

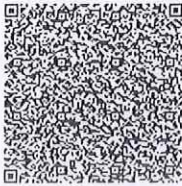


INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL20745260596647U
Certificate Issued Date : 19-Apr-2022 02:57 PM
Account Reference : SELFPRINT (PU)/ dl-self/ NEHRU/ DL-DLH
Unique Doc. Reference : SUBIN-DLDL-SELF28657915667178U
Purchased by : S S RANA AND CO VIKRANT RANA
Description of Document : Article 12 Award - Immovable
Property Description : ARTICLE 12 - AWARD
Consideration Price (Rs.) : 0
(Zero)
First Party : VIKRANT RANA
Second Party : NOT APPLICABLE
Stamp Duty Paid By : VIKRANT RANA
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



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

IN-DL20745260596647U

Please write or type below this line

BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME DISPUTE RESOLUTION POLICY
(Appointed by the National Internet Exchange of India)

ARBITRATION AWARD

Disputed Domain Name: < INDEEDWORKS.IN >

IN THE MATTER OF

Indeed, Inc.
6433 Champion Grandview Way
Building 1
Austin, Texas 78750
United States of America

..... Complainant

Yogesh Yadav
Delhi 6 - 110049
India

-----versus-----

..... Respondent / Registrant

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.

1. The Parties

The **Complainant** in this arbitration proceeding is **Indeed, Inc.**, of the address *6433 Champion Grandview Way, Building 1, Austin, Texas 78750, United States of America.*

The **Respondent** in this arbitration proceeding is one **Mr. Yogesh Yadav**, of the address: *Delhi 110049, India.*

2. The Domain Name, Registrar and Registrant

The present arbitration proceeding pertains to a dispute concerning the registration of domain name **<INDEEDWORKS.IN>** with the .IN Registry. The Registrant in the present matter is **Yogesh Yadav**, and the Registrar is **Hosting Concepts B.V. d/b/a Openprovider**.

3. Procedural History

The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI).

NIXI vide its email dated March 03, 2022, had sought consent of Mr. Vikrant Rana to act as the Sole Arbitrator in the matter. The Arbitrator informed of his availability and gave his consent vide Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure vide email on the same day. Arbitrator confirmed due receipt of the soft copies of the domain complaint as sent by NIXI on March 04, 2022 itself. Further, vide email on March 08, 2022, counsel for Complainant submitted an amended copy of the final complaint incorporating the unredacted copy of the WHOIS records of the disputed domain name as provided by NIXI to the Complainant. However, Arbitrator observed that the unredacted copy of the WHOIS records of the disputed domain name as provided by NIXI to the Complainant and also included as an annexure to the domain complaint was missing, along with lack of proof of authorization in favour of Complainant's counsel. Accordingly, vide email dated March 08, 2022, Arbitrator requested counsel for Complainant Arbitrator acknowledged the same and, vide email of March 08, 2022, requested Complainant's counsel to serve the domain complaint as filed, along with all requisite annexures, upon the Respondent and provide proof of delivery by March 15, 2022. On March 09, 2022, Complainant's counsel informed Arbitrator that owing to the Respondent's unredacted address as included in the complete WHOIS details furnished by NIXI being incomplete, it is not possible to serve a full set of the domain complaint and annexures physically upon the Respondent. However, they annexed an email addressed to the Respondent, inter alia serving a full set of the domain complaint as filed along with accompanying annexures in soft copy, along with its delivery report. However Arbitrator clarified, vide email on the same day, that proof of delivery of the correspondence would be required in order to ensure due service upon the Respondent. In recognition of the Complainant's legitimate grievance regarding Respondent's incomplete contact details, Arbitrator waived requirement of service by hard copy, deeming service vide email to be sufficient for the purpose and thereafter commenced

Vikrant Rana

arbitration proceedings in respect of the matter on March 10, 2022. Respondent was granted time till March 24, 2022 in order to submit their response. As no response was received from Respondent within the stipulated time period, Arbitrator granted them an additional but non-extendable period of seven (7) days, i.e. till April 01, 2022, to submit a response to the domain complaint. Still having received no reply from Respondent, Arbitrator concluded proceedings on April 04, 2022, and reserved the present award.

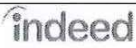
4. Factual Background/ Complainant's Contentions and Arguments

Counsel for the Complainant, on behalf of the Complainant in the present matter has submitted as follows:

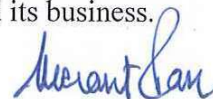
That the Complainant, **Indeed, Inc.**, provides the world's largest job site in 28 languages, with over 250 million unique visitors every month from over 60 different countries. Indeed, owns and has used its corporate website www.indeed.com as an employment related search engine since at least the year **2004**, and continues to do so.

That the Complainant owns and has used the brand and trademark **INDEED** and variations thereof (hereinafter collectively referred to as the "**INDEED Marks**") for over a decade in relation to its highly successful job websites and search engines, as well as related goods and services such as mobile applications and online advertising services. In addition to its extensive common law rights, the Complainant owns valid and subsisting trademark registrations for the **INDEED Marks** in different countries worldwide.

That the Complainant holds the following relevant valid and subsisting trademark registrations in India:

Trademark	Application No.	Application Date	User Claim	Class	Status
INDEED	2044682	October 27, 2010	November 29, 2004	35 & 42	Registered
	2044681	October 27, 2010	November 29, 2004	35 & 42	Registered

That the Complainant owns the domain name **<indeed.com>** and operates its corresponding primary website at www.indeed.com, through which it conducts a significant portion of its business and where information about Complainant and its business is easily accessible and available to millions of internet users, who may be current or potential consumers. The aforementioned domain name **<indeed.com>**, as evident, is based on the corporate name of the Complainant's company, Indeed, Inc., and was created / registered on and has been regularly renewed since **March 30, 1998**. As is evident, the Complainant's domain name in its entirety incorporates its registered trademark **INDEED**, thus further augmenting its proprietary rights in the said mark. Further, by virtue of the said domain's association with the Complainant for over two decades now, it has become synonymous with the Complainant and its business.



The Complainant is also the owner of the India specific domain <indeed.co.in>, which was created / registered on and has been regularly renewed since **December 14, 2006**. It is pertinent to note that Indian users are redirected from the Complainant's website at www.indeed.com to www.indeed.co.in.

As a result of and to leverage its internet-based business model, the Complainant has also set up several other dedicated country-specific domain names and websites in major markets such as Australia <indeed.com.au>, Canada <indeed.ca>, France <indeed.fr>, Hong Kong <indeed.hk>, Japan <indeed.jp>, Mexico <indeed.com.mx>, New Zealand <indeed.co.nz>, South Africa <indeed.co.za>, Singapore <indeed.com.sg> and <indeed.sg>, Sydney <indeed.sydney>, United Arab Emirates <indeed.ae>, United Kingdom <indeed.uk> & <indeed.co.uk>, United States <indeed.us>, etc. through which it lists specific job opportunities in these markets.

The Complainant is also the owner of several other domain names containing its registered trademark **INDEED** viz. <indeed.blog>, <indeed.career> <indeed.ceo>, <indeed.design>, <indeed.expert>, <indeed.help>, <indeed.jobs>, <indeed.me>, <indeed.net>, <indeed.online>, <indeed.org>, <indeed.scot>, <indeed.tech> and <indeed.trade>.

Besides its websites, the Complainant's **INDEED** Marks and services and goods thereunder are prominently advertised on major social networking sites such as **Facebook**, **Instagram**, **LinkedIn**, **Twitter** and **YouTube** - which accounts collectively have over 300 million followers / views who may arguably be considered as potential, if not existing customers. Given the fact that these websites attract masses from every social, geographical, economic and age demographic worldwide, the **INDEED** Marks have consequently been exposed to an exponentially large section of both the Indian and international public.

Further, in order to meet customer needs and ease of accessibility, the Complainant also makes its services available to the public via its mobile applications on the two most prominent mobile platforms in the world - **Apple (App Store)** and **Android (Google Play Store)** - where the **INDEED** Marks are prominently used.

That with specific reference to India, the Complainant has ensured significant presence of its brand and trademark **INDEED** in the market also through various promotional and advertising activities, including tie-ups with prominent film and media houses.

That the Complainant's business has been recognized for its consistency in providing outstanding services by the human capital management company, **SilkRoad**, for 6 years in a row.

Complainant has annexed sufficient documentary evidence in support of its assertions.

PRESENT DISPUTE

Complainant has submitted that the present dispute arose when they recently learnt of the Respondent's registration of the Disputed Domain Name and use of its corresponding fraudulent website at www.indeedworks.in for offering *inter alia* career search and recruitment services, which services are identical to those of the Complainant.

Abirant Gome

A. The Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

(Paragraph 4 (a) of the INDRP)

In support of the requirements under the captioned provisions of the INDRP (combined with the relevant Rules of Procedure) the Complainant has submitted that:

The Disputed Domain Name is identical with and/or confusingly similar to the Complainant's **INDEED** Marks. The Disputed Domain Name incorporates the Complainant's registered trademark **INDEED** in its entirety along with the descriptive word "WORKS" as a suffix, which is insufficient for differentiation.

The Complainant has well-established rights in respect of the **INDEED** Marks which have been recognized and confirmed by **NIXI** (National Internet Exchange of India) in February 2018, when the Learned Arbitrator, in the matter of **Indeed, Inc. v. Josh Mathews <indeedjob.co.in>** (INDRP/948), directed transfer of the disputed domain to the Complainant (also the Complainant herein), in recognition of their superior trademark rights in respect of '**INDEED**'.

Complainant has also relied on several prior awards from this forum in the following cases, wherein, inter alia their rights in respect of the mark '**INDEED**' has been recognized and upheld against various third parties:

- **Indeed, Inc. v. Indeedworld <indeedworld.in>** (INDRP/931) in January 2018;
- **Indeed, Inc. v. Indeedworld <indeedonline.in>** (INDRP/1059) in February 2019;
- **Indeed, Inc. v. Oname <indeedsgroup.in>** (INDRP/ 1421) in September 2021;
- **Indeed, Inc. v. Uli Ali <indeedgroups.in>** (INDRP/ 1398) in August 2021;
- **Indeed, Inc. v. Ajit Kumar <ineedjobalerts.in>** (INDRP/1338) and **Indeed, Inc. v. Sunny Rai <indeedcareer.co.in>** (INDRP/1339) in July 2021;
- **Indeed, Inc. v. Rohan Sharma <indeedwork.in>** (INDRP/ 1337) in June 2021;
- **Indeed, Inc. v. Ankur Shrivastav <indeedgroup.in>** (INDRP/1216) in May 2020;
- **Indeed, Inc. v. Shiv Soni <recruiter4indeed.in>** (INDRP/1210) and **Indeed, Inc. v. Education Fly <indeedjobs.co.in>** (INDRP/1213) in March 2020;
- **Indeed, Inc. v. Indeed India <indeedindia.in>** (INDRP/1188) in February 2020;
- **Indeed, Inc. v. Rohan Sharma <indeedworks.co.in>** (INDRP/1173) and **Indeed, Inc. v. CH Sarkaar <indeedworks.ind.in>** (INDRP/1174) in January 2020;
- **Indeed, Inc. v. Gulf Talant <indeedglobal.co.in>** (INDRP/1126) in September, 2019;
- **Indeed, Inc. v. Akshay Kapoor <indeedjobs.ind.in>** (INDRP/1051) in January 2019;
- **Indeed, Inc. v. Rahul Kumar <indeedcareers.co.in>** (INDRP/1012) and **Indeed, Inc. v. Dinesh Sarang <indeedjob.ind.in>** (INDRP/1011) in August 2018;
- **Indeed, Inc. v. Deepak Singh <indeedjob.org.in>** (INDRP/987) and **Indeed, Inc. v. Deepak Singh <indeedjob.net.in>** (INDRP/973) in May 2018.

The Complainant's rights to the **INDEED** Marks have also been upheld by the **WIPO** (World Intellectual Property Organization) as well as the **Forum** (formerly, the National Arbitration Forum) in numerous arbitration proceedings / domain disputes.

Complainant has submitted that it is indisputable that the Disputed Domain Name comprises of the Complainant's registered trademark **INDEED** in its entirety and that the addition of the

Warrant Same

word 'WORKS' as a suffix to the Complainant's registered trademark **INDEED** is incapable of lending the Disputed Domain Name any distinctiveness or reduce its similarity with the Complainant's **INDEED** Marks. On the contrary, presence of the said generic word enhances the degree of similarity between the rival brands. The word "WORKS" is simply indicative of the kind of services which may be offered by the Respondent - which will in fact be identical to those offered by the Complainant under the **INDEED** Marks around the world, including in India. The Complainant is known globally as an employment / job search engine since early 2000s and hence use of the Disputed Domain Name will, in all likelihood, make internet users believe that it originates from the Complainant, when that is not the case. Therefore, the term "WORKS" as a suffix to the prior and registered trademark **INDEED** is not sufficient to avoid confusion between the Disputed Domain Name and the **INDEED** Marks of the Complainant. In this regard, it is relevant to mention that a mere search for the words contained in the Disputed Domain Name, i.e., 'INDEED WORKS', on the popular search engine Google.com leads to the Complainant's genuine websites.

Complainant has annexed extracts from relevant Google searches in support of the above contentions, as well as relied on the following precedents:

- **Six Continent Hotels, Inc. v. The Omnicorp, WIPO Case No. D2005-1249;**
- **Britannia Building Society v. Britannia Fraud Prevention, WIPO Case No. D2001-0505;**
- **PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS) - WIPO Case No. D2003-0696;**
- **Hoffmann-La Roche AG v. Andrei Kosko, WIPO Case No. D2010-0762.**

The Complainant has submitted that they have been continuously and extensively using the registered trademark **INDEED** in commerce since its adoption in 2004 - both internationally as well as in India - and thus its rights in the **INDEED** Marks are beyond reproach. Moreover, since the Disputed Domain Name has only been registered recently on **December 28, 2021**, it is vastly subsequent to the Complainant's adoption, usage and statutory rights in the **INDEED** Marks globally and in India.

B. The Respondent has no rights or legitimate interests in respect of the Domain Name.

(Paragraph 4 (b) and 6 of the INDRP)

In support of the requirements under the captioned provisions of the INDRP (combined with the relevant Rules of Procedure) the Complainant has submitted that:

The Respondent in the present case has not fulfilled any of the aforementioned conditions for it to have demonstrable rights or legitimate interests in the Disputed Domain Name, and that the mere fact that the Disputed Domain Name is registered in their name does not imply that the Respondent has any rights or legitimate interests in the same. Complainant has relied on precedent set in the case of **Deutsche Telekom AG v. Phonotic Ltd. (WIPO Case No. D2005-1000)** in this regard.

The Respondent has not used nor made any demonstrable preparations to use the Disputed Domain Name in connection with a "*bonafide offering of services or goods*". Complainant submits that the Respondent's use of the Disputed Domain Name is for fraudulent purposes, namely, to imitate a legitimate, well-reputed and trustworthy entity, i.e., the Complainant, so as to deceive job seekers into purchasing services that may be false / inaccurate or never be provided.

To the Complainant's knowledge, the Respondent has never been commonly known by the Disputed Domain Name and has never acquired any trademark or service mark rights in the Disputed Domain Name. In fact, a general Google search for the string 'INDEED WORKS' does not reveal the Respondent's impugned website or any site that leads to information on the Respondent or reflecting its association with the word 'INDEED' - again clearly signifying that the Respondent is not known by the Disputed Domain Name. Complainant has relied on precedent set in the case of **Alpha One Foundation, Inc. v. Alexander Morozov, NAF Case No. 766380** in support of this contention.

The Respondent neither has rights or legitimate interests in the Disputed Domain Name nor has the Complainant assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or make use of its registered trademark **INDEED**. Complainant has relied on precedent set in the case of **Six Continents Hotels, Inc. v. Patrick Ory, WIPO Case No. D2003-0098** in this regard.

The inclusion of the words 'INDEED' (registered trademark of the Complainant) and 'WORKS' (a word indicating the service provided by the Complaint for which it is globally renowned) in the Disputed Domain Name amply reflects that the intention of the Respondent is to deceive the public into believing that some association or commercial nexus exists between the Complainant and the Respondent when this is not in fact the case, and illegitimately cash-in on such deception. Complainant has relied on precedent set in the case of **The Dow Chemical Company v. Hwang Yiyi, WIPO Case No. D2008-1276** in support of this contention.

The Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name. It is clear that the Disputed Domain Name has been registered for commercial gain by misleading and diverting consumers and/or tarnishing the Complainant's brand and **INDEED** Marks, and therefore also the Respondent has no rights or legitimate interests in the Disputed Domain Name. Complainant has relied on precedents set in the following cases in support of this contention:

- **The Sports Authority Michigan, Inc. v. Internet Hosting, NAF Case No. 124516;**
- **Orange Brand Services v. Fayaz / Exuberant Services and Solution Pvt. Ltd. <orangeinfosolutions.in> INDRP/522.**

The Complainant enjoys exclusive rights in the word 'INDEED' qua its specific services and products. The word 'INDEED' *per se*, when considered along with its descriptive / dictionary meaning (as an adverb) does not indicate in any manner services or goods relating to the employment industry and accordingly the Complainant's registered trademark **INDEED** in Classes 42, 35 and 09 is an *inherently distinctive* trademark. In fact, a general search for the mere word 'INDEED' on the popular search engine Google.com does not throw any result on the generic meaning of the said word but rather directs to websites which either belong to the

Murant Kane

Complainant or to third-parties providing information on the Complainant's business and services under the **INDEED** Marks, thereby augmenting the indisputable association between the Complainant and its said **INDEED** Marks. The Complainant is therefore protected against all use of its mark **INDEED** (including by the Respondent herein) that dilutes and tarnishes its rights therein. Complainant has annexed relevant extracts of Google search results in support of the above submission.

Complainant has submitted that there is no justification for the Respondent's registration and/or use of the Disputed Domain Name. By virtue of a dishonest adoption and *malafide* intent of the Respondent, as established in the preceding paragraphs of this Complaint, together with its brazen usage of the Complainant's **INDEED** Marks, there is no scenario wherein the Respondent can claim to make legitimate non-commercial or fair use of the Disputed Domain Name.

Complainant has claimed to have amply established a *prima-facie* case for the absence of rights or legitimate interests in the Disputed Domain Name in favour of the Respondent, and has relied upon the consensus view taken in the **WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0")**, that "... a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name."

C. The Domain Name was registered and is being used in bad faith.

(Paragraph 4 (c) and 7 of the INDRP)

In support of the requirements under the captioned provisions of the INDRP (combined with the relevant Rules of Procedure) the Complainant has submitted that:

The Respondent in the present case has clearly adopted the Disputed Domain Name with the intention to create confusion with the **INDEED** Marks and show false nexus between itself and the Complainant.

The Complainant is vested with worldwide statutory and common law rights in its **INDEED** Marks since the year 2004. In such circumstances, the Respondent's usage of the Complainant's trade name and mark **INDEED** in conjunction with the descriptive and non-distinctive term 'WORKS', is of concern as it is fraught with the likelihood of creating confusion in the minds of public at large. It is highly probable that consumers looking for the Complainant's **INDEED** branded services may perceive the Disputed Domain Name to be another domain name of the Complainant for providing jobs. This misconception is highly likely to be amplified when such unwary consumers would receive fraudulent communications from the Respondent which would prominently bear the impugned term 'INDEED' with or without any prefix / suffix - the collective use of which would lull such consumers into a false sense of security, leading to the incorrect assumption that the Respondent's communication and job postings are genuine and originating from the Complainant itself. The Complainant has submitted that it is exactly this sort of scenario that the Respondent is seeking to create and is in itself evidence of its bad faith and *malafide* intentions.

Arman Kane

Complainant has further submitted that the Respondent, being in an identical industry and dealing with same or similar services, is bound to have knowledge of the world-renowned repute of the Complainant herein. Hence, it has no cause for adoption of an identical trademark or domain name, except in bad faith and with *malafide* intention. Moreover, the Disputed Domain Name was registered in December 2021, i.e. post 11 years of filing of trademark applications by the Complainant in India for registration of its **INDEED** Marks and 17 years of the Complainant actually using its said Marks in commerce. The Respondent, therefore, again cannot escape the liability of knowledge of the Complainant and its business - and by extension, its **INDEED** Marks - since no level of coincidence can lead to the Respondent adopting a name / trademark identical to the Complainant's much prior adopted, used and registered **INDEED** Marks. In the present case, at the time of registration of the Disputed Domain Name, the Complainant had been known by its business / corporate / trade name **INDEED** for much over a decade and had already enforced its rights against several infringers. Even so, the Respondent chose to register the Disputed Domain Name so as to misappropriate the Complainant's **INDEED** Marks in an unabashed and unauthorised manner. Thus, a finding of bad faith registration of the Disputed Domain Name is irrefutable and must follow. Complainant has relied on precedent set in the case of **Compagnie Générale des Etablissements Michelin v. Terramonte Corp, Domain Manager** (WIPO Case No. D2011-1951) in support of this contention.

Complainant has further relied on precedents set in the cases of:

- **Orange Brand Services Limited v. Anshul Agarwal / Orange Electronics Pvt. Ltd.** <orangeindia.in> INDRP/579;
- **Marriott International, Inc. v. Momm Amed IA**, NAF Case No. FA95573; and
- **Amazon.com Inc., Amazon Technologies, Inc. v. Giovanni Laporta / Yoyo.Email** (WIPO Case No. D2015-0009)

In support of their contention that as **INDEED** is a well-known, internationally recognized and renowned mark, registered across several territories worldwide. This suggests that the Respondent must have not only been aware of the Complainant's **INDEED** brand but should also have known of the Complainant's related domain names and reach of its services worldwide, when it registered the Disputed Domain Name, which clearly suggests "*opportunistic bad faith*" in violation of the Policy and which constitutes strong evidence of bad faith.

The Respondent appears to be using the Disputed Domain Name for the purpose of misleading and extracting illegal benefits from innocent job seekers by posting and assuring fake job / recruitment opportunities, who will be led to believe the Respondent to be the Complainant or at least affiliated with it. The Respondent's bad faith intentions due to use of the Disputed Domain Name are thus lent further credence. Complainant has relied on precedent set in **Skype Limited v. Sadecehosting.com Internet Hizmetleri San Tic Ltd Sti** (WIPO Case No. 1059477) in this regard.

Even if the Respondent were offering actual online recruiting services through the Disputed Domain Name, such use would still support a finding of bad faith use and registration, as these are the same services offered by the Complainant under its famous and registered **INDEED** Marks. Complainant has relied on precedent set in **Kingston Technology Corp. v. c/o Asiakingston.com** (WIPO Case No. FA1464515) in this regard.

Marant Sana

Complainant has finally submitted that the Disputed Domain Name was registered and is being used in bad faith. If the Respondent is not restrained from using the Disputed Domain Name and the same is not transferred to the Complainant, loss and hardship will be caused to the Complainant.

5. Other Legal Proceedings

The Complainant has submitted that they are unaware of any other legal proceedings that have been commenced or terminated in connection with the domain name <INDEEDWORKS.IN>.

6. Reliefs claimed by the Complainant (Paragraph 10 of the INDRP read with Paragraph 4(b)(vii) of the INDRP Rules of Procedure)

The Complainant has requested that the domain name <INDEEDWORKS.IN> be transferred to them.

7. Respondent's Contentions

As already mentioned in the Procedural History of the matter, despite having been duly served with a copy of the Domain Complaint as filed, and thereafter granted adequate time to respond to the same, the Respondent had not submitted any response thereto, or in fact any communication of any kind to either the Complainant, NIXI or the Arbitrator during pendency of arbitral proceedings in the matter.

8. Discussion and Findings

In a domain complaint, the Complainant is required to satisfy three conditions as outlined in Paragraph 4 of the .IN Domain Name Dispute Resolution Policy, i.e.:-

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

i. The Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights

(Paragraph 4(a) of the .IN Domain Name Dispute Resolution Policy)

The Complainant has established its rights in the trademark 'INDEED' as derived from its business name, i.e. 'Indeed, Inc.', by virtue of its numerous trademark registrations for the same in jurisdictions worldwide, including in India. The first trademark registration for INDEED in the name of the Complainant in India dates back to 2010, while use of the same by the Complainant for its services worldwide dates back to 2004. The Complainant has placed copies of the registration certificates of trademark registrations obtained by it in the United States and India on the record, all of which pre-date the registration of the Respondent's domain name.

Murant Sana

It is well established that trade mark registration is recognized as prima facie evidence of rights in a mark. The Complainant, by filing documents of its registered trademarks has established that it has prior statutory rights in the mark '**INDEED**' in jurisdictions around the world.

The Complainant has also submitted that it has registration of its own domain www.indeed.com since 1998, wherein it advertises as well as provides its services as an employment search engine, under its **INDEED** marks, as well as registration of its India-specific domain name, [<indeed.co.in>](http://indeed.co.in), which was created / registered on and has been regularly renewed since **December 14, 2006** and which caters exclusively to job-seekers and aspirants from India.

The Complainant has, in support of its arguments, further pointed out that the disputed domain name, [<INDEEDWORKS.IN>](http://indeedworks.in), incorporates its trademark '**INDEED**' in its entirety and may, therefore, be said to be identical/confusingly similar to the Complainant's aforementioned trademark. Moreover, Arbitrator concurs with Complainant's assertions that addition of a generic and descriptive word like 'WORKS' not only does nothing to alleviate from similarity in the domain name, but in fact exacerbates the likelihood of consumer confusion as, the Complainant's primary services being that of an employment search engine, the descriptive word 'WORKS' has a direct correlation to the nature of the services offered by the Complainant. Arbitrator makes reference here to the number of past decisions of this Panel cited by the Complainant, in upholding the Complainant's rights in respect of domain names incorporating their registered trademark '**INDEED**' in its entirety along with any other generic/descriptive words, and concurs accordingly.

The Complainant has submitted that Respondent has intentionally adopted a domain name identical/ confusingly similar to the Complainant's popular trademark '**INDEED**' with a view to attracting internet users and consumers for commercial gain by abusing the goodwill and reputation associated with the Complainant's aforementioned mark and has further used it with respect to services such that the lay public consumers may easily, though erroneously, infer affiliation, association or sponsorship of the Respondent's activities by the Complainant.

The Complainant has established that it did not at any time license or otherwise authorize the respondent to register the disputed domain name or carry out its activities under the Complainant's trademark '**INDEED**'.

The Complainant has referred to several WIPO decisions as well as decisions by the National Arbitration Forum and Panel decisions under the INDRP, as has been mentioned above, in favour of its contentions and arguments.

The Complainant has submitted a number of annexures, as described above, to establish the availability, extent of use and popularity of its **INDEED** marks in India as well as worldwide.

It may be stated that the disputed domain name [<INDEEDWORKS.IN>](http://indeedworks.in) is confusingly identical/similar to the Complainant's trade mark '**INDEED**' and completely incorporates the said trade mark of the Complainant. It has been held by prior panels deciding under the INDRP that there exists confusing similarity where the disputed name incorporates the Complainant's trade mark, such as *Kenneth Cole Productions v. Viswas Infomedia* INDRP/093, *Indian Hotel Companies Limited v. Mr. Sanjay Jha*, INDRP/148 [<Gingerhotels.co.in>](http://Gingerhotels.co.in), *Carrier Corporation, USA v. Prakash K.R.* INDRP/238 [<Carrier.net.in>](http://Carrier.net.in), *M/s Merck KGaA v. Zeng Wei* INDRP/323 [<Merckchemicals.in>](http://Merckchemicals.in), *Colgate-Palmolive Company & Anr. v. Zhaxia*

Murari Sana

INDRP/887 <Colgate.in> and The Singer Company Limited v. Novation In Limited INDRP/905 <singer.co.in>.

In view of the aforesaid, the Arbitrator accepts that the Complainant's rights in its trademark 'INDEED' under Paragraph 4(i) of the INDRP has been established.

ii. **The Registrant has no rights and legitimate interest in respect of the domain name (Paragraph 4(ii) and Paragraph 7 of the .IN Domain Name Dispute Resolution Policy)**

The disputed domain name incorporates the mark 'INDEED' which is identical to the Complainant's trademark INDEED in which the Complainant has statutory rights by virtue of having valid and subsisting prior trademark registrations in several jurisdictions around the world and being globally well known, including in India.

The Complainant has further contended, with substantiating arguments, that there is no credible or legitimate reason for the Respondent to have adopted a domain name identical/ deceptively similar to the Complainant's trademark INDEED other than to ride on the goodwill and reputation accumulated by the Complainant's mark by the time of the Respondent's registering the disputed domain name, and derive unjust enrichment therefrom by causing consumer confusion.

On the other hand, the Respondent has not submitted any registration certificates for the mark 'INDEED' or 'INDEEDWORKS', or in fact any evidence of its rights to the aforesaid marks. It has not been able to establish any of the conditions pre-requisite for considering a registrant's rights and legitimate interests in a domain name as set out under Paragraph 7 of the INDRP.

The Complainant has established a prima facie case of its rights in the mark 'INDEED', and has referred to several Panel decisions, WIPO decisions, as well as decisions by the (National Arbitration) Forum, as has been mentioned above, in favour of its contentions and arguments. Therefore, in accordance with the holding of previous panels under the INDRP, the evidentiary burden shifted to the Registrant (Respondent) to rebut the showing by providing evidence of its rights or interests in the domain name, which it has failed to do in the current proceedings.

The Complainant has no relationship with the Respondent and has not permitted or licensed the Respondent to use or register the disputed domain name.

Use of such a confusingly and deceptively identical/similar domain name by the Respondent is likely to mislead and misrepresent to the general public and members of the trade as to the source, sponsorship, affiliation or association of the activity being carried on through the website.

In view of the aforesaid, the Arbitrator accepts the Complainant's claim that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with Paragraph 4(ii) and 7 of the INDRP.

Arbitrator's Name

iii. **The Registrant's domain name has been registered or is being used in bad faith (Paragraph 4(iii) and Paragraph 6 of the INDRP)**

The Respondent is not making any fair and non-commercial use of the disputed domain name as on date. The Respondent had in fact been using the website at the disputed domain in conjunction with the Complainant's **INDEED** trademarks to offer identical services to those as offered by the Complainant, and is consequently likely to lead to actual confusion among the lay public and consumers as well as members of the trade. The Respondent's use of the disputed domain name, therefore, does not appear to be bona fide and appears intended to deceive the lay public and trade off on the Complainant's reputation, especially among job-seekers and career aspirants.

It is pertinent to mention, also, that the Respondent has not submitted any reply nor rebuttal to the Complainant's contentions, or evidence in support of its bona fide use of the disputed domain name.

In view of the aforesaid, the Arbitrator concludes that the Complainant has satisfactorily proved the requirements of Paragraph 4(iii) and Paragraph 6 of the INDRP.

9. Decision

Based upon the facts and circumstances and further relying on the materials as available on the record, the Arbitrator is of the view that the Complainant has statutory and proprietary rights over the trade mark '**INDEED**' and variations thereof. The Complainant has herein been able to prove conclusively that:

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

The Arbitrator therefore allows the prayer of the Complainant and directs the .IN Registry to transfer the domain <**INDEEDWORKS.IN**> to the Complainant.

The Award is accordingly passed and the parties are directed to bear their own costs.


Vikrant Rana, Sole Arbitrator

Date: April 22, 2022.

Place: New Delhi, India.