



सत्यमेव जयते

# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

- Page # 1 -  
e-Stamp

Certificate No.

Certificate Issued Date

Account Reference

Unique Doc. Reference

Purchased by

Description of Document

Property Description

Consideration Price (Rs.)

First Party

Second Party

Stamp Duty Paid By

Stamp Duty Amount(Rs.)

: IN-DL32472428843420T  
: 18-Jan-2021 02:57 PM  
: IMPACC (SH)/ dlshimp17/ DWARKA/ DL-DLH  
: SUBIN-DLDSLHIMP1767947295332599T  
: KAMAL DAVE  
: Article 12 Award  
: Not Applicable  
: 0  
: (Zero)  
: KAMAL DAVE  
: Not Applicable  
: KAMAL DAVE  
: 100  
: (One Hundred only)



.....Please write or type below this line.....



*[Signature]*

In the matter of the Arbitration Act 1996 as Amended by

Arbitration & Conciliation (Amendment) Act, 2015;

and

INDRP Rules of Procedure;

and

.IN Domain Name Dispute Resolution Policy (INDRP)

and

- Page # 1 -

### 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.

In the matter of an arbitration between

Tencent Holdings Limited  
Room 2701, Park Place,  
1601 Nanjing Road (West) Shanghai,  
China

...Complainant

AND

Feifei/ Doublefist Limited  
A3, JiaZhaoYe, JiangBei,  
Huicheng District, HuiZhou City,  
GuangDong Province,  
China

...Respondent

in respect of Disputed Domain Name(s):  
[www.tencent.in]

**INDRP Case No: 1306**

**FINAL AWARD**



1

**THE PARTIES AND THEIR REPRESENTATIVES**

**1.1 Claimant :**

Tencent Holdings Limited  
Room 2701, Park Place,  
1601 Nanjing Road (West) Shanghai,  
China

Authorised Representative

Jacob Chen, Chloe Xu,  
Rouse Consultancy (Shanghai) Limited  
Address: Room 2701, Park Place,  
1601 Nanjing Road (West) Shanghai, China  
Telephone: +86 20 85598098  
Fax: +86 20 85598098  
Email: cxu2@rouse.com

1.2 Respondent

Feifei/ Doublefist Limited  
A3, JiaZhaoYe, JiangBei,  
Huicheng District, HuiZhou City,  
GuangDong Province,  
China  
Registrant: Feifei  
Registrant Organization: Doublefist Limited (Contact  
us:ymgroup@msn.com)  
Email: ymgroup@msn.com  
Phone: (+86).17172121151



2

THE DOMAIN NAMES AND REGISTRAR

- 2.1 The disputed domain name [www.tencent.in] is registered  
registered on July 12, 2014 with Dynadot LLC, PO Box #345 San  
Mateo, CA 94401, US  
Phone : +1 6502620100  
email address : info@dynadot.com



3 THE ARBITRAL TRIBUNAL – APPOINTMENT

- 3.1 As per the records, Complainant sent the Complaint to National Internet Exchange of India (hereinafter referred to as "NIXI") with a copy to Respondent on .
- 3.2 As per the records, on 21<sup>st</sup> December 2020 NIXI sent intimation to the Arbitrator & the parties including the Respondent regarding the appointment of arbitrator to decide the dispute in respect of domain [[www.tencent.in](http://www.tencent.in)].
- 3.3 As per the records, I, the undersigned (i.e. Kamal Dave) was appointed as arbitrator by NIXI, in accordance with INDRP Rules of Procedure and .In domain name dispute resolution policy (INDRP), vide appointment order dated 15<sup>th</sup> December 2020 after I submitted declaration of impartiality and independence at all times with NIXI.
- 3.4 The .IN Domain Name Dispute Resolution Policy (INDRP) & Rules of Procedure of INDRP mandates appointment of arbitrator by NIXI, Accordingly clause 5 (b) of INDRP Rules of Procedure provides for it, which reads, "*The .IN Registry shall appoint, an Arbitrator from the .IN Registry's list and shall forward the Complaint along with supporting documents to such Arbitrator*".
- 3.5 There is no document/ correspondence on record to show that the Respondent replied to the intimation of arbitration dispute regarding the domain [[www.tencent.in](http://www.tencent.in)].



4 PROCEDURAL HISTORY :

- 4.1 After my appointment as arbitrator by NIXI, on 15<sup>th</sup> December 2020 & intimated to me on 21<sup>st</sup> December 2020, I passed Procedural Order No 1, thereby directing the complainant & respondent

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through email at their registered email addresses provided at [www.whois.com](http://www.whois.com) service to file their respective pleadings i.e. complaint & reply and their respective rejoinder & reply to rejoinder and also directed parties to file their respective written arguments as per schedule of dates.

- 4.2 On 24<sup>th</sup> December 2020, submitted & requested extend the deadlines citing reason that notarization in China is complicated and normally takes around 2 weeks to file application and obtain a notary deed viz (a) deadline of submitting the affidavit in paragraph 6(A) from 29<sup>th</sup> December 2020 to 7<sup>th</sup> January 2021, and deadline of sending the physical copy to you to 15<sup>th</sup> January 2021 (b) deadline of submitting the affidavit in paragraph 6(E) from 29<sup>th</sup> December 2020 to 7<sup>th</sup> January 2021 I passed procedural order no 2, thereby directing the complainant to file affidavit on oath to reiterate contents of complaint duly sworn-in and attested by Notary and affidavit of service.
- 4.3 Considering the request/ submissions of the complainant, on 25<sup>th</sup> December 2020, I passed Procedural Order no 2, whereby I partially modified the schedule of dates as requested and intimated the complainant & respondent at their registered email addresses provided at [www.whois.com](http://www.whois.com).
- 4.4 Pursuant to directions the Complainant submitted Affidavit in support of the complaint duly sworn-in and attested by Notary.
- 4.5 The complainant has filed documents regarding service of copy of complaint along-with documents/ annexures, affidavit, through electronically as well as courier. The screen shot electronic



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delivery and copy of courier receipt and tracking report of courier service has been placed on record by the complainant.

- 4.6 The respondent has neither replied to the intimation by NIXI, myself and nor to the complaint sent by the complainant sent through email & courier on 25<sup>th</sup> December 2020. The complainant has stated on oath in his affidavit of service that in absence of the FAX details the respondent could not be served through FAX. I have gone through the affidavit of service and screenshot of email service report, courier receipt & tracking report of delivery of consignment. I am satisfied that the complainant has taken adequate steps for serving the respondent and thereby complied with the directions. The respondent has been duly served as mandated by clause 2 of INDRP Rules of Procedure and service on respondent is completed as per the clause.
- 4.7 Therefore I am satisfied that the complainant has duly served the respondent, however, the respondent has chosen to abstain and not participate in the arbitration proceedings. Hence as per clause 12 of INDRP Rules of Procedure, which mandates that where parties are in default i.e. who willfully abstains from the proceedings may be proceeded *ex-parte*. Accordingly, I concluded that proceedings against the respondent to continue *ex-parte*.
- 4.8 The complainant cannot take benefit from the non-presence of the other party and his claim must stand on merits.

PLEADINGS :

- 5.1 The complainant has filed its complaint stating out facts & circumstances of the case :



5.1.1.1 The Complainant contended that “Established in November 1998 and headquartered in Shenzhen China, the Complainant is one of the largest comprehensive Internet service providers in China and has been listed on the Hong Kong Stock Exchange (SEHK 700) since 2004.

5.1.2 The Complainant further contended that “The Complainant is one of the world’s biggest technology companies (Annex 4). The Complainant provides value-added Internet, mobile and telecommunication services and products, entertainment, artificial intelligence and technology both in China and globally. Some of the most popular products of the Complainant include QQ (QQ Instant Messenger), WeChat (a social media application with instant messaging, commerce and payment services), Tencent Games, Tencent Comic, Tencent Pictures, Tencent News and Tencent Video (Annex 5)”.

5.1.3 The Complainant further contended that "The Complainant and its services are widely known in the world. By the end of 2018, the number of monthly active users of QQ rose to 807.1 million (Annex 6). At the same time, WeChat became one of the world's largest standalone mobile apps in 2018, with over one billion monthly active users in the early days of 2018, and counted 1.17 billion users in all as of 4 th quarter 2019 (Annex 7). In 2019, the revenue of the Complainant was nearly 377 billion yuan (54.1 billion US dollars) (Annex 8).".





5.1.4 The Complainant further contended that "The Complainant is also widely known in India and the United States. In 2008, the Complainant partnered with ibibo to bring services such as chat, mail and game to the developing Indian Internet sphere (Annex 9). In 2012, the Complainant launched WeChat in India market and the APP ranked No.1 on PlayStore for 1.5 months in June 2013 (Annex 10). In 2008, the Complainant has established its American office, Tencent America LLC in Palo Alto, California, the United States. In 2012, the Complainant became the majority shareholder of American games publisher Riot Games, the developer of the game League of Legends, and became the outright owner in 2015 (Annex 11).".

5.1.5 The Complainant further contended that "The Complainant enjoys huge fame and reputation in China and worldwide including in India and the United States. From 2015 to 2018, the Complainant continually ranked 1 st in BrandZ rankings for China brands (Annex 12). In 2017, the Complainant ranked No. 8 for global brands, being the first Chinese company entering the Top Ten list. In the same year, the Complainant was named Global Fortune 500 (Annex 13). Tencent products have profoundly influenced the ways of hundreds of millions of Internet users communicating with one another as well as their lifestyles. The panel in Tencent Holdings Limited v. Ning Yang,



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WIPO Case No. D2012-2330, finds the trademark of Tencent has a strong reputation and is widely known".

5.1.6 The Complainant further contended that "The Complainant and its affiliated company, Tencent Technology (Shenzhen) Co., Ltd., registered and hold, among others, the following trademarks in India, China, Hong Kong SAR and EUIPO (Annex 14):

Mark	Registration No.	Country/Region	Applicant	Application Date	Valid Period
TENCENT	1583970	India	Tencent Holdings Limited	2007.07.25	2010.02.16-2027.07.25
Tencent 腾讯	3545628	India	Tencent Holdings Limited	2017.05.09	2017.08.07-2027.05.09
TENCENT	1752676	China	Tencent Technology (Shenzhen) Co., Ltd.	2001.04.13	2002.04.21-2022.04.20
TENCENT	1962826	China	Tencent Technology (Shenzhen) Co., Ltd.	2001.08.31	2003.02.28-2023.02.27
TENCENT	300169506A	Hong Kong SAR	Tencent Holdings Limited	2004.06.07	2004.03.02-2024.03.01
Tencent 腾讯	T1310689C	Singapore	Tencent Holdings Limited	2013.07.04	2013.07.04-2023.07.04
TENCENT	006033773	EUIPO	Tencent Holdings Limited	2007.06.15	2007.06.15-2027.06.15



*[Handwritten signature]*

5.1.7 And further contended that "Since 1998, the Complainant and its affiliated companies have been advertising TENCENT products and services through its official website [www.tencent.com](http://www.tencent.com) and has been commonly known by the domain name <tencent.com> (Annex 15)".

5.1.8 The Complainant further contended that "Through continuous use and advertising, the TENCENT trademark has gained huge popularity and fame worldwide. The TENCENT trademark is exclusively associated with the Complainant and known primarily as an identifier of Complainant's Tencent products and services. Internet search results generated by the key term "tencent" all direct to the Complainant and its TENCENT products (Annex 16).".

5.1.9 The Complainant further contended under the head "A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (Policy, Clause 4(a); Rules, Clause 4(b)(vi)(1))" that -

5.1.9.1 "As stated above, the Complainant has registered TENCENT trademark in various countries including China and India, which long predates the registration dates of the disputed domain name (July 12, 2014).";

5.1.9.2 "It is a well-established principle that the country code top-level domain suffix ("ccTLD") ".in" is a necessity for a domain name and should be disregarded in assessing the similarity between a domain name and a mark in which a Complainant has rights. See Shenzhen Yi Si Lang E-Commerce Co Ltd v. Salim M, Case No. INDRP/1046, "The '.in' suffixes should not be taken into account while comparing the





Complainant's trademark and the Disputed Domain Name."; PUMA SE v/s Christian Schmidt, Case No. INDRP/956.";

5.1.9.3 "Hence the distinctive part of the disputed domain name is "tencent", which consists of the Complainant's TENCENT trademark in its entirety. TENCENT is coined and highly distinctive mark created by the Complainant, which could attract Internet users' attention. Reproduction of the Complainant's TENCENT trademark in entirety in the domain name in itself establishes that the domain name is confusingly similar to the Complainant's trademark. See Charming Charlie LLC v. Normand Clavet, Case No. INDRP/859, '...when a disputed domain name incorporates a mark in entirety, it is adequate to prove that the disputed domain name is either identical or confusingly similar to the mark.'...";

5.1.9.4 "In all, the disputed domain name is confusingly similar to the Complainant's TENCENT trademark. "

5.1.10 The Complainant further contended under the head "B. The Respondent has no rights or legitimate interests in respect of the domain name;(Policy, Clause 4(b); Rules, Clause 4(b)(vi)(2))" that -

5.1.10.1 "To the best of the Complainant's knowledge, the Respondent holds no trademark rights in the disputed domain name. The Complainant has never



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authorized or licensed the Respondent to use the TENCENT trademark or to use them to register domain name. The Respondent is not affiliated with the Complainant in any way."

5.1.10.2 "There is no indication that the Respondent demonstrated, before notice of the dispute, use of or demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, or that the Respondent is making legitimate noncommercial or fair use of the disputed domain name. The Respondent resolves the disputed domain name to a website showing the redirected links to websites of the Complainant's competitors (Annex 17). Such use has not been considered by previous panels as a bona fide offering of goods or services, or a legitimate noncommercial or fair use without intent for commercial gain."

5.1.10.3 "There is no evidence indicating that the Respondent has been commonly known by the disputed domain name, nor any plausible explanation exists to suggest the possibility of any circumstances of the type specified in Clause 6 of the Policy, or of any other circumstances giving rise to a right to or legitimate interest of the Respondent in the domain name."



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5.1.10.4 "To sum up, the Respondent has no rights or legitimate interests in respect of the disputed domain name."

5.1.11 The Complainant further contended under the head "C. The domain name was registered and is being used in bad faith. (Policy, Clause 4(c); Rules, Clause 4(b)(vi)(3)) that -

5.1.11.1 "(1) The Respondent's awareness of the Complainant and its TENCENT trademark suggests the bad faith in registering the disputed domain name."

5.1.11.2 "As stated above, the TENCENT trademark, through continuous and extensive use in connection with Internet services, is well known in the world including China, India and the United States where the Respondent appears to reside or operate the website associated with the disputed domain name. Given the high popularity of TENCENT, the Complainant finds it inconceivable that the Respondent being a Chinese happened to register the disputed domain name without actual notice of the TENCENT trademark at the time of registration. The Respondent had at least constructive notice of the Complainant's TENCENT trademark, as a simple Internet search on the date of the registration of the disputed domain name would have revealed the Complainant and its famous TENCENT application



and trademark. The website associated with the disputed domain name displays the Complainant's trademark , the Chinese equivalent of the Complainant's TENCENT trademark, which further evinces that the Respondent must have been aware of the existence of the Complainant and its TENCENT trademark at the time of registration. Without any rights and legitimate interests, the Respondent's registration of the Complainant's well-known TENCENT trademark as domain name is a clear indication of bad faith in itself, even without consideration of other elements. See Richemont Holdings AG v. Lina, Doublefis Limited, Case No. INDRP/1145, "Therefore the panel comes to the conclusion that the registration is in bad faith. By registering the disputed name with actual knowledge of the Complainant's trademark."; Harvells India Limited & QRG Enterprises Limited v. Soumya Kukreti, Case No. INDRP/896."

5.1.11.3 "The TENCENT mark is coined by the Complainant in 1998 with no specific meaning in Chinese or English, and known primarily as identifiers of the Complainant and its services. The choice of the disputed domain name incorporating the Complainant's famous and distinctive trademark can in no way be the result of a mere coincidence but suggests that the Respondent acted with bad faith in



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registering the disputed domain name in order to make an illegitimate use of it. Such acts amount to opportunistic exploitation of inevitable Internet user confusion for the Respondent's own benefit. See BASF SE v. GaoGou, Case No. INDRP/752, 'The choice of the domain name does not appear to be a mere coincidence, but is a deliberate use of a well-recognized mark to attract unsuspecting users to the Respondent's website, such registration of a domain name, based on awareness of a trademark is indicative of bad faith registration under the Policy.'.."

5.1.11.4 "(2) The Respondent has intentionally attempted to attract Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's TENCENT trademark;"

5.1.11.5 "The website associated with the disputed domain name contains the Complainant's trademark and links to websites where products and services of the Complainant's competitors are being promoted. By using the disputed domain name, the Respondent is trying to profit from the diversion of Internet users by confusion between the disputed domain name and the Complainant's TENCENT trademark. The Respondent's purpose of registering the disputed domain name is to trade on the fame of the well-known TENCENT trademark, in order to attract, for



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commercial gain, Internet users to visit the associated websites, by creating a likelihood of confusion with the Complainant and the TENCENT trademark. The Respondent has traded on such confusion to direct traffic to its own sites and such use has caused de facto confusion and misidentification as so the affiliation to the Complainant. See Damas Jewellery LLC v. Domain Admin, Case No. INDRP/994, "The factum of diverting users to a domain comprising Complainant's trade mark (business name without consent constitutes bad faith."; ROBERT BOSCH GMBH v/s Zhao Ke, Case No. INDRP/894, 'Further, the registration of a domain name incorporating a well-known mark is clearly with the intention to ride upon the goodwill and reputation attached to the mark BOSCH and make unjust monetary gain.'..."

5.1.11.6 "(3) The Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of the Complainant;"

5.1.11.7 "The disputed domain name resolves to a website with various advertisement links which further direct to the Complainant's competitors' products or services, severely disrupting the Complainant's business (Annex 17). Such act is a further indication of the Respondent's bad faith. See BASF SE v. GaoGou, Case No. INDRP/752, 'The Complainant's prior adoption of the mark predates the Respondent's



domain name registration and the registration of a name that is so obviously connected with the Complainant is suggestive of the Respondent's bad faith.'.."

5.1.11.8 "(4) The Respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, providing that the Respondent has engaged in a pattern of such conduct."

5.1.11.9 "The disputed domain name only incorporates the Complainant's well-known TENCENT trademark and the ccTLD of India. The Respondent's registration of the disputed domain name in fact prevents the Complainant from reflecting the TENCENT mark in the domain name and from advertising and selling its Tencent products and services via the domain name in India. See CALVIN KLEIN INC. v. M/S HANGZHOU GOUGOU INTERNET CO.LTD., Case No. INDRP/704, 'Therefore it is established that such registration by the Registrant has resulted into denying the Complainant his lawful right to register and use the disputed domain name for his business purposes.'.."

5.1.11.10 "Besides, the Respondent has engaged in a pattern of conduct of registering others' trademark as domain name. The Respondent has been using the





same email account to register various domain names and listed as respondent in numerous proceedings including INDRP/840 (<zippo.co.in>, INDRP/855 (<futuro.in>), INDRP/1032 (<deloitte.in>) and INDRP/1158 (<catalent.co.in>) (Annex 18)."

5.1.11.11 "Finally, the Respondent is stating on the homepage of the website that "The domain tencent.in may be for sale. Click here to inquire about this domain". This indicates that the Registrant has registered or acquired the disputed domain name primarily for the purpose of selling the domain name registration to the Complainant for valuable consideration, which further evidences bad faith."

5.1.12 The complainant sought remedies under the head - "VII. Remedies Requested - the Complainant requests the Administrative Panel appointed in this administrative proceeding that [tencent.in] be transferred to the Complainant."

5.2 The respondent has abstained from the arbitration proceedings and has been proceeded ex-parte as per clause 12 of INDRP Rules of Procedure.

5.3 From the complaint following issues have been framed :



6 The Issues :

- 6.1 (i) Whether the domain name [www.tencent.in] is identical or confusingly similar to a trademark or service mark in which the Complainant has rights as claimed under Policy, Clause 4(a); Rules, Clause 4(b)(vi)(1)?
- 6.2 (ii) Whether the Respondent has no rights or legitimate interests in respect of the domain name [www.tencent.in] as claimed under Policy, Clause 4(b); Rules, Clause 4(b)(vi)(2)?
- 6.3 (iii) Whether the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of the Complainant?
- 6.4 (iv) Whether the Respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, providing that the Respondent has engaged in a pattern of such conduct ?
- 6.5 (v) Relief – the Complainant requests the Administrative Panel appointed in this administrative proceeding that [tencent.in] be transferred to the Complainant.

7 Analysis of the issues on Merit

- 7.1 In order to arrive at a chronology, at first instance I should analyze issue (ii) Whether the Respondent has no rights or legitimate interests in respect of the domain name [www.tencent.in] as claimed under Policy, Clause 4(b); Rules, Clause 4(b)(vi)(2)?

7.1.1 The complainant has stated on oath that the TENCENT mark is coined by the Complainant in 1998 with no



specific meaning in Chinese or English, and known primarily as identifiers of the Complainant and its services.

7.1.2 The complainant has stated on oath that their company is one of the largest comprehensive Internet service providers in China and has been listed on the Hong Kong Stock Exchange (SEHK 700) since 2004 and provides value-added Internet, mobile and telecommunication services and products, entertainment, artificial intelligence and technology both in China and globally. And referring Annex 5 stated their most popular products of the Complainant include QQ (QQ Instant Messenger), WeChat (a social media application with instant messaging, commerce and payment services), Tencent Games, Tencent Comic, Tencent Pictures, Tencent News and Tencent Video.

7.1.3 The complainant, while referring to Annex 6, has further stated on oath that by the end of 2018, the number of monthly active users of QQ rose to 807.1 million. And referring Annex 7 stated that WeChat became one of the world's largest standalone mobile apps in 2018, with over one billion monthly active users in the early days of 2018, and counted 1.17 billion users in all as of 4th quarter 2019 and referring Annex 8 further stated that in 2019, their revenue was nearly 377 billion yuan (54.1 billion US dollars).

7.1.4 The complainant has stated on oath that in India, it had applied for trade mark "TENCENT" for their company





Tencent Holdings Limited vide application no 1583970 dated 25th July 2007 for the period 16th February 2010 to 25th July 2027 and vide application no 3545628 dated 09th May 2017 for the period 07th August 2017 to 09th May 2027 and became registered owner of the trademark.

- 7.1.5 And referring Annex 15, the complainant has stated on oath that Since 1998, the Complainant and its affiliated companies have been advertising TENCENT products and services through its official website [www.tencent.com](http://www.tencent.com) and has been commonly known by the domain name <tencent.com>.
- 7.1.6 And referring to the respondent, the complainant stated on oath that to the best of their (Complainant's) knowledge, the Respondent holds no trademark rights in the disputed domain name. The Complainant has never authorized or licensed the Respondent to use the TENCENT trademark or to use them to register domain name. The Respondent is not affiliated with the Complainant in any way.
- 7.1.7 Referring Annex 17, the complainant has stated on oath that the Respondent resolves the disputed domain name to a website showing the redirected links to websites of the Complainant's competitors.
- 7.1.8 And referring Annex 18, the complainant has stated on oath that the Respondent has engaged in a pattern of conduct of registering others' trademark as domain name. The Respondent has been using the same email account to register various domain names and listed as



respondent in numerous proceedings including INDRP/840 (<zipco.co.in>, INDRP/855 (<futuro.in>), INDRP/1032 (<deloitte.in>) and INDRP/1158 (<catalent.co.in>).

7.1.9 The complainant has stated on oath that there is no indication that the Respondent demonstrated, before notice of the dispute, use of or demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, or that the Respondent is making legitimate noncommercial or fair use of the disputed domain name.

7.1.10 The complainant has stated on oath that the domain name was registered and is being used in bad faith. (Policy, Clause 4(c); Rules, Clause 4(b)(vi)(3)) that - "(1) The Respondent's awareness of the Complainant and its TENCENT trademark suggests the bad faith in registering the disputed domain name."

7.1.11 I am satisfied with the contention of complainant that domain name [www.tencent.in] has been registered in bad faith.

7.1.12 I perused the complaint of the complainant who has stated on oath that the complainant company is offering & engaged in the business since 1998 with their trademark TENCENT.

7.1.13 I am satisfied that the complainant company owns domain www.tencent.com, and also that it is legitimately carrying out business activities in different parts of world including





China, India. The respondent has chosen to abstain despite service thus has not rebutted the submission of the complainant nor rebutted the documents placed on record.

7.1.14 I have perused the whois record placed at Annexure 15 which mentions that the domain www.tencent.com was registered on 13<sup>th</sup> September 1998, and I also perused the whois record of domain tencent.in which was registered on 12<sup>th</sup> July 2014. I thus conclude that the complainant company registered the domain much prior to that of the respondent.

7.1.15 I have perused Annexure 14, where the complainant has placed on record the trademark certificate issued by office of Intellectual Property of India Application no 1583970 dated 25th July 2007 & 3545628 dated 09th May 2017; Further I have perused certificate bearing no 300169506AA issued by Trade Marks Registry, Intellectual Property Department The Government of the Hong Kong Special Administrative Region issued in favour of the complainant company; And again there is not rebuttal by the respondent on the documents placed on record by the complainant. I have perused the Annexure 4, 5, 6, 7 & 8 showing business activities carried out by the complainant & profit earned by it. I also perused Annexure 9, 10, 12 & 13 which shows media report of the complainant company and Annexure 11 showing the google map of the complainant company. After perusing the documents



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placed on record by the complainant I conclude that the complainant is carrying out business activities globally including China, India etc.

7.1.16 I have perused Annexure 18, which are arbitration awards passed in proceedings including INDRP/840 (<zipco.co.in>, INDRP/855 (<futuro.in>), INDRP/1032 (<deloitte.in>) and INDRP/1158 (<catalent.co.in>), wherein the respondent had similarly registered domain name without carrying out any business activities and also the submission of the complainant who stated on oath that the Respondent has engaged in a pattern of conduct of registering others' trademark as domain name. The Respondent has been using the same email account to register various domain names and listed as respondent in numerous.

7.1.17 I have perused Annexure 1, where I found the notice that  
www.pushuo.com|ns2.bodis.com|this-domainname-is-for-sale.com|  
1if.you.want.to.acquire.this.domain.name.please.visit.the.  
website.www.pushuo.com|  
6if.you.want.to.acquire.this.domain.name.please.visit.the.  
website.www.pushuo.com|  
3if.you.want.to.acquire.this.domain.name.please.visit.the.  
website.www.pushuo.com|  
2if.you.want.to.acquire.this.domain.name.please.visit.the.  
website.www.pushuo.com| www.this-domainname-is-for-sale.com|



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5if.you.want.to.acquire.this.domain.name.please.visit.the.  
website.www.pushuo.com|

7if.you.want.to.acquire.this.domain.name.please.visit.the.  
website.www.pushuo.com| pushuo.com|

4if.you.want.to.acquire.this.domain.name.please.visit.the.  
website.www.pushuo.com|ns. It is thus proved that the  
Registrant has registered or acquired the disputed domain  
name primarily for the purpose of selling the domain name  
registration to the Complainant for valuable consideration.

7.1.18 In accordance with INDRP Policy, Paragraph 4(b), I  
conclude that the respondent/ the Registrant has no rights  
or legitimate interests in respect of the domain name as  
the respondent is not carrying out any business activity  
through the name of domain [www.tencent.in] but has  
merely registered the domain to gain monetary benefits  
and is habitually engaged in such activities.

7.2 Analysis of Issue (I) Whether the domain name [www.tencent.in] is  
identical or confusingly similar to a trademark or service mark in  
which the Complainant has rights as claimed under Policy, Clause  
4(a); Rules, Clause 4(b)(vi)(1)?

7.2.1 I have perused the complaint, affidavit & documents and  
am satisfied that respondent has contravened the INDRP  
rules as prescribed by registering domain [www.tencent.in]  
that is identical and/or confusingly similar to trademark  
"tencent" owned by the Complainant since 1998.

7.2.2 After having concluded that the complainant company is  
carrying out its legitimate business activities since 1998,



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whereas the respondent is not carrying put any business activities. And further that as per whois record, the complainant had registered domain [www.tencent.com] on 13<sup>th</sup> September 1998, whereas the respondent got registered domain tencent.in on 12<sup>th</sup> July 2014.

7.2.3 The complainant has stated on oath the distinctive part of the disputed domain name is "tencent", which consists of the Complainant's TENCENT trademark in its entirety. TENCENT is coined and highly distinctive mark created by the Complainant, which could attract Internet users' attention. Reproduction of the Complainant's TENCENT trademark in entirety in the domain name in itself establishes that the domain name is confusingly similar to the Complainant's trademark which are duly registered in many countries including India.

7.2.4 And further stated on oath that given the high popularity of TENCENT, the Complainant finds it inconceivable that the Respondent being a Chinese happened to register the disputed domain name without actual notice of the TENCENT trademark at the time of registration.

7.2.5 And further the complainant has referred following case in favour of their arguments viz. Charming Charlie LLC v. Normand Clavet, Case No. INDRP/859, "...when a disputed domain name incorporates a mark in entirety, it is adequate to prove that the disputed domain name is either identical or confusingly similar to the mark".



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- 7.2.6 I am satisfied with the submission made on oath by the complainant. And that complainant is a bonafide registrant of the domain [www.tencent.com] and is carrying out business activities since 1998 which is much prior to respondent who registered domain [www.tencent.in] i.e. in 2014.
- 7.2.7 I am satisfied with the submission of the complainant that the respondent/ registrant had registered domain name [www.tencent.in] conflicts with his/her legitimate rights and interests of the complainant who owns domain [www.tencent.com] sine 1998 and registered owner of the trademark TENCENT having global presence.
- 7.2.8 I conclude as per paragraph 4(a) of INDRP Policy, that the respondent has contravened the INDRP rules as prescribed by registering domain [www.tencent.in] that is identical and/or confusingly similar to trademark "tencent" owned by the Complainant since 1998.
- 7.3 Analysis of the issue (iii) & (iv) – Discussed together - Whether the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of the Complainant? And Whether the Respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, providing that the Respondent has engaged in a pattern of such conduct ?
- 7.3.1 The complainant has stated on oath that, "there is no indication that the Respondent demonstrated, before notice of the dispute, use of or demonstrable preparations



to use the disputed domain name in connection with a bona fide offering of goods or services, or that the Respondent is making legitimate noncommercial or fair use of the disputed domain name. The Respondent resolves the disputed domain name to a website showing the redirected links to websites of the Complainant's competitors". And further stated that "the disputed domain name resolves to a website with various advertisement links which further direct to the Complainant's competitors' products or services, severely disrupting the Complainant's business (Annex 17)". And further stated that "The Complainant has never authorized or licensed the Respondent to use the TENCENT trademark or to use them to register domain name. The Respondent is not affiliated with the Complainant in any way."

7.3.2 I am satisfied with the submission that the respondent is not carrying out any business activities or non-commercial activities through the domain [www.tencent.in].

7.3.3 I am satisfied that the respondent/ the Registrant has no rights or legitimate interests in respect of the domain name as the respondent is not carrying out any business activity through the name of domain [www.tencent.in] but has merely registered the domain to gain monetary benefits and is habitually engaged in such activities.

7.3.4 The complainant has placed on information record from [www.whois.com] which is placed at Annexure 1 to the complaint giving detail of the domain name name



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[www.tencents.in]; And Annexure 17, wherein the screenshot which shows that respondent has put up re-direction links on the homepage of the their domain [www.tencent.in].

7.3.5 I conclude that Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of the Complainant and I also conclude that Respondent registered the domain name [www.tencent.in] and thus prevented the complainant (i.e. owner of the trademark or service mark) to register the domain name in India.

7.4 Analysis of the issue (v) Relief – the Complainant requests the Administrative Panel appointed in this administrative proceeding that [tencent.in] be transferred to the Complainant.

7.4.1 I have perused the complaint, affidavit & documents/ Annexures placed on record and after analyzing & discussing them in details herein-before concluded that the respondent has no claims, rights or legitimate interests in respect of disputed domain name. I am satisfied and concluded that the respondent has acted in contravention of paragraph 4 of INDRP Policy in entirety.

7.4.2 I thus conclude the final issue i.e. Relief to be settled in favour of the complainant and accordingly I allow the prayer of the complainant to rightfully transfer the ownership of domain name [www.tencent.in] in favour of the complainant.



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8 AWARD

8.1 I AWARD AND DIRECT, that the ownership of domain name [www.tencent.in] be transferred in the name of the complainant.



This is my final award made and published by me on this 28<sup>th</sup> day of February 2021, at New Delhi, the seat of arbitration.

  
Kamal Dave

Sole Arbitrator  
**KAMAL DAVE**  
Arbitrator  
FCI Arb., FAMINZ (Med / Arb), FMI Arb., BA  
LLB., PGD ED/ecommerce, PGD IR & PM, DLL  
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