), and the affidavit under

Section 65B of the Indian Evidence Act. The Respondent further contends that it has established rights and legitimate interests in the disputed domain name through continuous commercial use and genuine business activities. It relies upon the domain registration records (Annexure 7), customer invoices and third-party delivery confirmations (Annexure 8), and its MSME Registration Certificate (Annexure 1) to substantiate its claim of bona fide use.

2. The Respondent submits that the disputed domain name was registered on 28.12.2020, whereas the Complainant's Indian trademark application for RUNWAY CATALOG was filed only on 27.06.2023 on a "proposed to be used" basis, with priority claimed from 22.06.2023. According to the Respondent, the trademark application was filed shortly after it issued a cease-and-desist communication dated 21.06.2023, thereby indicating that the Complainant sought to retrospectively strengthen its claim. In response to allegations of cybersquatting against the Respondent on its website, the Respondent relies on the said communication dated 21.06.2023. The Respondent alleges that these events indicate that the Complainant's actions are reactive and mala fide in nature, aimed at creating a facade of statutory rights to bolster its unfounded allegations as an abuse of process.

3. Finally, the Respondent denies any intention to exploit the Complainant's goodwill or mislead consumers and contends that the present proceedings constitute an abuse of the INDRP process amounting to Reverse Domain Name Hijacking.

4. The Respondent states that the present Complaint is liable to be dismissed for suppression and legal lapses –

   a. The present Complaint is ex-facie barred by limitation and is liable to be dismissed for delay, acquiescence and laches, as the Complainant had prior knowledge of the disputed domain name but failed to initiate any proceedings within a reasonable period.

   b. It is also alleged that the Complainant suppressed material facts and has not approached the Tribunal with clean hands. The Complainant has failed to file the mandatory affidavit under Section 65B of the Evidence Act in support of electronic records, which further casts serious doubt on the authenticity and admissibility of the said material.

   c. In view of the above, the Respondent submits that the Complainant's actions warrant strict scrutiny and may attract consequences under applicable laws governing cyber misconduct and fraud, apart from disentitling the Complainant from any relief in the present proceedings.

VII. FACTUAL FINDINGS

1. The undisputed factual position stated in the Complaint and supported with documentary evidence is as under –

   a. That the Complainant's registration of the domain runwaycatalog.com (as per Annexure B i.e. Copy of WHOIS record showing registration of domain name www.runwaycatalog.com) was registered on 16.08.2014. It is noted that para 7 of the Complaint states that the said domain is validly registered since 16.10.2014 – this date in the Complaint seems to be a typographical error, mismatches with the WHOIS record at Annexure B.

b. That the RUNWAY CATALOG mark was first used in commerce on 12th October 2017 (as per Annexure A i.e. Copy of trademark registration certificate in USA).

c. That the domain runwayacatlog.in was created by the respondent on 28th Dec 2020 (as per Annexure E i.e. Copy of WHOIS record showing registration of domain name www.runwaycatalog.in)

d. That the registrant's contact record was created for runwaycatalog.in (Annexure E i.e. Copy of WHOIS record showing registration of domain name www.runwaycatalog.in)

e. That the Complainant has filed his US prior trademark application on 22nd June 2023 (Annexure A i.e. Copy of trademark registration certificate in USA)

f. That the Complainant filed Indian trademark application (under classes 14, 18, 25, 35) on 27th June 2023 (as per Annexure C i.e. copy of trademark registration certificates issued in India)

g. That the US registration was granted with Reg No. 7,845,207 (Class 35) on 24th June 2025 (as per Annexure A i.e. Copy of trademark registration certificate in USA)

h. That the Indian trademark certificate were granted in 2025 for (class 14, 18 and 25) (as per Annexure C i.e. i.e. copy of trademark registration certificates issued in India).

i. To substantiate commercial activity from 2022 onwards, the Respondent has filed documentary evidence in the form of customer invoices and corresponding third-party delivery records, commercial transactions from October 2022 onwards, together with an MSME/Udyam Registration Certificate issued in 2024.

j. The respondent has filed documents with reply which states about the MSME registration with address at Bengaluru, Karnataka. However, the certificate annexed has Hyderabad, Telangana as address. (Annexure 1 i.e. MSME Certificate)

Name of Party	Trademark Registration		Domain Name Registration	Jurisdiction
9562532 CANADA INC. Complainant (runwaycatalog.com)	Class 14 (Accepted) Class 18 (Accepted) Class 25 (Accepted) Class 35 (Objected) On proposed to be used basis.	India Filings (Applied on 27.06.2023) USA Registration (Applied on 22^{nd} June, 2023 and Registered on 25^{th} June, 2025)	runwaycatalog.com – registered on 16.08.2014 (Domain Tools WHOIS record)	Canadian Company, trademark registered in USA and operates worldwide.
Shakira Adam Respondent (runway catalog in)	N/A		runwaycatalog.in – registered on 28.12.2020 (Domain Tools WHO IS record	India

2. An examination of the documentary evidence on record reveals, the following –

- As per the reply and documents on record of the Respondents, the disputed domain name runwaycatalog.in was created on 28.12.2020. The Respondent has produced documentary evidence in the form of customer invoices and corresponding third-party delivery records evidencing commercial transactions from October 2022 onwards, together with an MSME/Udyam Registration Certificate issued in 2024. While these documents substantiate commercial activity from 2022 onwards, they do not independently establish continuous commercial trading since 2020.

- The documentary record further reflects that the Respondent issued a cease-and-desist communication to the Complainant on 21.06.2023, whereas the Complainant's Indian trademark application for RUNWAY CATALOG was filed on 27.06.2023 on a "proposed to be used" basis, claiming priority from 22.06.2023. The chronology of these events is borne out by the documents placed on record. However, whether any inference of mala fides or reactive conduct arises from the sequence of events remains a matter for adjudication based on the mixed questions of fact and law.

- The Respondent has challenged the authenticity of the screenshots relied upon by the Complainant by asserting that webpage content can be locally modified without altering the live website. The technical demonstration illustrating the possibility of local HTML manipulation placed on record does not contain the original screenshots or electronic records relied upon by the Complainant. It is therefore, not possible to independently verify whether the Complainant's exhibits were in fact manipulated. The veracity of such evidentiary evaluation would require forensic examination.

- The documentary record also reflects that the Respondent's website presently contains a disclaimer stating that it has no association with the Complainant. While the existence of the disclaimer is supported by the screenshots placed on record, the available material does not establish the date on which the disclaimer was first incorporated into the website. Accordingly, the record establishes the present existence of the disclaimer but does not determine whether it pre-dated the present dispute.
- The Respondent's own documents disclose certain internal inconsistencies. While one of the documents filed is an order from Hiox (www.hioxindia.com annexed at page 51 of reply states the Respondent's address as being in Bangalore, Karnataka, the MSME Registration Certificate, customer invoices and other business records identify the business as operating from Hyderabad, Telangana. Similarly, the Section 65B affidavit is sworn by a different individual from the deponent of the principal affidavit without any explanation regarding his authority or role.
- Finally, it is noted that several of the Respondent's allegations including suppression of material facts, abuse of process, and Reverse Domain Name Hijacking are founded primarily on inferences drawn from the sequence of events rather than on independent documentary evidence. Conversely, several of the Complainant's assertions relating to reputation, goodwill, prior rights, and the alleged copying of website content remain matters in dispute and are to be evaluated in light of the evidence produced by both

parties.

VIII. DISCUSSIONS AND FINDINGS

1. The Respondent has challenged the maintainability of the Complaint, for being barred by Limitation and evidence being inadmissible without section 65B affidavit.

   Although there is no provision of 'Limitation' in the INDRP Policy, the principles of law on limitation does not favour the Respondent's objection. In the case of **M/s Bengal Waterproof Ltd. v. M/s Bombay Waterproof Manufacturing Co. & Anr. (1997) 1 SCC 99** – The dispute arose between two manufacturers of waterproof goods using the marks "DUCK BACK" and "DACK BACK". The Supreme Court rejected the defence and held that infringement of a trademark and passing off are continuing and recurring wrongs, giving rise to a fresh cause of action each time the wrongful conduct continues or is repeated. Relying upon Section 22 of the Limitation Act, the Court observed that a fresh period of limitation begins to run at every moment during which the continuing breach persists. Accordingly, so long as the infringing or passing off activity continues, the aggrieved proprietor acquires a fresh cause of action, and the suit cannot be defeated on the ground of limitation merely because the wrongful conduct commenced earlier.

2. The Respondent has also alleged non-filing of Affidavit under SECTION 65B of Evidence Act. In the case of **Millennium School v. Pawan Danwar - O.M.P. (Comm.) 590/2020, Delhi High Court (2022)** – The Delhi High Court considered whether an Arbitral Tribunal was justified in rejecting electronic

evidence for non-compliance with Section 65-B of the Indian Evidence Act, 1872. The Tribunal had held that certain emails produced by one of the parties were inadmissible as they were not accompanied by a valid Section 65-B certificate. The High Court set aside this finding, holding that Section 19 of the Arbitration and Conciliation Act, 1996 expressly provides that arbitral tribunals are not bound by the provisions of the Code of Civil Procedure or the Indian Evidence Act. Consequently, the strict technical requirements of Section 65-B do not govern arbitral proceedings unless the parties have specifically agreed otherwise. While the principles underlying the Evidence Act may guide arbitral tribunals, they cannot reject evidence solely for failure to comply with the formal requirements of Section 65-B. Similarly, in the matter of **Srei Infrastructure Finance Limited vs Tuff Drilling Private Limited Supreme Court** – Section 19 of the Act provides for determination of rules of procedure. Sub-clause (1) of Section 19 provides that the arbitral tribunal shall not be bound by the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872. The words "arbitral tribunal shall not be bound" are the words of amplitude and not of a restriction. These words do not prohibit the arbitral tribunal from drawing sustenance from the fundamental principles underling the Civil Procedure Code or Indian Evidence Act but the tribunal is not bound to observe the provisions of Code with all of its rigour. As per sub-clause (2) of Section 19 the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting its proceedings.

3. Now, while dealing with the merits of the domain disputes case - As per settled principles of law, a Complainant who alleges

that the disputed domain name conflicts with its legitimate rights or interest must establish the following three elements required by paragraph 4 of the INDRP policy, namely:

A. The respondent's domain name is identical and confusingly similar to the trademark or service mark in which the Complainant has rights;

B. The respondent has no rights or legitimate interest in respect of the domain name;

C. The Respondent's domain name has been registered or is being used in bad faith.

Accordingly, the arbitrator shall deal with each of the elements as under -

A. *Whether the Respondent's domain name is identical and/or deceptively similar to the domain name and trademark or service mark of the Complainant?*

1. The copy of the trade mark registration certificate (in USA vide Registration No. 7845207 under class 35, 25,18,14) of trademark "RUNWAY CATALOG" and domain name www.runwaycatalog.com in WHOIS records shows Complainant is the owner of the domain name which offers online retail services of various products since 16.08.2014 as per Annexure B. Further, documents filed also show that Complainant is the registered proprietor of the Trade Mark "RUNWAY CATALOG" in India under various classes.

2. The Complainant provided evidence with annexures, to establish that the disputed domain name,

www.runwaycatalog.in is identical or confusingly similar to the Complainant's registered and distinctive trademark. The Complainant has pleaded that they have been continuously and extensively using the registered trademark RUNWAY CATALOG and owns and operates the website using the domain name www.runwaycatalog.com which is registered in the Complainant's name since October, 2014 and thus, the Complainant's rights in the said trademark and trading style with the domain name are well established.

3. It is pertinent to examine the contention of the Complainant along with supporting documents to show that –

a. The disputed domain name is identical and/or confusingly similar to the Complainant's domain name;

b. The disputed domain name "www.runwaycatalog.in" and the Complainant's domain name "www.runwaycatalog.com" are identical in all material respects, differing only in country specific extension ".in";

c. That the trademark RUNWAYCATALOG embodied in both domain names is visually, phonetically, structurally, and conceptually identical;

d. The services offered under the disputed domain name are identical or closely related to those of the Complainant and are directed through the same trade channels to the same class of consumers online on the world wide web - Such use is calculated to create confusion, deception, and association in the minds of the public, and amounts to passing off the goods and services of the Complainant as those of the Respondent, or vice versa.

4. The Respondent's defence and counter allegations are assessed based on facts and evidence on record, as under–

   a. The Complaint is a classic case of Reverse Domain Name Hijacking, wherein the Complainant has attempted to misuse the .IN Domain Name Dispute Resolution Policy (INDRP) in bad faith to deprive the Respondent of a domain name to which it has a legitimate right and interest, being fully aware of the Respondent's prior registration, bona fide use, and independent rights in the domain name;

   b. The domain name "runwaycatalog.in" is neither identical nor confusingly similar to "runwaycatalog.com". The two domain names are clearly distinguishable by their top-level domains and operate in separate commercial spheres. The expression "runway catalog" comprises common and descriptive English words incapable of exclusive appropriation;

   c. The term "runwaycatalog" is a combination of two common english words: "Runway" generally refers to a platform or stage used in the fashion industry where models display clothing and accessories; associated with fashion shows, trends, and designer collections, "Catalog" (or "Catalogue") refers to a systematic collection or listing of items, typically products, displayed for reference or sale. When read together, "runwaycatalog" conveys the ordinary and descriptive meaning of a collection, listing, or showcase of fashion.

d. On examining whether the term RUNWAY CATALOG is generic/descriptive in nature and commonly understood in trade and commerce, particularly in the fashion and apparel industry or whether the Respondent's domain name is identical and/ or deceptively similar to the domain name and trademark or service mark of the Complainant, it is important to look at the WIPO literature and settled trademark law.

e. According to WIPO literature - if a Complainant owns a trademark registration, then it generally satisfies the threshold requirement of trademark rights and as .IN is a country code and non-distinctive, .IN part of the impugned domain name does not distinguish the impugned domain name from the Complainants trademark and trading style RUNWAY CATALOG, and in particular, the Complainant's registered domain name www.runwaycatalog.com

5. The Complainant places reliance on similar observations made in *Minnesota Mining and Manufacturing Company vs. Mark Overbey, WIPO Case No. D2001-0727; SBC Communications Inc. vs. Fred Bell a/k/a Bell Internet*

WIPO Case No. D2001 – 0602; Wal-Mart Stores Inc. vs. MacLeod b/d/a For Sale, WIPO Case No. D2000-0662. Moreover, in Busy Body, Inc. v. Fitness Outlet Inc., D2000-0127 (WIPO Apr. 22, 2000), it was held that "the addition of the generic top-level domain (gTLD) name ".com" is likewise without legal significance since use of a gTLD is required of domain name registrants, ".com" is only one of several such gTLDs, and ".com" does not serve to identify a specific service provider as a source of goods and services". In *Dell Inc. v. George Dell and Dell Net Solutions, Case No. D2004-0512 (WIPO Aug 24, 2004),* it was held that "It is well established that the addition of a generic term to a trade mark does not necessarily eliminate a likelihood of confusion." There are numerous examples of decisions holding a domain name to be confusingly similar to a registered trade mark when it consists of the mark plus one or more generic terms, such as the top-level domain name '.in'. *Space Imaging LLC v. Brownell, AF-0298 (eResolution Sept. 22, 2000)* emphasises on finding confusing similarity in an instance where the Respondent's domain name combines the Complainant's mark with a generic term which is obviously affiliated to the Complainant's business.

6. It has been held by several panels deciding under the INDRP that there is confusing similarity where the disputed domain name wholly incorporates the Complainant's trade mark *Kenneth Cole Productions v. Viswas Infomedia INDRP/093*. Further, a TLD/ccTLD such "in", ".co.in" is an essential part of the domain name.

Therefore, it cannot be said to distinguish the Respondent's impugned domain name from the Complainant's trade mark and trading style "RUNWAY CATALOG". Reference is made *to Dell Inc. v. Mani, Soniya INDRP/ 753 and M/s Retail Royalty Company v. Mr. Folk Brook INDRP/705.*

7. The Arbitrator also notes that "it is established under the .IN policy that the ccTLD ".IN" may be disregarded, when assessing whether a domain name is identical or confusingly similar to a Complainant trademark and hence holds that the domain name is confusingly similar to the Complainant trademark. Also, it has been held that if a disputed domain name completely incorporates the trademark of the Complainant, then the mere addition of the domain codes, such as ".in" and/ or "co.in" will not distinguish the respondent disputed domain name. (*Ref - AB Electrolux Electrolux VS. GAOGOU of YERECT, INDRP/630 (<zanussi.in>); Nike Inc V. Nike innovative CV Zhaxia, INDRP case no. 804; Lego JurisA/S v. Robert Martin, INDRP case no. 125).* As decided in *Motorola, Inc. v. NewGate Internet, Inc. (WIPO Case D2000-0079); Cosrx Inc v. Tejas Taori (INDRP/1805) and Radisson Hospitality Belgium BV/SRL v. Maim (INDRP/1818)* where a domain name incorporates the entirety of a trade mark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark.

8. Accordingly, a mere search of the words contained in the disputed domain name "runway catalogue" on the popular search engine 'Google' leads to the Complainant's website as well as Respondent's website which creates an impression that the two concerned words (RUNWAY CATALOG) albeit in separate websites are associated and therefore, the term 'runway catalogue' needs to be recognised as a legitimate brand and registered trademark. For an average internet user, there is a strong likelihood that they would associate the two websites.

9. The Arbitrator has looked into the case law presented by the Complainant and similar decisions in *Fendi Sr.I. v. Ndiaye Therese, WIPO Case No. D2018-0179: Birdies, Inc. v. Registration Private, Domains By Proxy, LLC/Fu Li, WIPo No, D2019-2134*, which through a catena of Orders passed by WIPO (under the UDRP), states that domain extensions such as ".com" and ".in" are to be ignored while assessing whether a domain name is identical or confusing similar to a trade mark, the disputed domain name is regarded confusingly similar to that mark for the purposes of UDRP/INDRP standing.

10. The contentions of the Complainant seem to be convincing and acceptable. Moreover, it is needless to say that the combination of two words 'runway' and 'catalog', even if assumed to be generic separately, makes the combination unique and distinctive as a term. Also, the CATALOG is usually spelt as CATALOGUE. Therefore, the style of writing it as CATALOG also makes the brand name

distinctive.

11. Accordingly, it is established that the Respondent's domain name is identical and/ or deceptively similar to the domain name and trademark or service mark of the Complainant.

12. Applying the above stated established dicta to the facts and circumstances of the present case along with the evidence placed before me, the Arbitrator finds that the subject domain name WWW.RUNWAYCATALOG.IN is not only identical but deceptively similar to the trademark/ trading style WWW.RUNWAYCATALOG.COM of the Complainant. Accordingly, the arbitrator holds that the requirements of the first element of the INDRP policy, paragraph 4(a) is satisfied.

***B.* Whether the respondent has no rights or legitimate interest in respect of the domain name?**

1. According to paragraph 4(b) of the INDRP policy, the Complainant has to show that the respondent has no rights and legitimate interest in the disputed domain name under paragraph 6 of the policy. The rights or legitimate interest in a domain name in accordance with policy 6 (a-c) may be found where the registrant uses the domain name registration with a bona fide offering of goods and services; if the registrant has been commonly known by the domain name registration; or if the registrant is using the domain name registration in a legitimate, non-commercial manner, without intent for commercial gain to mislead / divert consumers or tarnish, the trademark in issue.

2. The Complainant asserts that the respondent has not fulfilled any

of the afore-mentioned conditions for it to have demonstrable rights or legitimate interest in the disputed domain name and there is every likelihood that the potential or unwary persons in the future could be misled into using the services of the respondent under the impression that the same are being offered by the Complainant; the Complainant has not approved, assigned, granted, licensed, sold, transferred, or in any way authorise the respondent, the right to use its RUNWAYCATALOG marks in connection with any domain name. Moreover, the Respondent is not headquartered in Canada nor has any operation in Canada by the disputed domain name or by any variables thereof; the respondent is not affiliated with the Complainant in any way or licensed by the Complainant to use the mark RUNWAYCATALOG either as authorised partner or complaints service provider in India / abroad. Hence, the respondent is not making a legitimate/fair use of the dispute domain name. Accordingly, the respondent has no rights or legitimate interest in the disputed domain name. The impugned domain name fully incorporates the Complainant's trademark and trading style, RUNWAYCATALOG and is confusingly similar to the Complainant's domain name WWW.RUNWAYCATALOG.COM. The impugned domain name is being used without authorisation/License to offer identical e-commerce services in the fashion industry to mislead viewers and consumers who are looking for the Complainant's service.

3. To establish that Respondent has no legitimate interest, the Complainant has filed screenshots of website of the Respondent which allegedly misrepresents themselves as the Complainant's business to commercially exploit the Complainant's trademark

and trading style for the sole purpose of causing in irreparable damage and injury to the Complainant's goodwill and reputation, resulting in dilution of the Complainant's trademark and trading style. The Complainant has demonstrated the same with consumer messages complaining about the old refurnished article supplied to them, associating the same to be supplied by the Complainant. There are several communications annexed since 2021 of their genuine customers as well as Indian customer inquiries to substantiate their claim of acquiring the reputation and goodwill of their trademark and trading style, which was registered prior in time and how the Respondent has unfairly benefited therefrom.

4. The Complainant has filed documents on record of communications showing Complainant's past conversations with the Respondent and the Respondent's consumers approaching the Complainant instead of the Respondent. The Complainant has demonstrated this with facts as to how there has been confusion in the market, seriously causing trade mark infringement and damage to the Complainant's trade mark and goodwill with malafide intention for identical e-commerce services.

5. The Respondent has alleged fraudulent conduct and tampering with evidence by the Complainant by unlawfully altering and misrepresenting the content of the Respondent's website, fabricated material facts, deliberately manipulated and produced distorted versions/screenshots of the Respondent's website to falsely suggest illegitimate use and to create an artificial case of bad faith, in an attempt to mislead the Panel by tampering with evidence prior to filing the Complaint, in abuse of process. For these reasons, the credibility of the Complainant's case is

questionable justifying dismissal of the Complaint with a finding of Reverse Domain Name Hijacking (RDNH). Likewise, the Complainant has alleged tampering / copying of privacy policy of Complainant's website by the Respondent to misrepresent their Indian online store to be the same as Complainant's Canadian online store. Specific allegations relating to misrepresentation against Respondent are that the Respondent has reproduced substantial portions of the Complainant's website, including its business details, corporate identity, privacy policy, terms and conditions, refund policy and contact information, thereby creating a false impression of association with the Complainant. In support of these allegations, the Complainant has relied upon screenshots of the Respondent's website, WHOIS records relating to the disputed domain name, and extracts from the Respondent's Privacy Policy, Terms and Conditions and Refund Policy (Annexures D to H). However, it is not possible for the Arbitrator to verify any technical manipulation of websites as alleged by both sides without a forensic examination of the websites.

6. The UDRP Policy 4(c)(i) clearly provides that, to show a legitimate interest, a Respondent must come forward with evidence of "use of, or demonstrable preparations to use, the domain name in connection with a bona fide offering of goods or services". Although the burden of proof remains upon the Complainant at all times, the Complainant's prima facie showing that Respondent lacks a legitimate interest places upon the Respondent a burden of production on necessary factors, namely : (a) Genuine business reasons to register the same domain name (b) Customers associated the domain with the Respondent only (c) Registrant has been commonly known by the domain name (even

if it has acquired no trademark or service mark rights), extent of popularity of the Respondent's business compared to the Complainant's brand name and trade name (d) Any other factor(s) to show why the Respondent has not targeted the Complainant's mark at the time of registration and why any foreign rights may not be relevant even absent Indian registration.

7. Mere assertions of legitimate use are not enough. Rather, Respondents seeking to show legitimate use must give some evidence of bonafide offering of goods or services; acceptable evidence may include reason/basis why the domain name was chosen for the nature of business and reasons to register an identical name for the type of customers, the business plans or documented expenses, depending on the nature of the use and the particulars of the domain name. Respondent, however, offers nothing beyond his bald contentions/ counter allegations, without distinguishing the business activity to be different. In these circumstances, the failure to present any credible evidence of prior and/or legitimate reasons to register an identical domain name for similar e-commerce services is fatal to Respondent's claim of a legitimate interest in the domain names.

8. In the matter of ***World Wrestling Federation Entertainment, Inc. v. Ringside Collectibles (WIPO Case No. D2000-1306), it was** held* – The extent to which a purveyor of legitimate goods can reflect that fact by using the manufacturers or licensor's name as part of a domain name is a difficult issue. Some such uses may be legitimate, others not, depending on the extent to which they accurately reflect the user's connection with the mark owner. The Hon'ble Supreme Court held in ***Neon Laboratories Ltd v. Medical***

Technologies Ltd. & Ors. that the right of a 'prior user' is superior to a registrant of the trademark and observed that "first in the market" test has always enjoyed pre-eminence. It mentioned *N.R. Dongre v. WhirlpoolCorpn. [N.R. Dongre v. Whirlpool Corpn., (1996) 5 SCC 714] and MilmetOftho Industries v. Allergan Inc. [MilmetOftho Industries v. Allergan Inc., (2004) 12 SCC 624]. In* ***Whirlpool [N.R. Dongre v. Whirlpool Corpn., (1996) 5 SCC 714],*** the worldwide prior user was given preference and predominance over the registered trade mark in India. In the matter of ***Milmet [Milmet oftho Industries v. Allergan Inc., (2004) 12 SCC 624]*** – the marks of pharmaceutical preparation were similar but the prior user worldwide had not registered its mark in India whereas its adversary had done so. The Supreme Court approved the grant of an injunction in favour of the prior user. Also, in ***S. Syed Mohiden v. P. Sulochana Bai (2016) 2 SCC 683*** the Supreme Court has underscored that the rights in a passing-off action emanate from common law and not from statutory provisions, nevertheless the prior user's rights will override those of a subsequent user even though it had been accorded registration of its trade mark. The determinative test for establishing 'prior user' is identifying who was the first to adopt and use the mark in the 'world market' (***Innovolt Inc v. Kevin Power Solutions Ltd.* and in *Icrave, LLC v. Icrave Design Pvt. Ltd.***)

9. In ***Super Magnificent Coffee Company (Ireland) Ltd. v. Ding RiGuo***, the Complainant, owner of the internationally renowned trademark "THE COFFEE BEAN & TEA LEAF", sought transfer of the domain name coffeebean.co.in under the INDRP. The Complainant established prior statutory and common law rights

through continuous use of the mark since, ownership of several trademark registrations, operation of the domain coffeebean.com since 1995, and extensive goodwill and commercial presence in India and abroad. It was alleged that the respondent had registered the impugned domain in 2012 to exploit the Complainant's reputation. The respondent neither filed a response nor produced any evidence of legitimate use or business associated with the disputed domain name.

The Arbitrator held that coffeebean.co.in was confusingly similar to the Complainant's trademark, that the respondent had no rights or legitimate interests in the domain name, and that the domain had been registered and used in bad faith. Consequently, the Arbitrator directed transfer of the disputed domain name to the Complainant.

10. On the issue whether a domain name possesses all the characteristics of a trademark and is good for an action for passing off - In ***Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd., (2004) 6 SCC 145*** – The Supreme Court recognised that domain names are more than mere internet addresses; they perform the same source-identifying function as trademarks by distinguishing the goods and services of one business from those of another. Consequently, domain names are capable of acquiring goodwill and constitute protectable intellectual property. The Court held that the principles governing passing off apply equally to domain names, and the use of an identical or deceptively similar domain name is likely to divert internet users, resulting in deception and injury to the goodwill of the prior user. The decision forms the foundational authority in Indian law for treating domain name

disputes as trademark and passing-off disputes.

11. The Courts have emphasised that with the growth of e-commerce, domain names have acquired significant commercial value and deserve the same level of legal protection as trademarks.

12. In the absence of reliable evidence of RDNH, the Arbitrator has to examine the position of legitimate use applying settled law on rights of a prior user worldwide of a well-known mark and whether the Respondent's conduct could not, under any fair interpretation of the facts, constitute bad faith and a reasonable investigation would have revealed the weakness of the Complaint.

13. According to the decision of Toyota v. Prius (2018) 2 SCC 1, which supports the contention of the Respondent in the present case, a bare claim of foreign or global recognition does not, without more, establish that the mark was known to the relevant Indian public at the time material to the dispute, <u>especially where the domestic parties own adoption of the term has an independent, plausible explanation.</u> Therefore, prior global use via a .com domain would often be accepted as sufficient evidence of prior right, unless when the respondent presents a plausible explanation and independent counter-evidence for prior mark registration as was done by the Indian manufacturer of Auto Parts in the name of *Prius Auto Industries*. It is pertinent to note that the domain name does not need to meet the strict legal definition of a "well-known trademark" under Section 2(1) (zg) of the Indian Trade Marks Act to win an INDRP case. The policy only requires the Complainant to prove they have common law rights or prior user rights over the name. The Courts have increasingly emphasized that: A mark need not be formally declared "well-known" to receive protection as a

well-known mark. This was reaffirmed by the Delhi High Court in Columbia Pictures Industries v Registrar of Trade Marks (2026). The Court held that the inquiry is whether the mark is in fact well-known in India under Sections 11(6) and 11(7) of the Trade Marks Act, not whether it already appears on the Registrar's list of well-known marks.

14. According to the law laid down as elaborated above, the determination needs to be governed by several other factors as per Sections 11(6) and 11(7) of the Trade Marks Act which the authority must consider whether the mark is recognized among actual consumers and business circles dealing with the same goods or services. From the facts of the present case, the factors to be considered include - (a) Knowledge or recognition of the mark in the relevant section of the public, (b) Duration, extent and geographical area of use and promotion, (c) Registrations and applications reflecting recognition.

15. Absent a plausible explanation by Respondent, the Arbitrator would still dismiss the complaint *only* if the domain name consists of an entirely generic or descriptive word (e.g., apple.in for a fruit vendor, or properties.in). If the name is generic, the respondent does not strictly need a unique trademark justification to register it on a first-come, first-served basis. However, if the name is distinctive, coined or unique, the lack of an explanation from the respondent results in a transfer or cancellation of the domain.

16. Applying the tests laid down in the aforesaid authorities, the issues to be decided are –

Is the domain name RUNWAYCATALOG a generic dictionary *word or a creative combination of words forming a distinctive brand name?*

AND

Has the respondent used the .in website for an independent business and customer base that would be loyal to the Indian online store even if the Canadian / global online store is active, in an unrelated business?

The Respondent has failed to discharge its burden of Proof of legitimate registration and/or RDNH

Under Paragraph 4 of the INDRP, the Complainant must establish three elements: identical/confusing similarity, the respondent's lack of rights/legitimate interests, and bad faith registration/use. Once a Complainant establishes a prima facie case by showing prior .com registration, brand usage, and an identical .in copy the burden of proof shifts to the respondent to show why they chose that specific name.

In absence of any material on record to support their stance, the arbitrator is inclined to assume that the Respondent has "No Legitimate Interest"

If the respondent fails to offer a plausible explanation, the arbitrator will conclude that the respondent has no rights or legitimate interests under Paragraph 6 of the Policy. Legitimate interest cannot be assumed; it must be backed by evidence such as bona fide offerings of goods, being commonly known by the name, or making a non-commercial fair use.

17. More importantly, Complainant's prior registration in 2014 and business operations since 2017 creates a 5-to-6-year gap between

the .com and .in registrations, meaning thereby that the Complainant's digital presence existed long before the respondent's. In INDRP precedents, registering a domain identical to a pre-existing internet identifier without explanation amounts to opportunistic bad faith. The arbitrator will infer that the respondent targeted the Complainant's established brand identity.

18. Accordingly, the arbitrator will now decide the third test on bad faith considering the facts placed before me to objectively look into the conditions prescribed under the policy duly established before directing cancellation or transfer of a domain name.

C. The respondent domain name has been registered or is being used in bad faith.

1. The Complainant has alleged that the impugned domain name unauthorizedly contains the Complainant's registered and well-known trade mark "RUNWAY CATALOG" and is used for identical goods. The Complainant relies on the decision in *Radisson Hospitality Belgium BV/SRL v. Najim (INDRP/1818),* wherein it was held that "the inclusion of the well-known mark 'RADISSON' in the Disputed Domain Name reflects the mala fide intention of the Respondent to use the Disputed Domain Name for earning profits. Such a conduct demonstrates anything but a legitimate interest in the domain name." Likewise, in *The Ritz Carlton Hotel Company LLC v. Nelton Brands Inc. (INDRP/250)* it was held that "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". Further, placing reliance on Deutsche Telekom AG v. Phonotic Ltd. (WIPO Case No. D2005-1000), it

is stated that mere registration of the impugned domain name in the Respondent's name does not create any legitimate rights or interest for the Respondent in the said domain name.

2. Based on such other precedents, the Complainant's case is that the disputed domain name is likely to create confusion in the minds of internet users and attempt to use such a domain name to attract internet traffic based on the reputation associated with the mark, is considered bad faith registration and use under the INDRP Policy. Reliance is placed upon *Cosrx Inc v. Tejas Taori (INDRP/1805), M/s Merck KGaA v. Zeng Wai INDRP/323, Dell Inc. v. ASTDomains, Case No. D2007-1819 (WIPO 2007), Dell Inc. v. Vijayan Anbalagan, Case No. FA 1531184 (NAF Dec. 30, 2013), Etechaces Marketing and Consulting Private Limited v. Dan Mahoney, INDRP/658 (May 18, 2015), Zurich American Insurance Company v. Administrator, Domain, WIPO Case No. D20070481 (May 18, 2007) and Société Air France v. Ebills Online Services (WIPO Case No. D2018-2421).* In support of their contention, there are customer grievances and inquiries over Complainant's website inquiring about their orders, defects, association of the Indian website with that of Complainant's - To show actual confusion and deception among the public at large. These Communications are placed on record along with the Rejoinder by the firm appointed as advocate on record after the filing of the Complaint.

3. To demonstrate absence of Bad Faith Registration, the Respondent asserts that the domain predates alleged rights. The Respondent has relied on the principle that where a domain name is registered prior to the accrual of the Complainant's trademark

rights, a finding of bad faith registration is legally untenable. The Respondent has cited *Lotus SAS v. Domain is For Sale (Case No. D2024-1995)*, where the Panel categorically held that where the domain predates the trademark by several years, bad faith cannot be established. Similarly, in *Infiniti Retail Limited v. John Cromwell (Case No. D2013-1360)*, the domain registration prior to the Complainant's business itself was held fatal to the claim. The Respondent places reliance upon the decision wherein the Hon'ble Panel categorically held that where the disputed domain name predates the alleged trade mark rights of the Complainant, a finding of bad faith registration cannot ordinarily be sustained. In the said case, despite the Complainant claiming rights in the mark "KEYLODGE", the Panel dismissed the complaint on the ground that the disputed domain name had been registered much prior to the Complainant's alleged trade mark rights and therefore there could not have been any intention to target or exploit rights which did not exist at the relevant time. That the aforesaid principle squarely applies to the facts of the present matter. The Complainant herein itself admits that its trade mark application for "RUNWAY CATALOG" was filed only in the year 2023. The Respondent has already brought on record that the Complainant initiated such registration proceedings only after disputes arose between the parties and after objection was raised by the Respondent against the Complainant's conduct. Thus, the Complainant cannot retrospectively create monopoly rights and thereafter allege bad faith against the Respondent.

4. Accordingly, the Complainant has failed to establish that at the time of adoption and use of the impugned domain name, the Respondent had any intention to target the Complainant or exploit

any alleged goodwill associated with the mark "RUNWAY CATALOG". In absence of proof of targeting, dishonest intent or prior enforceable reputation, the essential ingredient of bad faith under the INDRP Policy is completely absent. The Complainant has initiated the present proceedings while suppressing material facts, relying upon manipulated and edited material, and attempting to claim exclusive rights over common descriptive expressions. The conduct of the Complainant clearly demonstrates an attempt to misuse the present proceedings to unlawfully obtain control over the Respondent's legitimately used domain name and to stifle lawful competition.

5. In *HSBC Holdings v. Hooman Esmail Zadeh, INDRP Case no 032, dated March 20, 2007; Visteon Corporation v. Prahlad S., INDRP Case No. 1535, dated May 6, 2022; Solidium Oy v. Privacy Service Provided by Withheld for Privacy ehfl EstormH Etormhosting. Estorm Programming, WIPO Case No. D2022-3139; LPL Financial LLC v. Privacy Service Provided by Withheld for Privacy ehf I Steffen Hain, WIPO Case No.* the mere registration of an identical domain name by an unaffiliated entity can by itself create a presumption of bad faith. However, there is evidence filed by the Complainant, on record, of targeting or deception, to establish the same constitutes bad faith registration or use.

6. The cases cited by the Respondent do not apply to the facts of this case. In the case of Lotus SAS, the disputed domain name KEYLODGE.COM was registered long before the Complainant's use or Trademark registration, failed to establish bad faith registration of KEYLODGE.FR. Thus, the panel found the

Complaint lacked sufficient grounds under UDRP Rules. Likewise, applying *Tickets case* where Respondent asserts Indian rights does not hold good before the latest position laid down in *Mr Pathan Imrankhan Zafarullakhan & Anr. Vs. Microsoft Corporation.*

7. A bare reading of INDRP makes it evident that it constitutes the governing legal framework for the adjudication of disputes concerning abusive or unauthorized registration and use of specified domain names. The policy not only provides the procedural mechanism for the resolution of such disputes, but also prescribes substantive jurisdictional conditions that must necessarily be fulfilled by a Complainant before any relief can be grounded. Consequently, compliance with the requirements embodied there is mandatory.

8. According to the latest position of law settled in the matter of Mr Pathan Imrankhan Zafarullakhan & Anr. Vs. Microsoft Corporation (O.M.P. (COMM) 223/2026) ruled by Delhi High Court on 13.05.2026, all three requirements provided under Clause 4 of the INDRP are required to co-exist and be independently established before relief may be granted. The court examine the structure of INDRP framework as under -

> *"7. Evidence of Registration and use of Domain Name in Bad Faith For the purpose...*
>
> *Clause 6 of the INDRP, which bears direct linkage to the second requirement contained in Clause 4 of the INDRP relating to the "registrant's rights and legitimate interest in the domain name" operates as a safeguard in favour of bonafide registrants, protects*

honest, and legitimate use of domain names and prevents arbitrary deprivation of lawful registrant's rights merely on the basis of a trademark claim.

Similarly, Clause 7 of the INDRP elucidates the third jurisdictional element contemplated under Clause 4 of the INDRP, namely "bad faith" registration use of a domain name. The provision sets out illustrative circumstances that may constitute evidence of bad faith. A registrant may be regarded acting in bad faith where the domain has been acquired primarily for the purpose of selling or transferring it to the trade mark owner for excessive consideration, preventing the rightful owner from reflecting its Mark in a corresponding domain name, misleading internet users by creating confusion as to source or affiliation, or disrupting the business activities of a competitor.

These provisions are intrinsically interconnected and must be read harmoniously. While Clause 4 of the INDRP prescribes the foundational grounds upon which a complaint may be preferred, Clause 6 of the INDRP delineates the legitimate defences available to a registrant, and Clause 7 of the INDRP provides the guiding parameters for determining whether the conduct of the registrant is dishonest, abusive, or tainted by bad faith. Collectively, these provisions form the substantive jurisdictional framework governing adjudication under the INDRP. A plain reading of Clause 4 of the INDRP makes it abundantly clear that all the three ingredients as set out in clause 4 would require to be satisfied in order for the complaint to be maintainable. Absent one of the conditions enumerated there in the complaint would fail to qualify for the grant of the remedies available under clause 11 of the INDRP.

The requirement of bad faith under clause 4C constitutes an independent, substantive, and jurisdictional condition precedent for directing transfer or cancellation of a domain name. The requirement cannot be diluted into a mirror automatic consequence flowing from the existence of confusing similarity under Clause 4 of the INDRP".

Further, the court opined that domain name disputes frequently involved compatibility – based references, nominative usage, descriptive adoption, interoperability claims, or functional descriptions, all of which may give rise to some degree of similarity without necessarily disclosing malafide conduct or dishonest intention. It is precisely for this reason that the framers of the INDRP consciously incorporated Clause 4(c) as a distinct safeguard requiring an independent examination into malafide intent, deliberate deception, or dishonest exploitation of another's goodwill. If confusing similarity alone were sufficient to sustain a finding of bad faith, the separate jurisdictional safeguard embodied in Clause 4(c) would stand rendered wholly otiose and redundant. The aforesaid position becomes even more apparent upon a conjoint reading of clause 4C with clause 7 of the INDRP. Clause 7 of the INDRP does not proceed on the premise that every confusingly similar domain name *ipso facto* constitutes bad faith. On the contrary, the provision repeatedly emphasises intentional and deliberate conduct on the part of the registrant.

The Court has further distinguished the INDRP framework from Trademark law where determination of infringement or deceptive similarity ordinarily does not require a specific enquiry into the *mens rea*, underlying the adoption or use of a mark. While the INDRP framework expressly contemplates and mandates establishment of bad faith as a foundational requirement, trade mark jurisprudence may proceed on the basis of likelihood of confusion, simpliciter.

Applying the aforesaid settled position of law to the facts of the present case, the Arbitrator has seen the documents filed by the parties - (a) screenshots of the respondent's websites extracts (in particular – its privacy policy, terms and conditions, exchange and refund condition) purportedly misrepresenting its business to be that of the Complainant's business. (b) screenshots of website manipulations flow chart alongwith manipulated contents filed by the Respondent of the manipulation as done by the Complainant. Although the authenticity of the said screenshots filed is not verifiable in these proceedings.

The Respondent has only registered the domain in India in 2020. However, admittedly, they do not have a trade mark registration and/or commercial operations prior to the Complainant's market presence since 2014 and / or 2017. Thus, the claim for legitimate registration hinges on domain registration of **runwaycatalog.in** before the Complainant's

Indian trade mark filing in 2023, on the basis that the Respondent

- operated a bona fide business since 2020,
- adopted a descriptive term,
- and predates the Complainant's Indian trademark filing,

The Respondent's strongest defence is often not merely lack of confusion, but that the Complainant has failed to independently prove both Clause 4(b) and Clause 4(c), regardless of it's stance on Clause 4(a). The several emails establishing confusion amongst the consumers in India, the Respondent's admission of similarity of logos and agreeing to remove the same, continuing to misrepresent instead of taking any legally available steps towards establishing / defending their Indian brand presence (in terms of Trade Mark / Trade Name filing in India, passing off action in India, complaint against alleged cyber hacking). Even otherwise, The Respondent has failed to show a legitimate reason for registering an identical domain. The fact that the Complainant registered a .com domain 5 to 6 years prior heavily penalises a respondent who offers no explanation for adopting an identical .in string.

9. Therefore, the Complainant has established a prima facie case for the impugned domain name, registered in bad faith by the Respondent, to be transferred to the Complainant.

10. On careful consideration of the above findings, the arbitrator accepts the contention of the Complainant and holds that the respondent domain name RUNWAYCATALOG.IN has been registered with an intention to be an opportunist for using the domain in bad faith. Therefore, the third element in paragraph 4 (c) of the policy has been satisfied.

IX. CONCLUSION

From the documentary evidence on record, placed before the Arbitrator, the allegations supported / unsupported or corroborated with documents are as under –

The evidence provided by the Respondent is inadequate in terms of its veracity and authenticity of allegations of misrepresentations and RDNH.

The customers' complaints filed along with the Rejoinder establish that the consumers were confusing the Indian website / domain to be the same as the Canadian website / domain. A no of emails from 2021 onwards show that the Complainant had developed a reputation in India. Even if the authenticity of these communications are doubted, there is nothing on record to establish an independent reputation of the Respondent.

The Respondent has failed to provide any credible evidence to counter the bad faith allegations and documents filed, especially relating to their territorial reputation, market presence in India and loyalty established with the Indian customers.

From the evidence placed before this Tribunal it is evident that:

1. Firstly, the Respondent used the "RUNWAYCATALOG" trademark without consent from the Complainant.

2. Secondly, Respondent was aware of Complainant's rights in its well-known trademark as a consequence of Complainant's substantial use of the trademark which predates before the Respondent acquired the domain name.

3. Thirdly, the domain name is registered with no apparent legitimate purpose of an independent business in India but to deceptively misrepresent / pass off as the Complainant's trade mark and trade name, riding on their prior reputation.

4. Fourthly, the Respondent impersonated Complainant's Trademark "RUNWAYCATALOG" which demonstrates its purpose to deceive users for commercial benefit and to harm Complainant's business making illegitimate commercial gains by banking on the hard-earned goodwill and reputation of the Complainant which is done in bad faith.

5. Therefore, the Complainant has established a prima facie case for the impugned domain name, registered in bad faith by the Respondent, to be transferred to the Complainant.

6. On careful consideration of the above findings, the arbitrator accepts the contention of the Complainant and holds that the respondent domain name RUNWAYCATALOG.IN has been registered with an intention to be an opportunist for using the domain in bad faith. Therefore, all three elements in paragraph 4 (a), (b) and (c) of the policy has been satisfied.

X. DISPOSITION

The arbitral tribunal holds that the three elements set in the Para 4 of INDRP policy that: -

a. Respondent domain name "runwaycatalog.in" is identical and confusingly similar to Complainant's domain name – "runwaycatalog.com"

b. Respondent has no right and legitimate interest in Complainant trademark "RUNWAY CATALOG".

c. Disputed domain name has been registered in bad faith.

have been established by the complaint and hence he is entitled for the relief sort forth.

For the foregoing reasons stated above, the arbitrator directs that: The disputed domain name "runwayacatlog.in" is transferred to Complainant as prayed forth and hence the result complaint allowed as prayed forth. No costs.

Sole Arbitrator
Anupam Sanghi

ANUPAM KUNJBIHARI SANGHI

Digitally signed by ANUPAM KUNJBIHARI SANGHI
Date: 2026.08.05 15:25:24 +05'30'

Place: New Delhi
Date: 01st August 2026