



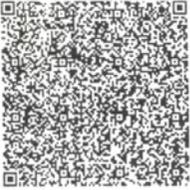
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## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No.	: IN-DL70565254304578T
Certificate Issued Date	: 07-Apr-2021 04:45 PM
Account Reference	: IMPACC (IV)/ dl925103/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL92510341937341626741T
Purchased by	: SHEETAL VOHRA
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: SHEETAL VOHRA
Second Party	: Not Applicable
Stamp Duty Paid By	: SHEETAL VOHRA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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*Sheetal Vohra*

#### 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.
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**BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME DISPUTE  
RESOLUTION POLICY  
INDRP ARBITRATION**

**THE NATIONAL INTERNET EXCHANGE OF INDIA  
[NIXI]**

**INDRP Case No: 1339**

**ARBITRAL TRIBUNAL CONSISTING OF  
SOLE ARBITRATOR**

**DR. SHEETAL VOHRA, LLB, LLM, PHD (LAW)  
ADVOCATE, DELHI HIGH COURT**

**IN THE MATTER OF:**

**Indeed, Inc.**

6433 Champion Grandview Way  
Building 1  
Austin, Texas 78750  
United States of America  
Email: [ipr@archerangel.com](mailto:ipr@archerangel.com)  
Tel: +91-1141954195  
Fax: +91-1141954196

**...Complainant**

VERSUS

**Sunny Rai**

Mahipalpur, New Delhi – 110037  
India  
Ph: +91-8178091195  
Email: [detailsget@gmail.com](mailto:detailsget@gmail.com)

**...Respondent/Registrant**

DISPUTED DOMAIN: <INDEEDCAREER.CO.IN>

**ARBITRATION AWARD**

**COMPLAINT REGARDING DISPUTED DOMAIN NAME  
<INDEEDCAREER.CO.IN >**

*Sheetal vohra*

- I. This Complaint has been submitted for adjudication in accordance with the .IN Domain Name Dispute Resolution Policy (hereinafter, the "INDRP") and the INDRP Rules of Procedure (the "Rules"). The Complainant has submitted a copy of the .IN Domain Name Dispute Resolution Policy as enclosed as **Annexure I**.

II. **The PARTIES**

1. The complainant in these proceedings is **Indeed, Inc.**, having its address at 6433 Champion Grandview Way, Building I, Austin, Texas 78750, United States of America (hereinafter, the "Complainant" or "Indeed").
2. The Complainant's contact details are:

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

Attention: Legal Department  
 E-mail: [ipr@archerangel.com](mailto:ipr@archerangel.com)  
 Tel: +91-1141954195  
 Fax: +91-1141954196

3. The Complainant's authorized representatives in these proceedings are:

- i. Mr. Sanjay Chhabra  
 Archer & Angel  
 #5B, 5th Floor, Commercial Towers  
 Hotel J W Marriot, Aerocity  
 New Delhi - 110037  
 India  
 Tel: +91-1141954195  
 Fax: +91-1141954196  
 Email: [schhabra@archerangel.com](mailto:schhabra@archerangel.com)
- ii. Mr. Bidyut Tamuly  
 Archer & Angel  
 #5B, 5th Floor, Commercial Towers  
 Hotel J W Marriot, Aerocity  
 New Delhi - 110037  
 India  
 Tel: +91-1141954195  
 Fax: +91-1141954196

*Shubra Vohra*

Email: [btamuly@archerangel.com](mailto:btamuly@archerangel.com)

4. The Complainant's preferred method of communication in these administrative proceedings is:

Electronic-only material

Method: E-mail

Address: [schhabra@archerangel.com](mailto:schhabra@archerangel.com)

Contact: Sanjay Chhabra

Address: [btamuly@archerangel.com](mailto:btamuly@archerangel.com)

Contact: Bidyut Tamuly

Material including hardcopies

Method: Post/courier

Address: Archer & Angel  
#5B, 5th Floor. Commercial Towers  
Hotel J W Marriot, Aerocity  
New Delhi, India - 110037

Fax: +91-1141954196

Contact: Sanjay Chhabra  
Bidyut Tamuly

5. It has been submitted that according to the WHOIS database accessed through the .IN Registry website, the Respondent in these administrative proceedings. i.e., the Registrant of the disputed domain <indeedcareer.co.in>, is Sunny Rai. A copy of the WHOIS search result conducted on January 20, 2021 along with details received from NIXI with respect to the disputed domain <indeedcareer.co.in> are enclosed as **Annexure 2**.
6. It has been submitted that the Respondent's contact information, of which the Complainant is aware through the aforementioned WHOIS records is as under:

**Registrant Contact:**

Name: Sunny Rai  
Street: Mahipalpur  
City: New Delhi  
State / Province: Delhi  
Postal Code: 110037  
Country: India

*Shubra Vohra*

Phone: +91-8178091195  
 Email: [detailsget@gmail.com](mailto:detailsget@gmail.com)

**Administrative Contact:**

Name: Sunny Rai  
 Street: Mahipalpur  
 City: New Delhi  
 State / Province: Delhi  
 Postal Code: 110037  
 Country: India  
 Phone: +91-8178091195  
 Email: [detailsget@gmail.com](mailto:detailsget@gmail.com)

**Technical Contact:**

Name: Sunny Rai  
 Street: Mahipalpur  
 City: New Delhi  
 State / Province: Delhi  
 Postal Code: 110037  
 Country: India  
 Phone: +91-8178091195  
 Email: [detailsget@gmail.com](mailto:detailsget@gmail.com)

**III. THE DISPUTED DOMAIN NAME AND REGISTRAR**

7. This dispute concerns the domain name <indeedcareer.co.in> (hereinafter, the "Disputed Domain Name").
8. It has been submitted that the Disputed Domain Name is registered with the domain registrar **Endurance Domains Technology LLP** (hereinafter the "Registrar"). The Registrar's contact information has been provided by the Complainant as under.

PDR Ltd. d/b/a PublicDomainRegistry.com  
 501, IT Building No 3  
 NESCO IT Park, NESCO Complex  
 Western Express Highway, Goregaon (East)  
 Mumbai - 400063  
 Maharashtra, India  
 Tel: +91 (22) 67209000  
 Email: [compliance@publicdomainregistry.com](mailto:compliance@publicdomainregistry.com)

**IV. PROCEDURAL HISTORY**

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January 21 <sup>st</sup> 2021:	Date of Complaint.
February 25 <sup>th</sup> 2021:	The .IN REGISTRY appointed Dr. Sheetal Vohra as Sole Arbitrator from its panel as per paragraph 5 (b) of INDRP Rules of Procedure after taking a signed statement of acceptance and declaration of impartiality and independence.
February 25 <sup>th</sup> , 2021:	Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per Paragraph 4 (c ) of INDRP Rules of Procedure, marking copy of the same to Complainant's authorized representative and to the .IN REGISTRY to file response within 15 days of receipt of same.  As the Respondent failed to file his response within the stipulated 15 days' time period intimated to all parties, the instant award is being passed.

#### **V. RELEVANT TRADEMARKS OF THE COMPLAINANT**

The Complainant has given herein below details of trademarks registered in India: -

<b>Trademark</b>	<b>Application No.</b>	<b>Application Date</b>	<b>Used Since</b>	<b>Class &amp; Specification of Services</b>	<b>Status</b>
<b>INDEED</b>	2044682	October 27, 2010	November 29, 2004	Class 35: Dissemination of advertising for others via the Internet  Class 42: Computer services, namely providing a search engine for obtaining job listings, resume postings, and other job search information via the Internet.	Registered

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indeed	2044681	October 27, 2010	November 29, 2004	Class 35: Dissemination of advertising for others via the Internet  Class 42: Computer services, namely providing a search engine for obtaining job listings, resume postings, and other job search information via the Internet.	Registered
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## VI. FACTUAL AND LEGAL GROUNDS

9. It has been submitted that this Complaint is based on the following grounds:

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

**About the Complainant**

- 10.1 It has been submitted 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. Extracts of webpage highlighting information about Indeed and its services and goods have been collectively enclosed as **Annexure 3**.
- 10.2 It has been submitted that with specific reference to India, the Complainant has ensured significant presence of its brand and trademark **INDEED** in the market through various promotional and advertising activities. In 2017, the Complainant had sponsored the "Talent Acquisition Summit" in Mumbai during which talks were organized by top industry leaders on next generation digital skills. The Complainant has also worked with Yash Raj films, a leading Indian film production company, to integrate its brand and trademark **INDEED** in a film (released in India in March 2018) wherein the Complainant's brand was central to the premise. Extracts or relevant web articles in support or the above submissions have been collectively enclosed as **Annexure 4**.
- 10.3 It has been submitted that as a direct result of its impeccable quality, the Complainant's business has been recognized for its consistency in providing outstanding services. It has been further submitted that the Complainant has been rated as the top source or external hires and interviews by the Human Capital Management company, SilkRoad

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for 6 years in a row. Extracts of a report in support of the above submission have been enclosed as **Annexure 5**.

**The Complainant's INDEED Marks**

- 10.4 It has been submitted that Indeed 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.
- 10.5 It has been submitted that the **INDEED** marks are a distinctive identifier associated with the Complainant and its services and goods. In addition to its extensive common law rights, the Complainant owns trademark registrations for the **INDEED** Marks in different countries worldwide including but not limited to the following:

<b>Trademark</b>	<b>Jurisdiction</b>	<b>Registration No.</b>	<b>Registration Date</b>	<b>Specification of goods and services</b>
Indeed	United States of America	3141242	September 12, 2006	Class 35: Dissemination of advertising for others via the Internet  (first use since November 29, 2004)  Class 42: Computer services, namely, providing a search engine for obtaining job listings, resume postings and other job search information via the Internet.  (first use since November 29, 2004)
	United States of America	3984951	June 28, 2011	Class 35: Dissemination of advertising for others via the Internet  (first use since November 29, 2004)  Class 42: Computer services, namely, providing a search engine for obtaining job listings, resume postings and other

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				job search information via the Internet. (first use since November 29, 2004)
<b>Indeed</b>	United States of America	4282756	January 29, 2013	Class 09: Application software for mobile computing devices, providing an internet search engine for obtaining job listings resume postings, and other job search information.  (first use since November 29, 2004)
<b>Indeed</b>	India	2044682	October 27, 2010	Class 35: Dissemination of advertising for others via the Internet  (first use since November 29, 2004)  Class 42: Computer services, namely, providing a search engine for obtaining job listings, resume postings, and other job search information via the Internet.  (first use since November 29, 2004)
<b>indeed</b>	India	2044681	October 27, 2010	Class 35: Dissemination of advertising for others via the Internet (first use since November 29, 2004)  Class 42: Computer services, namely, providing a search engine for obtaining job listings, resume postings and other job search information via the Internet.

*Shubal Vohra*

				(first use since November 29, 2004)
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It has been submitted that the Complainant's trademark registrations are duly renewed, valid and subsisting. Copies of Registration Certificates for the United States' marks along with extracts of the online records of the Indian Trade Marks Registry for the Indian registrations in support of the above have been collectively enclosed as **Annexure 6**.

The Complainant's Domain name, Website and Social Media Presence

- 10.6 It has been submitted that the Complainant owns the domain name <indeed.com> and operates its corresponding primary website at [www.indeed.com](http://www.indeed.com), through which it conducts a significant portion of its business and where information about indeed and its business is easily accessible and available to millions of internet users, who may be current or potential consumers. It is further submitted that as is evident, the Complainant's domain name in its entirety incorporates its registered trademark **INDEED**, does further augmenting its proprietary rights in the said mark.
- 10.7 It has been submitted that 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**. An extract from the WHOIS database supporting the aforementioned date has been enclosed as an **Annexure 7**. It has been submitted that by virtue of the said domain's association with the Complainant for over 2 decades now it has become synonymous with the Complainant and its business.
- 10.8 It has been submitted that 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. An extract from the WHOIS database supporting the aforementioned date has been enclosed as an **Annexure 8**. It has been submitted that the Indian users are redirected from the Complainant's website at [www.indeed.com](http://www.indeed.com) to [www.indeed.co.in](http://www.indeed.co.in).
- 10.9 It has been submitted that the as a result of and to leverages 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 Amsterdam <indeed.amsterdam>, Austria <indeed.co.at>, Australia <indeed.com.au>, Canada <indeed.ca>, Columbia <indeed.com.co>, Finland <indeed.fi>, France <indeed.fr>, Hong Kong <indeed.hk>, Israel <indeed.co.il>, Ireland <indeed.ie>, Japan <indeed.jp> Morocco <indeed.ma>, Mexico <indeed.com.mx>, New Zealand <indeed.co.nz>, Osaka <indeed.osaka>, Peru <indeed.com.pe> Quebec <indeed.quebec>, South Africa <indeed.co.za>, Singapore <indeed.com.sg> and <indeed.sg>, Sydney <indeed.sydney>, Taiwan <indeed.tw> Tokyo <indeed.tokyo>, Turkey <indeed.com.tr>, Ukraine <indeed.com.ua>, United Arab Emirates <indeed.ae>, United Kingdom <indeed.uk> & <indeed.co.uk> and United States <indeed.us>, through which it lists specific job opportunities in these markets. Relevant extracts from the WHOIS database in support of the above

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submission have been collectively enclosed as **Annexure 9**.

- 10.10 It has been submitted that 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>. Relevant extracts from the WHOIS database in support of the above submission have been collectively enclosed as an **Annexure 10**.
- 10.11 It has been submitted that 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. As of January 2021, the Complainant's Facebook account has been followed by more than 19,15,940 users; its Instagram account has around 1,04,523 followers; its LinkedIn account has around 3,80,323 followers, its Twitter account has 2,47,120 followers and finally its YouTube account has around 198,485,840 views - all of whom 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 Indian and international public. Extracts of relevant web pages in support of the above submissions have been collectively enclosed as an **Annexure 11**.
- 10.12 Further, it has been submitted that 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. Screenshots in support of the above submissions have been collectively enclosed as **Annexure 12**.

#### **Onset of the Present Dispute**

- 10.13 It has been submitted that the Complainant recently learnt of the Respondent's registration of the Disputed Domain Name and use of its corresponding fraudulent website at [www.indeedcareer.co.in](http://www.indeedcareer.co.in) for offering *inter alia* job search and specialised recruiting solutions identical to those of the Complainant. Extracts from the website at [www.indeedcareer.co.in](http://www.indeedcareer.co.in) have been enclosed as **Annexure 13**.

#### **The Disputed Domain Name's Similarity to the Complainant's Right**

- 10.14 It has been 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 and non-distinctive word "CAREER" as a suffix, which - for the reasons outline below - is insufficient for differentiation.
- 10.15 It has been submitted that the Complainant has well-established rights in respect of the **INDEED** Marks which have been recognised and confirmed by NIXI (National Internet Exchange of India). In February 2018, the Learned Arbitrator, in its order

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directing transfer of the disputed domain to the Complainant in **Indeed, Inc. vs Josh Matthews <indeedjob.co.in> (INDRP/948)** observed that:

*“While the Registrant’s domain name contains the term ‘INDEED’ in its entirety, he has just added the generic term ‘CAREER’ to this term. It is noteworthy that the term so added ‘CAREER’ is directly concerned with the main business activity of the Complainant in which it has gained long standing reputation. By adding such word to the registered trademark, the Registrant has cleverly coined the term ‘INDEEDCAREER’ thereby compelling the Internet user do you think that hey it is official website of the complainant.”*

In the INDRP order **Indeed, Inc versus Indeedworld <indeedworld.in> (INDRP/931)** passed in January 2018, the Learned Arbitrator in its decision stated:

*“... it is well settled position that when the relevant trademark is recognizable within the disputed domain name, the addition of any generic or common language turn would not prevent finding off confusing similarity under the first element of you UDRP policy”.*

As recently as in February 2019, the Learned Arbitrator in its order directing transfer of the disputed domain name to the Complainant in **Indeed, Inc v. Indeedworld <indeedworld.in> (INDRP/1059)** held that:

*“... In my opinion owing to the worldwide presence of the Complainant’s business, the term ‘online’ in the disputed domain name could make Internet users to believe that such domain name and the contents originating there from belongs to the Complainant.*

A few other recent disputes where the Complainant has received favourable orders from the present forum are **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. 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.

It has been submitted that the Complainant’s right to the **INDEED** Marks have also been upheld by the **WIPO** (World Intellectual Property Organization) in **Indeed, Inc. v. Wu Yu <indeed.qa> (Case No. DQA2019-0002)** as well as by **Forum** in several arbitration proceedings listed below:-

*Chhetai vohra*

- Indeed, Inc. v. Dinesh Sarang/ Indeed/ Josh Mathews <indeedjobs.live> and <Indeedjob.co> (Case No. 1749207);
- Indeed, Inc. v. Rina Lay <Indeed.co> (Case No. 1693112);
- Indeed, Inc. v. Grace Phillips <Inbeed.co> (Case No. 1727609);
- Indeed, Inc. v. Ankit Bhardwaj / Recruiter <indeedjobz.com> (Case No.1739470);
- Indeed, Inc. Zhiteng Sun <indeed.net> (Case No. 1751940);
- Indeed, Inc. v. Josh Mathews <indeedjob.online> (Case No. 1757559);
- Indeed, Inc. v. Javeed Khan <indeedjob.info> (Case No. 1763184);
- Indeed, Inc. v. Rina Lay <indeed.us.com> (Case No. 1763393);
- Indeed, Inc. v. Rina Lay <indeed.com.co> (Case No. 1765495);
- Indeed, Inc. v. Javeed Khan <indeedjobs.info> (Case No. 1774898);
- Indeed, Inc. v. Darryl Head <Indeed.work> (Case No. 1781091);
- Indeed, Inc. v. Jason Terry <account-indeed.com> (Case No. 1781200);
- Indeed, Inc. v. Alvaro Lemos <indeed.one> (Case No. 1793156);
- Indeed, Inc. v. Richard Turner/ NA <indeedemployersupport.com> (Case No.1801213);
- Indeed, Inc. v. Privacy Protected by Registry <indeed.cam> (Case No.1808978);
- Indeed, Inc. v. Jason Evans <Indeed.cc> (Case No. 1809031);
- Indeed, Inc. v. Rajiv Sharma <indeedgroups.com> (Case No. 1810087);
- Indeed, Inc. v. anurag kumar / abincidal food pvt. ltd. <indeedvacancy.com> (Case No. 1814473);
- Indeed, Inc. v. Domain Admin / Domain Privacy Guard Sociedad Anónima Ltd <indeeded.com> (Case No. 1814504);
- Indeed, Inc. v. JOSENILSON ALVES BELTRAO <secure-indeed.com> (Case No. 1814506);
- Indeed, Inc. v. Mobuilt Jobs <indeedindia.co> (Case No. 1824115);
- Indeed, Inc. v. Priyanka Meena <indeedjobboard.com> (Case No. 1824187);
- Indeed, Inc. v. Sabahat Theem <indeed.llc> (Case. No. 1827762);
- Indeed, Inc. v. Muhammad Ramzan Nasir <job-indeed.com> (Case No.1829894);
- Indeed, Inc. v. Ibile Yankee <indeedjb.com> (Case No. 1841723);
- Indeed, Inc. v. Mark Conway <indeedconsultant.com> (Case No. 1843197);
- Indeed, Inc. v. Anurag Guleria <euro-indeed.com> (Case. No. 1843576);
- Indeed, Inc. v. Rohan Sharma <indeedjobsonline.com> (Case No. 1849110);
- Indeed, Inc. v. Puneet Aggarwal <indeedjobslink.com> (Case No. 1852301);
- Indeed, Inc. v. Sagar Jain/ IT <indeedhubb.com> (Case No. 1853747);
- Indeed, Inc. v. Ethan Smith <indeedvacancies.com> (Case No. 1856393);
- Indeed, Inc. v. Shiva Kumar <indeedstaffingservices.com> (Case No.1856394);
- Indeed, Inc. v. Daniel Wood / dc motors & co <endeededjobs.com> (Case No.1798578);
- Indeed, Inc. v. Umair Arshad <todayindeed.com> (Case No. 1856395);
- Indeed, Inc. v. Aniket Mishra <indeedrecruiter.com> (Case. No. 1873513);
- Indeed, Inc. v. James Nicholson <Indeed.ink> (Case No. 1873700);
- Indeed, Inc. v. James Nicholson <Indeed.art> (Case No. 1878919);
- Indeed, Inc. v. James Nicholson <Indeed.host.> (Case No. 1878920);
- Indeed, Inc. v. Domain Admin / Domain Privacy Guard Sociedad Anonima ltd <inbeeb.com> (Case No. 1882195);
- Indeed, Inc. v. James Nicholson <Indeed.press> (Case No. 1882927);
- Indeed, Inc. v. Dinesh Sarang <indeedjobin.com> (Case No. 1883336);
- Indeed, Inc. v. Pramod Kumar / Pixinfotech <indeedhr.com> (Case No.1888281);
- Indeed, Inc. v. Ram Kc <indeedjobs1.com> (Case No. 1903039);

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- Indeed, Inc. v. Amrita Singh <talentindeed.com> (Case No. 1903041);
- Indeed, Inc. v. Sraddha Damai <surejobindeed.com> (Case No. 1907907);
- Indeed, Inc. v. Muhammad Faisal <indeednyc.com> (Case No. 1907910); and
- Indeed, Inc. v. Josh Mathews <indeedpro.live> (Case No. 1914918)

Copies of the above-mentioned orders have been collectively enclosed as **Annexure 14**.

10.16 It has been submitted that the Disputed Domain Name comprises the Complainant's registered trademark **INDEED** in its entirety. It was held in **Six Continent Hotels, Inc. v. The Omnicorp, WIPO Case No. D2005-1249** that "*the fact that a domain name wholly incorporates a complainant's registered mark is sufficient to establish identity or confusing similarity for purpose of the policy*") (quoting *Oki Data Americas, Inc v. Asd, Inc.com, WIPO Case No. D2001-0903*). Similar lines of reasoning have been adopted in the following cases;

- **Britannia Building Society v. Britannia Fraud Prevention, WIPO Case No. D 2001-0505**
- **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;**
- **Farouk Systems, Inc. v. QYM, WIPO Case No. D2009-1572;**
- **Orange Personal Communications Services Ltd. v. Luttringer Alexander, WIPO Case No. D2008-1979**

10.17 It has been submitted that the addition of the word "CAREER" 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 and on the contrary, enhances the degree of similarity between the rival brands. The word "CAREER" informs the consumers of the nature of the services being offered - which are in fact 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 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 "CAREER" as a suffix to the prior and registered trademark **INDEED** is not sufficient to avoid confusion between the Disputed Domain Name and **INDEED** marks of the Complainant. In this regard it is relevant to mention that in mere search for the words contained in the Disputed Domain Name that is "INDEEDCAREER", on the popular search engine Google.com leads to the Complainant's genuine website. Extracts of the Google search in support of the above submission is enclosed as **Annexure 15**. This result establishes beyond doubt that the two concerned words are associated with the Complainant alone and none else .

10.18 It has been submitted that Complainant has 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 since January 2020, it is vastly subsequent to the Complainant's adoption, usage and statutory

*Shubal Vohra*

rights in the **INDEED** marks globally and in India.

- 10.19 It has been submitted that in the light of the above, the condition in paragraph 4 (i) of the INDRP is fully met by the disputed domain name.

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

- 10.20 It has been submitted that under Paragraph 7 of the INDRP, the following conditions (in particular but without limitation) must be met for the Registrant to have rights or legitimate interest in the disputed domain name:

- Before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services;
- The Registrant has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or
- The Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

It has been submitted that the 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.

- 10.21 It has been submitted that the mere fact that the Disputed Domain Name is registered does not imply that the Respondent has any rights or legitimate interest in them. In **Deutsche Telekom AG v. Phonotic Ltd. (WIPO Case No. D2005-1000)**, it has been held that the "*Registration of a domain name in itself does not establish rights or legitimate interest for purposes of paragraph 4(a)(ii) of the policy*".
- 10.22 It has been submitted that 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*". It is submitted 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 provided.
- 10.23 It has been submitted that 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, as clearly seen in Annexure 15, a general Google search for the string "INDEED CAREER" 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

*Shrua Sharma*

that the Respondent is not known by the Disputed Domain Name. As held in **Alpha One Foundation Inc. v. Alexander Morozov, NAF Case No. 766380**, “*This fact combined with the lack of evidence in the record to suggest otherwise, allows the Panel to rule that the Respondent is not commonly known by the Disputed Domain Name or any variation thereof person to policy 4(c)(ii)*”.

- 10.24 The Respondent has relied in the case of **William Grant & Sons Limited v. Ageesen Sri, Locksbit Corp. / WhoisGuard Protected, WhoisGuard, Inc. (WIPO Case No. D2016-1049)**, wherein the Administrative Panel observed that “*There is no evidence that Respondent was making a bona fide use of the disputed domain names before receiving notice of the dispute or that Respondent has been commonly known by <balvenie.xyz> or <glenfiddich.xyz>. Rather, the Complainant asserts that Respondent is not licensed or otherwise permitted to use Complainant’s marks and that Respondent has no trademarks that incorporate the BALVENIE or GLENFIDDICH marks and has not traded as BALVENIE or GLENFIDDICH. These allegations make out a prima facie case of lack of rights or legitimate interests...*”.
- 10.25 It has been submitted that 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 mark **INDEED**. The Complainant relied on the case of **Six Continent Hotels, Inc. v. Patrick Ory, WIPO Case No. D2003-0098** where in it was held “*There is no evidence of any commercial relationship between the Complainant and the Respondent which would entitle the Respondent to the mark. Consequently, the Panel concludes that the Respondent has no rights nor legitimate interests in the Domain Name given there exists no relationship between the Complainant and the Respondent that would give rise to any license, permission or authorization by which the Respondent could own or use the Domain Name*”.
- 10.26 It has been submitted that the inclusion of the words “INDEED” (registered trademark of the Complainant) and “CAREER” (a word describing the sector in which the Complainant operates and 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 and cash in on such deception. As held in **The Dow Chemical Company v. Hwang Yiyi, WIPO Case no. D2008-1276**, use of a disputed domain name in connection with a website that is “*very similar to the Complainant... intends to mislead the consumer into thinking that the Respondent has some kind of business relationship with the Complainant or it is the Complainant*” and therefore, is not legitimate.
- 10.27 It has been submitted that the Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name. In fact, it is apparent that use of the Disputed Domain Name by the Respondent is an attempt to pass itself off as the Complainant in furtherance of a possible phishing scheme. Use of the Disputed Domain Name in this manner can neither be termed as a *bona fide* offering of services or goods and nor as a legitimate non-commercial or a fair use. It is clear that the Disputed Domain Name has been registered for commercial gain by misleading and diverting consumer 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. The Complaint has relied on **The Sports Authority Michigan, Inc. v. Internet Hosting,**

*Shubal Roha*

**NAF Case No. 124516** where in it was held “*It is neither a bona fide offerings of goods or services not an example of a legitimate non-commercial or fair use under policy 4 (c)(i) and (iii) when the Holder of a domain name that is confusingly similar to an establish mark uses the domain name to earn a profit without approval of the Holder of the mark*”. The Complainant has placed further placed reliance on the case of **Orange Brand Services v. Fayaz/Exuberant Services and Solution Pvt. Ltd. <orangeinfosolutions.in> INDRP/522**, wherein the Learned Panel held that “*the complainant is well known with its trademark due to the strong reputation of the trademarks orange Internet users will apparently and reasonably expect it an offer of the complainant or authorised or affiliated enterprises under the “orangeinfosolutions.in”*”.

- 10.28 It has been submitted that the Complainant enjoys exclusive rights in the word “INDEED” qua its specific services and products. The word “INDEED” *per se*, when considered 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 the websites which either belong to the 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 Marks. Extracts of the Google search in support of the above submission has been enclosed as **Annexure 16**. It has been submitted that the Complainant is therefore protected against all use of its mark **INDEED** (including by the Respondent herein) that dilutes and tarnishes its rights therein.
- 10.29 It has been submitted that in summary, 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 use of the Complainant’s **INDEED** Marks, there is no scenario where in the Respondent can claim to make legitimate non-commercial or fair use of the Disputed Domain Name.
- 10.30 The Complainant has relied on the case of **WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition (“WIPO Overview 2.0”)**, wherein the consensus view has been adopted that “*While the overall burden of proof rests with the complainant, panels have recognised that this could result in the often-impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. Therefore, a complaint 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 shift to the respondent to come forward with appropriate allegation or evidence demonstrating rights or legitimate interest in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complaint is generally deemed to have satisfied paragraph 4 (a)(ii) of the UDRP...*” It has been further submitted that in this present case, the Complainant has amply established the *prima-facie* case for the absence of rights or legitimate interests in the Disputed Domain Name in favour of the Respondent.

Sheela NWA

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

- 10.31 It has been submitted that 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 tradename and mark **INDEED** in conjunction with the descriptive and non-distinctive term "CAREER" 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 should 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 the job postings are genuine and originating from the Complainant itself. The Complainant submits 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.
- 10.32 It has been submitted that the Complainant has acquired significant reputation and substantial goodwill in the employment industry since 2004 and 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 of adoption of an identical trademark or domain name, except in bad faith and with *malafide* intention. Moreover, the Disputed Domain Name was registered in January 2020, that is, post 10 years of filing of trademark applications by the Complainant in India for registration of its **INDEED** Marks and 16 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 **Compagnie Generale des Etablissements Michelin v. Terramonte Corp, Domain Manager (WIPO Case no. D2011-1951)**, it was held that "*it is clear in this Panel's view that at this time the disputed domain name <mchelin.com> was registered, Respondent had actual knowledge of the Complainants pre-existing rights in the MICHELIN trademark. The Panel, therefore, concludes that Complaint has established Respondent registered the Disputed Domain Name bad faith.*" In 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.
- 10.33 It has been submitted that there can be no doubt that the Respondent was aware of the Complainant's **INDEED** Marks when it registered the Disputed Domain Name, which clearly suggests "*opportunistic bad faith*" in violating of the Policy. The Complainant relied on **Morgan Stanley v. M/s Keep Guessing, INDRP/024** ("*Complainant is very*

*Shubra vishu*

well known and has been using his mark for a very long period in his commercial business activities... The respondent must have known about the complainant's mark at the time of registration of his domain name.") as well as on **Orange Brand Services Limited v. Anshul Agarwal / Orange Electronics Pvt. Ltd. <orangeindia.in> INDEP/579** ("Given the fame of the Complainant's trademark and domain name, it is not possible to conceive a use of the same by the Respondent, which would not constitute an infringement of the Complainant's right in the trademark."). It has been further submitted that INDEED is a well-known, internationally recognised and the renowned mark, registered across several territories worldwide. This suggest that 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, which constitute strong evidence of bad faith - **Marriott International, Inc. v. Momm Amed IA, NAF Case No. FA95573.**

- 10.34 The Complainant has placed reliance on **Amazon.com Inc., Amazon Technologies, Inc. v. Giovanni Laporta / Yoyo.Email (WIPO Case No. D2015-0009)**, wherein while directing the transfer of the domain name <amazonsupport.email> to the Complainant, the Administrative Panel held that:

*"A further indication of the Respondent's bad faith under the Policy is the fact that the AMAZON mark predates Respondent's registration of the Disputed Domain Name by (20) years.*

*From the paucity of evidence presented by Respondent on its prospective business plan, the Panel can see no other reason that the desire of Respondent to trade on the well-known, if not famous, AMAZON mark.*

*Therefore, based upon the evidence presented in this proceeding, the Panel finds that Complainant has shown sufficient facts to support a finding that the Disputed Domain Name was registered and used in bad faith pursuant to the policy paragraph 4(a)(iii)."*

It has been submitted that in the present case, as aforementioned, the adoption of the trademark INDEED by the Complainant precedes the registration of the Disputed Domain Name by much over a decade. Therefore, it is clear that the Respondent intended to trade on the reputation of the Complainant and its right in the INDEED marks.

- 10.35 It has been submitted that 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 fake job vacancies, 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. The Complainant relied on **Skype Limited v. SADECEHOSTING.COM Internet Hizmetleri San Tic Ltd Sti (WIPO Case No. 1059477)** wherein it was observed that "*Respondent is using the ... domain name in order to gain access to personal and financial information of Internet users. Such use of the disputed domain name in connection with a phishing scheme qualifies as bad faith registration and use under Policy 4(a)(iii)*".

- 10.36 It has been submitted that even if the Respondent were offering actual online career

*Shweta Sharma*

search and 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. The same was upheld in **Kingston Technology Corp v. c/o Asiakingston.com (WIPO Case No. FA1464515)** where the Panel observed that “*finding use of domain name incorporating Complainant’s trademark in connection with the sale of competing products to constitute bad faith*”.

- 10.37 It has been finally submitted by the Complainant 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.

#### **VII. REMEDY REQUESTED**

11. The Complainant has submitted that it has adequately satisfied the three conditions provided in Paragraph 4 of the INDRP. Therefore, the Complainant requested the arbitrator / panel appointed in these proceedings to issue the necessary directive for the Disputed Domain Name to be transferred to the Complainant.

#### **VIII. OTHER LEGAL PROCEEDINGS**

12. The Complainant has stated that there are no other legal proceedings that have been commenced, are continuing or have been terminated by the Complainant in connection with or relating to the Disputed Domain Name.

#### **IX. CERTIFICATION, UNDERTAKING ETC**

#### **X.**

13. The Complainant by submitting necessary certifications and undertakings.

#### **X DISCUSSION AND FINDINGS:**

I have given considerable thought to the totality of the circumstances in this case and considered all relevant factors in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the Complainant’s mark, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use and (iii) the implausibility of any good faith use to which the domain name may be put. I thereafter have no hesitation to hold that in the present case, all factors are satisfied.

*Shubal Vohra*

I have gone through all the case laws cited by the Complainant as well as the Annexures filed with the Complaint.

I hold that The Respondent's domain name has identical word "INDEED" in the domain. "INDEED" is a registered trademark/ trade name over which the Complainant has statutory rights.

That the disputed domain name registered by the Respondent incorporates the Complainant's well-known INDEED trademarks. The Complainant has merely added suffix "CAREER" which is generic. In fact, the word "CAREER" adds to confusion and deception. This is more so as the Complainant and Respondent are in the same line of business and hence it is apparent that adoption and use of "INDEEDCAREER.CO.IN" is malafide and dishonest. The disputed domain will tarnish goodwill and reputation built by the Complainant.

That the above instance of use of the Complainant's registered trademark is unauthorized and misleading. The mere presence of the descriptive suffix "CAREER" right after the Complainant's registered trademark, "INDEED" will not distinguish the Respondent's disputed domain name as it simply amounts to an assertion that the services available on this domain is either the Complainant's 'brand' or is licensed by the Complainant. Due to the fame and reputation associated with the trademark INDEED, the first impression in the minds of the consumers / end users shall be that the services available on the Respondent's website are provided, authorized, certified, or licensed by the Complainant. It has been held in the case of Lockheed Martin Corporation Vs. Aslam Nadia (INDRP Case No. which held that when the disputed name contains the entirety of the Complainant's trade mark followed by a generic term, the addition of the top-level domain .in will not distinguish the Respondent's disputed domain name.

The Respondent has no rights or legitimate interests in respect of the domain name

The above-mentioned facts make it evident that the Respondent has no legitimate

*Sheela Sharma*

interest in the disputed domain name, rather the sole purpose of the registration is to misappropriate the reputation associated with the Complainant's registered trademark INDEED. The Complainant has not authorized the Respondent to use its trademark/ trade name/trading style. The Respondent has no rights or legitimate interests in the term INDEED. Additionally, there is reference to INDEEDCAREER.CO.IN on the Respondent's domain which is deceptively and confusingly similar to the Complainant's registered trademark INDEED demonstrates the Respondent's intention of commercial use of the website to have unlawful gains. "INDEED" is the Complainant's registered trademark and has been adopted, registered and used by the Complainant in prior point of time. The trademark is exclusively identified with the Complainant and its services. The Respondent is not a licensee or franchisee of the Complainant and has adopted identical term INDEED along with generic term like "CAREER" with a view to ride upon the goodwill associated with the Complainant's trademark INDEED and pass off their goods/services as that of the Complainant.

That Paragraph 7 of the .IN Domain Dispute Resolution Policy (INDRP) provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in a disputed domain name. In the circumstances narrated above I hold that none of them are applicable to the Respondents in present case, as elaborated hereunder:

I find that the disputed domain name has not been used in connection with *bona fide* offering of goods or services by the Respondent. That the domain name has instead been used to offer goods and services in violation of the trademark rights of the Complainant. The Respondent is using the disputed domain name to advertise and promote its services under the disputed domain, misleading the consumers into believing that WWW.INDEEDCAREER.CO.IN is in some manner affiliated to the Complainant by using the identical word INDEED in conjunction with the generic word "CAREER".

That the Complainant has acquired significant reputation and substantial goodwill in the employment industry since 2004 and the Respondent, being in an identical industry and dealing with same or similar services, is bound to have knowledge of

*Abhineti Vohra*

the Complainant herein. Hence, it has no cause of adoption of an identical trademark or domain name, except in bad faith and with *malafide* intention. Moreover, the Disputed Domain Name was registered subsequently and recently i.e. in January 2020, that is, post 10 years of filing of trademark applications by the Complainant in India for registration of its **INDEED** Marks and 16 years of the Complainant actually using its said marks in Commerce. It has been submitted that the Respondent, therefore, again cannot escape the liability of knowledge of the Complainant and its marks and domain. This also proves that the Respondent has registered the disputed domain solely for misleading the consumers. The Respondent has only adopted the domain with the word *INDEED* with the aim to ride on the goodwill of the Complainant. Thus, the question of being known by the domain does not arise in the first place. The Respondent registered the disputed domain name for commercial gain as is clear from the fact that it contains identical word "INDEED" which is registered trademark of the Complainant. The disputed domain is a tool for creating a wrong impression in the minds of consumers of the connect with the Complainant. The disputed domain has been registered for illegitimate commercial purpose or for unfair use by way of attempting to capitalize on the goodwill and reputation of the Complainant. There is a clear intent for commercial gain to misleadingly divert consumers.

I hold that none of the exemptions provided under paragraph 7 of the .IN Domain Dispute Resolution Policy (INDRP) apply in the present circumstances. The Complainant has not authorized, licensed, or permitted the Respondent to register or use the Domain Name or to use the INDEED trademark or phonetic equivalent thereof. The Complainant has prior rights in the trademark INDEED which precedes the registration of the disputed domain name by the Respondent.

That the Complainant has therefore established a *prima facie* case that the Respondent have no rights and legitimate interests in the disputed domain name and thereby the burden of proof shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Domain Name.

The disputed domain name has been registered in bad faith

*Shubal Sharma*

Under paragraph 6(iii) of the IN Domain Dispute Resolution Policy (INDRP), if by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location, it shall be evidence that the Registrant's registration and use of the domain name is in bad faith.

I hold that the disputed domain name contains "INDEED" which is identical to the Complainant's registered trademark INDEED, in which the Respondent cannot have any rights or legitimate interest.

It is clear from the fact that Respondent had registered the disputed domain name for sole purpose of designing the website to mislead consumers. By doing so the Respondent has intentionally attempted create a likelihood of confusion with the Complainant's registered trademark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name. I hold that the trademark INDEED, which was adopted and applied by the Complainant well prior to the registration of the disputed domain, makes it extremely unlikely that Respondent created the disputed domain name independently without any knowledge of Complainant's trademark. This view of mine is fortified by the fact that the parties are in same business.

That it has been consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can itself create a presumption of bad faith and so it opined about the Respondent's registration of the impugned domain name.

The Respondent has failed to come forward with any actual or contemplated good-faith use of the Domain Name the Respondent 'knew or should have known' of the registration and use of the Complainant's prior adopted, prior registered and prior used trademarks before registering the disputed domain name <www.indeedcareer.co.in>. The Complainant is using the trademark INDEED

*Shweta Vohra*

since the year 2004. I note that the Complainant has registration for INDEED and **indeed** trademark classes 35 and 42 which dates back to October 27<sup>th</sup> 2010. The Complainant also has registration of "Indeed" in United States of America having registration date of September 12<sup>th</sup>, 2006. I note that the Complainant's domain name <indeed.com> which 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**. I further note that 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. Further, the Complainant has also set up several other dedicated country-specific domain names and websites in major markets such as Amsterdam <indeed.amsterdam>, Austria <indeed.co.at>, Australia <indeed.com.au>, Canada <indeed.ca>, Columbia <indeed.com.co>, Finland <indeed.fi>, France <indeed.fr>, Hong Kong <indeed.hk>, Israel <indeed.co.il>, Ireland <indeed.ie>, Japan <indeed.jp>, Morocco <indeed.ma>, Mexico <indeed.com.mx>, New Zealand <indeed.co.nz>, Osaka <indeed.osaka>, Peru <indeed.com.pe> Quebec <indeed.quebec>, South Africa <indeed.co.za>, Singapore <indeed.com.sg> and <indeed.sg>, Sydney <indeed.sydney>, Taiwan <indeed.tw> Tokyo <indeed.tokyo>, Turkey <indeed.com.tr>, Ukraine <indeed.com.ua>, United Arab Emirates <indeed.ae>, United Kingdom <indeed.uk> & <indeed.co.uk> and United States <indeed.us>, through which it list specific job opportunities. I also note that 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>.

I hold that the registration by the Respondent of the disputed domain name <www.indeedcareer.co.in> is dishonest and misleading.

I further hold that, the Respondent's registration of the disputed domain name <www.indeedcareer.co.in> is contrary to and is in violation of paragraph 4 of the INDRP Policy.

*Shubal vishna*

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

- that that the Respondent's domain name is misleading to the trademark in which the Complainant has rights.
- that the disputed domain name <www.indeedcareer.co.in > has "INDEED" which is identical to the Complainant's registered trademark **INDEED**.
- that due to the fame of the distinctive and reputation of the trademarks/ domain name / corporate name **INDEED** of the Complainant, the first impression in the minds of the users shall be that the Respondent's website originates from, is associated with, or is sponsored by the Complainant.
- that the Respondent has no rights or legitimate interests in respect of the domain name.
- that none of the exemptions provided under paragraph 7 of the .IN Domain Dispute Resolution Policy (INDRP) apply in the present circumstances.
- that Complainant has not authorized, licensed, or permitted the Respondent to register or use the Domain Name <www.indeedcareer.co.in >
- that the Complainant has prior rights in the trademark / domain name / corporate name which precedes the registration of the disputed domain name by the Respondent.
- that the Complainant has therefore established a *prima facie* case that the Respondent have no rights and legitimate interests in the disputed domain name and thereby the burden of proof shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Domain Name.
- that the disputed domain name has been registered in bad faith
- that the disputed domain name is identical to the acronym of the Complainant's registered trademark in their entirety, in which the Respondent cannot have any rights or legitimate interest.

*General Verma*

That I received no Response / Reply to the Complaint on behalf of the Respondent though proper service was effected to the Respondent's email addresses provided. I am satisfied that the Respondent has received the copy of the Complaint as well as the Order and direction of this Tribunal to submit its reply within 15 days of receipt of the Complaint and the email of the Tribunal. I have therefore proceeded only on the basis of available documents and assertions on the law and facts made before me.

### **DECISION**

- i. In view of the above facts and circumstances, it is clear that the Complainant has succeeded in its Complaint.
- ii. That the .IN Registry of NIXI is hereby directed to transfer the domain name/URL of the Respondent **<www.indeedcareer.co.in>** to the Complainant;
- iii. In the facts and circumstances of the case no cost or penalty is imposed upon the Respondent. The Award is accordingly passed on this 10<sup>th</sup> Day of April 2021.

Place: Delhi

Date: 07.04.2021



Dr. Sheetal Vohra

(PHD Law)

Sole Arbitrator

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