



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi
Page # 1

e-Stamp

Certificate No.	: IN-DL62197415319859T
Certificate Issued Date	: 19-Mar-2021 03:24 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1725912954216183T
Purchased by	: KAMAL DAVE
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: KAMAL DAVE
Second Party	: Not Applicable
Stamp Duty Paid By	: KAMAL DAVE
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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

In the matter of an arbitration between



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Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcllestamp.com' or using e-Stamp Mobile App of Stock Holding.
2. In case of checking the details on this Certificate and as available on the website / Mobile App renders, it invalid.
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GUANGDONG GALANZ ENTERPRISES CO., LTD.

(A Chinese Company)

No. 25 Ronggui Nan Road,

Shunde District, Foshan,

Guangdong, China

E-mail: ipr@vidhani.com

...Complainant

AND

ZHU XUEBING

Chongqing Haotu Agel Ecommerce Ltd.

Chongqing Changzhou Street Huiyuheting 110

Rongchang, Chongqing-402460, China

E-mail: userzxb@qq.com

Also At:

B1, Building 5, Huiyu Building Materials Market,

Xiangyang Road, Changzhou Street,

Rongzhou District, Chongqing

Operating Range, China.

Email: ymggroup@msn.com.

...Respondent

in respect of Disputed Domain Name(s):

[www.galanz.in]

INDRP Case No: 1461

FINAL AWARD

1. **THE PARTIES AND THEIR REPRESENTATIVES**

A. **Claimant :**

GUANGDONG GALANZ ENTERPRISES CO., LTD.



(A Chinese Company)
No. 25 Ronggui Nan Road,
Shunde District, Foshan,
Guangdong, China
E-mail: ipr@vidhani.com

Authorised Representative

.vidhani.com
E-mail: ipr@vidhani.com

B. Respondent

ZHU XUEBING
Chongqing Haotu Agel Ecommerce Ltd.
Chongqing Changzhou Street Huiyuheting 110
Rongchang, Chongqing-402460, China
E-mail: userzxb@qq.com

Also At:

B1, Building 5, Huiyu Building Materials Market,
Xiangyang Road, Changzhou Street,
Rongzhou District, Chongqing
Operating Range, China.
Email: ymgroup@msn.com

2. THE DOMAIN NAMES AND REGISTRAR

- A. The accredited registrar of the disputed Impugned Domain [www.galanz.in] is NIXI Holding Account. The details of the Registrar, are as follows:

Address: 6C, 6D, 6E Hansalaya Building 15,
Barakhamba Road, New Delhi-110001,
E-Mail: registry@nixi.in.



3. THE ARBITRAL TRIBUNAL – APPOINTMENT

- A. As per the records, on 29th November 2021 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.galanz.in].
- B. 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 29th November 2021 and I submitted declaration of impartiality and independence at all times with NIXI.
- C. 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"*.
- D. There is no document/ correspondence on record to show that the Respondent replied to the intimation of arbitration dispute regarding the domain [www.galanz.in].

4. PROCEDURAL HISTORY :

- A. After my appointment as arbitrator by NIXI & intimation to me on 29th November 2021; On 02nd December 2021, the arbitral tribunal communicated the parties through email at their respective registered email addresses, whereby it was directed through Procedural Order No 1 that the mode of communication shall be electronic only except as otherwise specifically stated/ directed. Further the tribunal directed the



parties (viz. complainant & respondent) through the procedural order no 1 to file their respective pleadings- viz. to file the scanned copy of complaint on oath through an affidavit 06th December 2021; And to file physical copy of complaint on oath through an affidavit along-with documents through courier on or before 13th December 2021; the tribunal directed the complainant to file the original & physical copy of delivery report of the email (electronic mail), courier along-with the affidavit of service duly sworn-in before a NOTARY to this effect, on or before 13th December 2021; Further the tribunal directed respondent to file their reply on affidavit duly sworn-in before a NOTARY after receipt of complaint along-with aforementioned documents on or before 22nd December 2021 and serve the copy thereof to the complainant; And it was optional for the complainant to file any rejoinder on or before 27th December 2021 and serve the copy thereof to the respondent; And it was optional for the respondent to file their reply in response to the rejoinder on or before 30th December 2021 and serve the copy thereof to the complainant; And it was further optional for the parties to file their evidence by way of affidavit in support of their claim/ reply which shall be duly sworn-in before a NOTARY to that effect; and thereafter submit the electronic/ scan image and physical copy same before myself on or before 30th December 2021 and shall serve the copy thereof to the other party ; And the parties were at liberty to file their written arguments before myself along-with evidence by way of affidavit i.e. on or before 30th December 2021 and serve the copy thereof to the other party.

- B. The complainant through AR has sent scanned copy of documents with email dated 22nd March 2021. All aforementioned documents have been taken on record.



- C. The AR of the complainant, pursuant to directions the Counsel for the Complainant submitted Affidavit in support of the complaint duly sworn-in by the Counsel for the Complainant and attested by Notary and thus PO1 was duly complied.
- D. The complainant through AR has filed documents regarding service of copy of complaint along-with documents/ annexures, affidavit, through electronically as well as courier. The electronic delivery and copy of courier receipt and tracking report of courier service has been placed on record by the complainant through AR.
- E. The respondent has neither replied to the intimation by NIXI sent on 29th November 2021; Nor to the notice sent on 02nd December 2021 along-with procedural order 1. The complainant through AR has taken steps to serve the respondent through email as well as courier on 02nd December 2021 but the respondent has not replied to notice nor even filed their reply. Therefore I am satisfied that the complainant 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.
- F. 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, the tribunal concluded that proceedings against the respondent to continue ex-parte.
- G. The complainant cannot take benefit from the non-presence of the other party and his claim must stand on merits.



5. PLEADINGS :

- A. The complainant has filed its complaint supported by Affidavit in support of the complaint duly sworn-in by the Counsel for the Complainant and attested by Notary on oath stating/ contending facts & grounds of the case:

FACTUAL BACKGROUND:

- I. That the Complainant through its predecessor Shunde Galanz Electric Appliance Factory Ltd. has been carrying on an old and established business inter alia of manufacturers and merchants of various kinds of home appliances including Washing Machines; Microwave Ovens; Refrigerators, Air Conditioners; Juicers; Mixers; Grinders; Dishwashers; Coffee Grinders; Electric Rice Cookers; Electric Kettle; Cooking apparatus and installations; Cooking utensils; Electric fans for personal use; Electric pressure cooker; Disinfectant apparatus; Electric hair driers; Water heaters; Bread ovens; Dish sterilizers; Gas water heaters; Electric fans; Air purifiers; Anion generators; Electric warmers; Electric pots etc. for the past several years till the same was assigned to the present Complainant in the year 2003. The Complainant shall include its predecessor wherever applicable.
- II. The Complainant Galanz Group was founded on 28 September, 1978 and is a world-class integrated white goods brand enterprise, and one of the most influential leading enterprises in the Chinese household electrical appliances industry. Ever since China's reform and opening-up, Complainant has always insisted on hard work and innovation in development strategy, concentrated on real economy, and focused on household appliances manufacturing. The



Complainant is centered on a vision of building "a centennial enterprise and global brand" GALANZ. With 40 years of entrepreneurship the Complainant has achieved the goal of "keeping a foothold in Guangdong Province, facing the country, and going global", and has taken giant leap from Microwave Oven manufacturing to Microwave Oven Intelligent manufacturing, which has become a comprehensive, leading white goods group, and has always been a business card of Chinese manufacturing in the international market.

- III. The Complainant has the world's largest microwave oven R&D and manufacturing center, as well as the world's leading manufacturing facilities of professional air conditioners, refrigerators, washing machines, dishwashers, electric ovens, juicer mixers grinders and other household appliances. Apart from a national microwave oven laboratory, the Complainant has the industry-leading integrated multi-functional laboratories for big white goods projects such as air conditioners, washing machines, and dishwashers. In addition to the R&D center in the Chinese headquarters, the Complainant is also actively seeking cooperation with local professional research institutions and R&D centers of established enterprises in the United States, Japan, Korea, Europe and other countries and regions. The Complainant has set up branches in Hong Kong, China and North America, founded R&D Center in Japan and has opened offices in the United Kingdom, Russia and other countries, and established distribution centers in nearly 200 countries and regions around the world including India.



- IV. The Complainant has already fully mastered the core technologies and core self-supporting capacities of white goods such as microwave ovens, air conditioners, washing machines, juicers mixers grinders etc. The core components independently developed such as magnetrons, compressors, and transformers also take a lead in the industry. Over the years, the Complainant has persisted in indigenous innovation and has been fully committed to creating a low-carbon economic development model, and has built the world's largest single plant distributed photovoltaic power generation project in the Zhongshan Green Plant.
- V. With the comprehensive development of the enterprise, the Complainant's independent R&D capabilities have been strengthened constantly. By 2014, the Complainant has accumulatively applied for more than 1,900 patents domestically and internationally, and owned over 1,600 authorized patents at home and abroad, more than 80 of which are invention patents. At present, the Complainant has already built up a complete research and product development system for basic technologies of white goods, and several postdoctoral workstations and national laboratories. Till date the Complainant has become the 'National High-Tech Enterprise', "National Torch High-Tech Enterprise", "National Demonstration Enterprise in Integration of Information Technology and Industrialization", "High-Tech Enterprise in Guangdong Province", "Guangdong Provincial Enterprise Technical Center", and "Microwave Heating Engineering R&D Center in Guangdong Province".
- VI. That in 2014 China Daily ranked it as #8 of the top ten home appliance makers in China. In 1993, Complainant made a deal with



Toshiba for producing OEM Toshiba-branded microwave ovens, which Complainant later purchased the appliance division from Toshiba, in return for Toshiba holding a 5% stake. Over the years, Complainant has expanded its product line to include air conditioners, washing machines, toaster ovens, refrigerators, juicers mixers grinders and other home appliances. The company currently has production bases in Zhongshan City and Shunde District of Foshan City and employs over 20,000 people and has won several national and international awards under the name of the enterprise i.e. GALANZ like- Global Innovation Award in Kitchen Blectrics-2018, Technical Innovation Award-2016, The most Influential Chinese Brand, Top 500 Private Manufacturing Enterprises in China, NPS Chinese Customers most Recommended Brand etc. and the relevant evidence is enclosed herewith as ANNEXURE B (Colly).

VII. That the present Complainant is the subsequent owner of the distinctive mark GALANZ in respect of the aforesaid goods which are manufactured and sold by the Complainant. The said mark was adopted by the Complainant on 1992. The trade mark GALANZ also forms the essential part of the corporate name of the Complainant.

VIII. That the aforesaid trade mark GALANZ of Complainant has been in continuous use in respect of said goods mentioned herein above since the year 1992. The products of the Complainant are being sold throughout the world including India. The trade mark GALANZ has enjoyed a high reputation, and has grown into well-known trade mark in various countries. The said trade mark GALANZ was originally adopted and used by Shunde Galanz Electric Appliance Factory Ltd. The said trade mark was assigned to the resent Complainant vide



assignment deed dated 1% August, 2003. The Complainant is the proprietor of the trade mark GALANZ in India as per details given below:~

Trade Mark	Application No.	Class	Description of Goods/Services	Status
GALANZ	830826	11	Microwave Ovens, Bread Ovens, Electric Toaster Ovens, Electric Rice Cookers, Refrigerators, Air Conditioners, Dish Sterilizers, Gas Water Heaters, Electric Fans, Air Purifiers, Anion Generators, Electric Warmers, Electric Hair Driers, Electromagnetic Ovens, Electric Pots included in class 11.	Registered

GALANZ	2268929	7, 35 & 37	<p>Class 7 - Washing machines; Wringing machines for laundry; Dishwashers; Fruit presses, electric, for household purposes; Blenders, electric, for household purposes; Grinders and/or crushers, electric, for household purposes; Coffee grinders, other than hand-operated; soybean milk maker; Whisks, electric, for household purposes; Dust exhausting installations for cleaning purposes; Ironing machines; Compressed air machines.</p> <p>Class 35 - Outdoor advertising; Dissemination of advertising matter; Marketing research; Import-export agencies.</p> <p>Class 37 - Repair information; Electric appliance installation and repair; Air conditioning apparatus installation and repair; Freezing equipment installation and repair; Kitchen equipment installation and repair; installation and maintenance of sanitary apparatus; installation and maintenance of bathing apparatus; Heating equipment installation and repair; Vehicle repair; Motor vehicle maintenance and repair.</p>	Registered
GALANZ	3803695	11	Microwave ovens; Air conditioners; Electric rice cookers; Electric toaster ovens; ovens; Electric Kettle; Electromagnetic ovens; Refrigerators; Cooking apparatus and installations; Cooking utensils; Cooking utensils, electric; Electric fans for personal use; Electric pressure cooker; Disinfectant apparatus; Electric hair driers; Water heaters; Bread ovens; Dish sterilizers; Gas water heaters; Electric fans; Air purifiers; Anion generators; Electric warmers; Electric pots.	Pending



The registered trade mark under no. 2268929 is valid subsisting and in force. The request for renewal along with interlocutory petition is pending disposal under registered trade mark no. 830826. The status page of these applications as available on the Intellectual Property India Website and the copies of the trade mark applications filed and Registered before the Trade Mark Office are collectively enclosed herewith and marked as ANNEXURE C (Colly).

The Complainant is having 171 registered trade mark for trade China alone and 149 registered trade marks in various countries across the globe and has applied for 35 new trade marks across various countries and the list of the said trade marks is enclosed as j ANNEXURE D (Colly) some of which are mentioned below: -

Trade Mark	Country	Classes	Application No.	Status
GALANZ	OAPI	7, 9 & 11	60767	Regd.
GALANZ	EUIPO	11, 35 & 37	6464994	Regd.
GALANZ	China	7	670508	Regd.
GALANZ	China	11	670458	Regd.
GALANZ	Madrid Agreement	7, 11 & 12	660978A	Regd.

- IX. The trade mark of the Complainant has acquired a very valuable good will and reputation on account of colossal sales and huge publicity given by the Complainant. That the Complainant is the true adopter and registered proprietor of the mark GALANZ. Since 1992, the Complainant has been using the said trade mark GALANZ in relation to their aforesaid goods. The trade mark GALANZ is a widely reputed mark and enjoys enviable cross border reputation associated with Complainant. Consequently, the products of the Complainant under the said trade mark are known, distinguished and demanded



and sold with reference to the said trade mark GALANZ. The mark of Complainant is a well-known mark across globe. The Complainant regularly participates in International Trade Fairs, world Trade Expos etc. to further ensure and substantiate its international presence, relevant evidence for the same is enclosed herewith as ANNEXURE E (Colly). The Complainant is a celebrated exporter and Exports-Distributes goods all across the globe, including India and has won various awards for export like 2016- 2020 China top ten small kitchen appliances export companies, 2016- 2020 top 10 home appliances export enterprises with self-owned Chinese brands, 2016-2020 China Top 10 refrigerators and freezers export companies, relevant evidence for the same is enclosed herewith as ANNEXURE F (Colly). The trade mark GALANZ and are also sold on various e-commerce websites like Flipkart, Amazon and screenshots of the same are enclosed herewith as ANNEXURE G. The Complainant is also the owner of the following domain names:

1	Russia	galanz.com.ru
2	Japan	galanz.jp
3		galanz.co.jp
4	Mexico	galanzmexico.com
5		galanzmexico.com.mx
8	European Union	willz.eu
9	Canada	galanz.ca
10	Chile	galanz.cl
12	India	galanz-india.com
13		galanzindia.com
14		galanzindia.in



X. The Complainant being an IP Savvy organization has been taking all necessary and vigilant steps to secure its trade mark rights over its mark GALANZ both in India and other countries. In the direction of protecting its rights the Complainant filed a complaint with the Canadian Internet Registration Authority (CIRA) having file no. - DCA-2185-CIRA and has successfully sought the transfer of the domain name www.galanz.ca. A copy of the judgement of CIRA is enclosed herewith as ANNEXURE H. The Complainant submits that it has statutory rights over the mark GALANZ (registered in India) and due to continuous and uninterrupted use and widespread presence in trade channels both online and offline, the Complainant has also acquired common law rights over the mark GALANZ. Owing to substantial investment in advertisements and promotions and tireless work and efforts of the applicant, the mark GALANZ has become a distinctive identifier of the Complainant and the public at large associate the mark GALANZ exclusively with the Complainant. The evidences with respect to the promotion of the mark are enclosed herewith and marked as ANNEXURE I. In BAA PLC, Aberdeen Airport Limited v. Mr. H Hashimi Case No. D2004-0717, the WIPO Panel found that the complainant has common law rights over the mark Aberdeen Airport. Therefore, the Complainant reiterates that it holds both statutory and common law rights over the mark GALANZ. By virtue of the widespread trade presence and continuous, extensive and uninterrupted use, the Complainant



submits that the mark GALANZ has acquired substantial recognition amongst the Indian and International public. The Complainant submits that the mark GALANZ is exclusively associated with the Complainant. Any use of the said mark by any third party will mislead the public to believe that the Complainant has authorized him/her to use such marks or there exists an association between the Complainant and such party, The Complainant submits that the mark GALANZ is known among the substantial segment of the public and therefore, qualifies to be called a well-known mark under the provisions of the Trade Marks Act, 1999. Given the aforesaid background and facts, the Complainant humbly submits that the following are the grounds for this Complaint:

B. GROUNDS

- I. The complainant contended under the head, "*The Impugned Domain is identical or confusingly similar to trade mark of the Complainant in which the Complainant has the statutory and /or common law rights:*"
 - *The Complainant humbly submits that the domain www.galanz.in registered by the Respondent is identical to the Complainant's mark GALANZ and the Respondent has attempted clandestine adoption of the Complainant's mark and trade name by registering the exact same domain www.galanz.in.*
 - *The Complainant submits that the Respondent is not associated with the Complainant in any manner and it has never granted any permission or authorization to the Respondent to use any of its mark, including GALANZ. The Complainant submits that the registration and use of the impugned domain is a violation of the trade mark rights held by the Complainant in the mark GALANZ.*



- The impugned domain comprises of the Complainant's trade mark in its entirety and is therefore capable of creating confusion or deception as to the source of origin of such domain and creates an irrefutable impression of an association, sponsorship or relationship between the Complainant and the Respondent. The similarity in the name may lead an unwary user of the internet of average intelligence and imperfect recollection to assume a business connection between the Complainant and Respondent as recognized by the Supreme Court in *Satyam Infoway Ltd. v. Siffynet Solutions (P) Ltd.* (2004) 6 SCC 145. Moreover, any person who is seeking information about the Complainant may type the impugned domain into his/her web browser expecting to be connected with a website operated by the Complainant and not a third party like the Respondent.
- The Complainant submits that the addition of top-level domain '.in' is irrelevant in determining whether the disputed domain name is confusingly similar to the complaint's mark. It is established that the specific top-level domain, such as ".com", ".in", ".co.in", ".org.in" etc. does not affect the domain name for the purpose of determining whether it is identical or confusingly similar and the same has been held in various cases like *Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO case No. D2000-1525; *Rollerblade, Inc. v. Chris McCrady*, WIPO case No. D2000-0429; *Aon PLC and Ors. v. Guanrui*, INDRP/633. In *Kaviraj Pandit Durga Dutt Sharma vs. Navaratna Pharmaceutical* [1965 AIR 980] it was held that "Where two marks are identical no further question arise; for then the infringement is made out." And in the



present case the impugned domain is word to word copy of the Complainant's mark GALANZ hence it is conclusively established in a cogent, coherent and unimpeachable manner that the impugned domain www.galanz.in is violative of the statutory provisions of the act and of common law rights acquired by the Complainant hence the impugned domain should be suspended, cancelled and/or should be handed over to the Complainant.

- In light of the abovementioned submissions and contentions, the Complainant humbly reiterates that the Impugned Domain is identical or confusingly similar to Complainant's marks in which the Complainant holds statutory and common law rights.
- II. The complainant contended under the head, "The Respondent has no fair or legitimate interests in the Impugned Domain"
- The Complainant humbly submits that the Respondent neither has any legitimate interests in the Impugned Domain nor is making any legitimate, non-commercial or fair use of the Impugned Domain. The Complainant has never authorized the Respondent to register or use the impugned domain in any manner whatsoever. The Complainant humbly submits that the Respondent either as an individual, business or organization is not known under the name GALANZ or under any similar name. A Google Search conducted for the term GALANZ has not provided any search results pertaining to the Respondent or his activities under the impugned domain. The copy of the Google Search Result for the term GALANZ is enclosed herewith and marked as ANNEXURE J. The perusal of Annexure J clearly indicates that the Respondent is not commonly known under the name GALANZ or has any fair or



legitimate reason to adopt the same. In BAA PLC, Aberdeen Airport Limited v. Mr. H Hashimi Case No D2004-0717, the WIPO Panel found that the Respondent had no legitimate rights or rights over the disputed domain as the Respondent (or any individual, business or other organization with which she may be associated) was not commonly known by the disputed domain.

- *Further, a search conducted on the online database maintained by the Indian Trade Mark Office uncovered that the Respondent never applied for or registered the mark GALANZ for trade mark protection. The Complainant humbly submits that the Complainant has no connection with the Respondent and has not licensed or otherwise permitted the Respondent to use its mark GALANZ or to register the Impugned Domain that incorporates Complainant's trade mark in its entirety. The Respondent is hereby called upon to explain how he holds any legitimate right or interest in the Impugned Domain. In light of the conclusive documentary evidences enclosed along with this Complaint, the Complainant humbly submits that the onus is on the Respondent to prove that he has legitimate interests or rights over the Impugned Domain. In Sydney Airport Corporation v. John Crilly Case No- D2005-0989, the WIPO Panel held that as the Respondent had appropriated the Complainant's name, the prime facie assumption was that the Respondent did so for an illegitimate purpose. The Complainant further submits that the Respondent has neither made a legitimate use of the impugned domain nor done any demonstrable preparations for using the impugned domain. The Complainant states that the Respondent after seeing the huge trade and market*



presence of the mark GALANZ, registered the impugned domain on June, 2016 with the sole intention of earning illegal profits by selling the impugned domain. The Complainant submits that the Respondent has not used the impugned domain till date and have not even taken any demonstrable preparations to use the impugned domain. The Complainant submits that a person who is visiting the impugned domain will only witness some links of redirection to some random search result page of some home appliance on a browser hijacking search engines like izito, Visymo, zapmeta etc. and also the impugned domain has links for redirection to some random websites domain will only witness some links of redirection to some random websites related to home appliances like that of an oven company from Italy. It is submitted that none of the redirected websites or search engines are related to the Respondent in any way and their domain ownership lies with other people and not the Respondent. The screen shot of the impugned domain along with redirected pages and websites from the impugned domain is enclosed herewith and marked as ANNEXURE K. Moreover, the Respondent has not used the website and has just planted ads of the competitors of the Complainant in the home appliance industry. In light of the aforementioned facts and circumstances the Complainant states that the Respondent has never developed any website at the impugned domain and is therefore not using the impugned domain in connection with any bona fide offering of any goods or services. The Complainant submits that a passive holding of a domain does not constitute legitimate non-commercial or fair use of the



impugned domain. In Master Card International Incorporated v. North Tustin Dental Associates Case No D2007-1412, the WIPO panel held that Respondent holds no right or legitimate interests over the disputed domain as he has not developed any website at the domain and is therefore not using the domain in connection with offering any goods or services.

- In light of the abovementioned facts and submissions, the Complainant humbly submits that the Respondent has no legitimate interests in the Impugned Domain and is not making any legitimate, non-commercial or fair use of the impugned domain.*

III. The complainant contended under the head, "*The Impugned Domain was registered in Bad Faith*"

- The Complainant submits that the registration of the Impugned Domain indicates the opportunistic behavior and bad faith of the Respondent. The Complainant submits that given the fame and popularity of the Complainant's trade mark, no person or entity may adopt an identical or deceptively/confusingly similar domain like the Impugned Domain, unless to create a false impression of association with the Complainant or to sell the Impugned Domain and earn illegal and unjustified profits. In Instituto Roberto Sampaio Ferreira v. Maria Cristina de Souza Macedo Case No. D2012-2400, WIPO Arbitration and Mediation Centre found that by using the domain name respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's web site or location or of a product*



or service on Respondent's web site or location, that circumstance shall be evidence of the registration and use of the disputed domain name in bad faith.

- The Complainant humbly submits that the Respondent has registered or acquired the Impugned Domain primarily for the purposes of selling the Impugned Domain either to the Complainant or to a competitor. Putting up links strictly in relation to home appliances Complainant uses the mark GALANZ in direct relation to home appliances further substantiates the ill-intention and that registration was done in bad faith just to ride upon the goodwill and reputation of the Complainant and to dilute the mark and hurt its reputation and sell the domain name to the Complainant or his competitor at some future date. The Screenshots of the home page of the website of the impugned domain name with links redirected pages and websites is enclosed as part as part of ANNEXURE K.
- The Complainant submits that the Respondent is not using the impugned domain name then too has updated the impugned domain with the sole intention of holding it for selling at some future date.
- That the Respondent habitually adopts famous and commercially successful trade marks in bad faith and represent them as its own to deceive the general public and dwell illegal profits out of it. The Respondent has also registered the domain name www.frooti.in, which is a renowned and famous trade mark across India and abroad and the Respondent has registered the domain which



merely comprises of the links to other websites, thus having same modus operandi like in www.galanz.in.

- In light of the aforementioned facts and submissions, the Complainant humbly states that the Respondent's action of registering and using the impugned domain www.galanz.in is in bad faith and is with the sole intention of gaining illegal profits at the Complainant's expense.*

IV. The complainant sought remedies under the head - "REMEDIES REQUESTED" : In furtherance to the facts and grounds submitted in Paragraph VII & VIII of this Complaint, the Complainant humbly prays and seeks the transfer of the impugned domain www.galanz.in in and to the name of the Complainant along with any costs as may be deemed fit by the Ld. Arbitrator.

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

D. From the complaint following issues have been framed :

6. The Issues :

- A. Whether the Impugned Domain [www.galanz.in] is identical or confusingly similar to trade mark of the Complainant in which the Complainant has the statutory and /or common law rights?
- B. Whether the Respondent has no rights or legitimate interests in respect of the impugned domain name [www.galanz.in] ?
- C. Whether the impugned domain name [www.galanz.in] is being used in bad faith?
- D. Relief – *REMEDIES REQUESTED* : *The Complainant most humbly prays that:*



(a) In furtherance to the facts and grounds submitted in the Complaint, the Complainant humbly prays and seeks the transfer of the impugned domain [www.galanz.in] in and to the name of the Complainant along with any costs as may be deemed fit.

7. Analysis of the issues on Merit

- A. Whether the Impugned Domain [www.galanz.in] is identical or confusingly similar to trade mark of the Complainant in which the Complainant has the statutory and /or common law rights?
- I. I have perused the complaint, affidavit of the counsel of the complainant & documents/ Annexures placed on record. From the submissions made in complaint and perusal of Annexures, it is apparent that the complainant has obtained Trademark certificates from Intellectual Property Office in India & other countries worldwide.
 - II. I am thus satisfied that the complainant is the lawful owner of the trademark and is carrying out business activities under the trademark GALANZ.
 - III. I have perused the submissions of the complainant. I am satisfied respondent have adapted the trademark "GALANZ" in violation of complainant's exclusive right to use the trademark "GALANZ".
 - IV. The respondent has abstained from the arbitral proceedings despite service to contradict the submissions of the complainant.
 - V. I conclude that the domain name [www.galanz.in] is identical and confusingly similar to the trademark "GALANZ" over which the Complainant has rights and thus has contravened the Paragraph 4(a) of INDRP Policy.



B. Whether the Respondent has no rights or legitimate interests in respect of the impugned domain name [www.galanz.in] ?

I. I have perused the complaint, affidavit & documents/ Annexures placed on record and their submissions:

- *The Complainant humbly submits that the Respondent neither has any legitimate interests in the Impugned Domain nor is making any legitimate, non-commercial or fair use of the Impugned Domain. The Complainant has never authorized the Respondent to register or use the impugned domain in any manner whatsoever. The Complainant humbly submits that the Respondent either as an individual, business or organization is not known under the name GALANZ or under any similar name. A Google Search conducted for the term GALANZ has not provided any search results pertaining to the Respondent or his activities under the impugned domain. The copy of the Google Search Result for the term GALANZ is enclosed herewith and marked as ANNEXURE J. The perusal of Annexure J clearly indicates that the Respondent is not commonly known under the name GALANZ or has any fair or legitimate reason to adopt the same. In BAA PLC, Aberdeen Airport Limited v. Mr. H Hashimi Case No D2004-0717, the WIPO Panel found that the Respondent had no legitimate rights or rights over the disputed domain as the Respondent (or any individual, business or other organization with which she may be associated) was not commonly known by the disputed domain.*
- *Further, a search conducted on the online database maintained by the Indian Trade Mark Office uncovered that the Respondent never applied for or registered the mark GALANZ for trade mark*



protection. The Complainant humbly submits that the Complainant has no connection with the Respondent and has not licensed or otherwise permitted the Respondent to use its mark GALANZ or to register the Impugned Domain that incorporates Complainant's trade mark in its entirety. The Respondent is hereby called upon to explain how he holds any legitimate right or interest in the Impugned Domain. In light of the conclusive documentary evidences enclosed along with this Complaint, the Complainant humbly submits that the onus is on the Respondent to prove that he has legitimate interests or rights over the Impugned Domain. In Sydney Airport Corporation v. John Crilly Case No- D2005-0989, the WIPO Panel held that as the Respondent had appropriated the Complainant's name, the prime facie assumption was that the Respondent did so for an illegitimate purpose. The Complainant further submits that the Respondent has neither made a legitimate use of the impugned domain nor done any demonstrable preparations for using the impugned domain. The Complainant states that the Respondent after seeing the huge trade and market presence of the mark GALANZ, registered the impugned domain on June, 2016 with the sole intention of earning illegal profits by selling the impugned domain. The Complainant submits that the Respondent has not used the impugned domain till date and have not even taken any demonstrable preparations to use the impugned domain. The Complainant submits that a person who is visiting the impugned domain will only witness some links of redirection to some random search result page of some home appliance on a browser hijacking search engines like izito, Visymo,



zapmeta etc. and also the impugned domain has links for redirection to some random websites related to home appliances like that of an oven company from Italy. It is submitted that none of the redirected websites or search engines are related to the Respondent in any way and their domain ownership lies with other people and not the Respondent. The screen shot of the impugned domain along with redirected pages and websites from the impugned domain is enclosed herewith and marked as ANNEXURE K. Moreover, the Respondent has not used the website and has just planted ads of the competitors of the Complainant in the home appliance industry. In light of the aforementioned facts and circumstances the Complainant states that the Respondent has never developed any website at the impugned domain and is therefore not using the impugned domain in connection with any bona fide offering of any goods or services. The Complainant submits that a passive holding of a domain does not constitute legitimate non-commercial or fair use of the impugned domain. In Master Card International Incorporated v. North Tustin Dental Associates Case No D2007-1412, the WIPO panel held that Respondent holds no right or legitimate interests over the disputed domain as he has not developed any website at the domain and is therefore not using the domain in connection with offering any goods or services.

- II. I am satisfied that respondent, by using the trademark "GALANZ", are violating rights or legitimate interests of the complainant who have exclusive right to use the trademark "GALANZ".



III. The respondent has abstained from the arbitral proceedings despite service to contradict the submissions of the complainant.

IV. After analyzing the submissions & details made herein-before and the documents placed on record, I conclude that the respondent has no claims, rights or legitimate interests to use the trademark "GALANZ" in respect of carrying out business from the disputed domain name [www.galanz.in]. I am satisfied and conclude that the respondent has acted in contravention of paragraph 4(b) of INDRP Policy.

C. Whether the impugned domain name [www.galanz.in] is being used in bad faith?

I. I have perused the complaint, affidavit & documents/ Annexures placed on record. I have also perused the submissions, particularly

- *The Complainant submits that the registration of the Impugned Domain indicates the opportunistic behavior and bad faith of the Respondent. The Complainant submits that given the fame and popularity of the Complainant's trade mark, no person or entity may adopt an identical or deceptively/confusingly similar domain like the Impugned Domain, unless to create a false impression of association with the Complainant or to sell the Impugned Domain and earn illegal and unjustified profits. In Instituto Roberto Sampaio Ferreira v. Maria Cristina de Souza Macedo Case No. D2012-2400, WIPO Arbitration and Mediation Centre found that by using the domain name respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or*



endorsement of Respondent's web site or location or of a product or service on Respondent's web site or location, that circumstance shall be evidence of the registration and use of the disputed domain name in bad faith.

- The Complainant humbly submits that the Respondent has registered or acquired the Impugned Domain primarily for the purposes of selling the Impugned Domain either to the Complainant or to a competitor. Putting up links strictly in relation to home appliances Complainant uses the mark GALANZ in direct relation to home appliances further substantiates the ill-intention and that registration was done in bad faith just to ride upon the goodwill and reputation of the Complainant and to dilute the mark and hurt its reputation and sell the domain name to the Complainant or his competitor at some future date. The Screenshots of the home page of the website of the impugned domain name with links redirected pages and websites is enclosed as part as part of ANNEXURE K.*

- II. And after perusing Annexures on placed record, it is apparent that the complainant company is bonafide owner of trademark "GALANZ" and is carrying out business activities, however, the respondent is not offering any goods or services nor carrying out any business activities and is taking illegal benefit from the goodwill of the complainant company. I am satisfied that respondent have registered domain name using the trademark "GALANZ" contravening the exclusive rights of the complainant over the trademark "GALANZ" and the registration of the Impugned Domain [www.galanz.in] has*



been done in bad faith and with dishonest intention to mislead the innocent public.

- III. The respondent has abstained from the arbitral proceedings despite service to contradict the submissions of the complainant.
- IV. After analyzing the submissions & details made herein-before and the documents placed on record, I conclude that the the domain name [www.galanz.in] is registered and being used in bad faith by the respondent. I further conclude that the respondent has acted in contravention of paragraph 4(c) of INDRP Policy.

D. Remedies Requested – *“REMEDIES REQUESTED : In furtherance to the facts and grounds submitted in Paragraph VII & VIII of this Complaint, the Complainant humbly prays and seeks the transfer of the impugned domain www.galanz.in in and to the name of the Complainant along with any costs as may be deemed fit by the Ld. Arbitrator”.*

- I. Analysis of the issue (D) Relief – Regarding the prayer for relief as prayed, I have perused the complaint, affidavit & Annexures placed on record and after analyzing them in details herein-before I have concluded that the respondent has acted in contravention of paragraph 4 of INDRP Policy in entirety. I thus conclude the issue i.e. Relief to be settled in favour of the complainant and accordingly I allow the prayer of the complainant to transfer the ownership of domain name [www.galanz.in] in favour of the complainant.
- II. Regarding the prayer for relief as to award of cost, I conclude that the parties to bear their own costs.



8. AWARD

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

This is my final award made and published by me on this 27th day of January 2022, at New Delhi, the seat of arbitration.



KAMAL DAVE
Arbitrator
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