



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

₹100

e-Stamp

Certificate No. : IN-DL24987243967985V  
Certificate Issued Date : 23-Jun-2023 11:42 AM  
Account Reference : IMPACC (IV)/ di914503/ DELHI/ DL-DLH  
Unique Doc. Reference : SUBIN-DL91450319476552404614V  
Purchased by : SUDHIR KUMAR SENGAR  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : SUDHIR KUMAR SENGAR  
Second Party : Not Applicable  
Stamp Duty Paid By : SUDHIR KUMAR SENGAR  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



Please write or type below this line

IN-DL24987243967985V

INDRP ARBITRATION

THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]

ADMINISTRATIVE PANEL DECISION

SOLE ARBITRATOR: SUDHIR KUMAR SENGAR

LENOVO (BEIJING) LTD

Vs

RAJ KUMAR

ARBITRATION AWARD Disputed Domain Name: <lenovoindia.co.in>

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

*Sudhir Kumar Sengar*  
26/6/23



## 1. The Parties

The Complainant in this administrative proceeding is LENOVO (BEIJING) LIMITED, 201-H2-6 2nd Floor, Building 2, No. 6 Shangdi West Road, Haidian District, 100085 Beijing, China .The Complainant is represented by Ms Natasha Bali, ZeusIP Associates LLP , (Email: nbali@zeusip.com, Telephone: +91-120- 4537000; 4360644).

The Respondent is Raj Kumar, 3 ADYAR, CHENNAI, Tamil Nadu-600042 (Telephone:+91.956219995,E-Mail: info@lapstoreindia.com)

## 2. Domain Name and Registrar

(i) The disputed domain name is <lenovindia.co.in>.

(ii) The Registrar with whom the domain name is registered is GODADDY LLC, Tamil Nadu

## 3. Procedural History

The arbitration proceedings is in accordance with the .IN Domain Name Dispute Resolution Policy (the policy) adopted by National Internet Exchange of India ("NIXI") and INDRP Rules of Procedure("the Rules") which were approved on June 28,2005 in accordance with the Indian Arbitration and Conciliation Act,1996. By registering disputed domain name with a NIXI registrar, the respondent agreed to the resolution of disputes pursuant to the Policy and the Rules.

As per the information received from NIXI, the history of the proceedings is as follows:

On Jun 01, 2023, I submitted the statement of Acceptance and Declaration of impartiality and independence, as required by NIXI to ensure compliance with Paragraph 6 of Rules. NIXI notified the parties of my appointment as Arbitrator via email on Jun 01, 2023 and served an electronic copy of the complaint on the respondent. I informed the Parties about commencement of arbitration proceeding on Jun 01, 2023 and the Respondent was directed to submit a response within 7(seven) days. The Respondent did not reply to the notice within the stipulated time. The Respondent was further given 5 (Five) days time through email dated 12.06.2023 to respond to the notice already served through email dated 01.06.2023.The Respondent failed to file any response even after expiry of extended time line. In fact the respondent has not filed any response till date.

## 4. Grounds for Administrative Proceedings

1. The disputed domain name is confusingly similar to trademark or service mark in which the Complainant has rights.
2. The Respondent has no rights or legitimate interests in the domain name.
3. The domain name has registered and used the domain name in bad faith.





## 5. Background of the Complainant

The Complainant LENOVO (BEIJING) LTD is a Chinese multinational technology company with headquarters in Beijing, China, and Morrisville, North Carolina. The Complainant submitted that it designs, develops, manufactures and sells personal computers, tablet computers, smartphones, workstations, servers, electronic storage devices, IT management software, smart televisions, and smart technology devices, as well as various other computer- and technology-related goods and services. The Complainant stated that the Complainant was the world's largest personal computer vendor by unit sales from 2013 to 2021. The Complainant further submitted that the Complainant was founded by Liu Chuanzhi on 1 November 1984 with a group of ten engineers in Beijing as Legend. The Complainant further submitted that the Chinese government approved the Complainant's incorporation on the same day and thereafter, Legend (Beijing Limited) changed its name to Lenovo Group Limited vide an official document dated 1 April 2004. The Complainant further stated that the Complainant has operations in more than 60 countries and sells its products in around 160 countries. The Complainant submitted that the Complainant's principal facilities are in Beijing and Morrisville, with research centers in Beijing, Shanghai, Shenzhen, Xiamen, Chengdu, Nanjing, and Wuhan in China, Yamato in Kanagawa Prefecture, Japan and Morrisville in the United States of America. The Complainant further submitted that in the year 2003, the Complainant coined and honestly adopted the inherently distinctive term 'LENOVO' as a trade name as well as a trademark. The Complainant further submitted that the Complainant acquired International Business Machine's ("IBM") personal computer business in 2005 and this acquisition made the Complainant the third-largest computer maker worldwide by volume. The Complainant further stated that the Complainant has one of the widest portfolios of innovative award-winning products and through their Intelligent Devices Group, a core business group, they are at the forefront of making intelligent transformation an everyday reality. The Complainant further submitted that the number of Complainant's PCs continues to grow in the market and the Complainant today holds 24.4% of the global PC market and sustains their position as #1 worldwide. The Complainant further submitted that the Complainant has an illustrious history and has grown by leaps and bounds since its inception. The Complainant submitted that the Complainant adopted the distinctive and coined word "LENOVO" (hereinafter referred to as "Trade Mark LENOVO") as its trademark and trade name in the year 2003. The Complainant submitted that LENOVO is a portmanteau of 'Le' (from the complainant's predecessor, Legend) and 'novo', Latin ablative for 'new' and the Chinese name means 'association' or 'connected thinking' & it can also imply creativity. The Complainant further submitted that the Complainant's Trade Mark LENOVO is not a dictionary word but an invented word. The Complainant further submitted that ever since its adoption, the Trade Mark LENOVO has been used continuously, exclusively and extensively by the Complainant throughout the world, including in India and owing to extensive use, the





Trade Mark LENOVO has acquired indomitable goodwill in the minds of the consuming public and the members of the trade and is today associated with the Complainant alone. The Complainant further submitted that the Trade Mark LENOVO was also held to be a well-known mark in *Lenovo v TAB* [2010] Yi ZhongZhi Xing Chu Zi No. 3414, by the Beijing No.1 Intermediate People's Court. The Complainant submitted that the Complainant, being vigilant of its Intellectual Property Rights, and in order to acquire statutory rights (in addition to pre-existing common law rights) has applied for and obtained registrations for the Trade Mark LENOVO in various countries around the world, across several classes, including but not limited to, Australia, Cambodia, Canada, Chile, Hong Kong, Indonesia, India, Israel, Japan, Korea, Kuwait, Malaysia, Mexico, New Zealand, Norway, Qatar, Russia, Singapore, South Africa, Sri Lanka, Taiwan, the United States of America, Vietnam, and various countries in the European Union and Latin America, among others. The Complainant further submitted that in India, the Complainant is the registered proprietor of the following LENOVO trademarks:

Mark	Reg./App. No.	Registration Date/ Application No.	Class
LENOVO	1271328	09/03/2004	16
<b>lenovo</b>	1176485	20/02/2003	9
Lenovo IdeaPad	2566814	18/07/2013	
Lenovo IdeaCentre	2566815	18/07/2013	
<b>lenovo</b>	1271330	09/03/2004	35
<b>lenovo</b>	1239928	26/09/2003	42, 37
<b>lenovo</b>	1271329	09/03/2004	28
<b>lenovo</b>	1271327	09/03/2004	11
<b>lenovo</b>	1271326	09/03/2004	07
<b>lenovo</b>	1271332	09/03/2004	39
<b>lenovo</b>	1271333	09/03/2004	40

The Complainant further submitted that the above-mentioned registrations are valid and subsisting as of the date of this filing. The Complainant submitted that the Complainant has a substantial online presence and is the owner of the domain name/page [www.lenovo.com](http://www.lenovo.com), and [www.shoplenovo.co.in](http://www.shoplenovo.co.in) and maintains active website for consumers to frequent. The Complainant further submitted that by sheer virtue and nature of the internet, the Complainant's site is accessible worldwide including to the public in India. The Complainant further submitted that the use of Complainant's Trade Mark LENOVO





LENOVO in its domain name helps the Complainant establish an identity for its website; allowing users of the internet to recognize readily that the domain name point to the website of the Complainant. The Complainant further submitted that the said website is immensely popular and easily accessible to the Indian public and the Complainant's products bearing the Trade Mark LENOVO are featured and advertised on the Complainant's website, as well as others. The Complainant further submitted that the consumers can easily peruse the Complainant's history, the complete product offerings, and product details, including price, specifications, and consumer reviews, and more, at the following URL: [www.shopenovo.co.in](http://www.shopenovo.co.in). and the said website acts as an online shopping portal for consumers. The Complainant further submitted that the products of the Complainant bearing the Trade Mark LENOVO are also available for sale on popular online retailers such as [www.amazon.in](http://www.amazon.in), [www.snapdeal.com](http://www.snapdeal.com), [www.flipkart.com](http://www.flipkart.com), [www.reliencedigital.in](http://www.reliencedigital.in), [www.paytm.com](http://www.paytm.com), and Consumers around the world, including India, can order the Complainant's products sitting at their home from these websites.

The Complainant has submitted the revenue record as per details given below.

Years	Total Revenues Worldwide In USD (Billions)
2021-2022	\$71.6 Billion
2020-2021	\$60.7 Billion
2019-2020	\$50.7 Billion
2018-2019	\$51 Billion
2017-2018	\$45.3 Billion
2016-2017	\$43 Billion
2015-2016	\$44.9 Billion
2014-2015	\$46.3 Billion
2013-2014	\$38.7 Billion
2012-2013	\$33.9 Billion
2011-2012	\$29.6 Billion
2010-2011	\$21.6 Billion

The Complainant submitted that the above figures have been taken from the records and/or the Financial Statements of the Complainant as maintained in the ordinary course of business by the Complainant and/or as provided by the Complainant's permitted agents/ associates/ franchisees. The Complainant submitted that the Complainant has continuously promoted, directly or through its authorized agents and associates, the famous and earlier Trade Mark LENOVO, through extensive advertisements, publicity, promotion and market research, and the Complainant has expended significant financial resources, efforts,

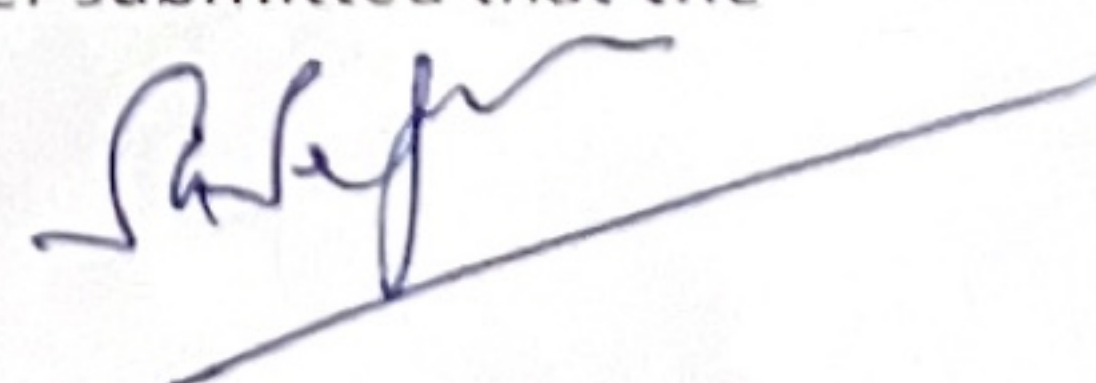




labour and skill in doing so. The Complainant further submitted that in 2003, the Complainant publicly announced its new name, "LENOVO", with an advertising campaign including huge bill boards and prime time television ads. The bill boards showed the Lenovo logo against blue sky with copy that read, "Transcendence depends on how you think." The Complainant further submitted that the Complainant was an official computer sponsor of the 2006 Winter Olympics in Turin, Italy, and the 2008 Summer Olympics in Beijing. The Complainant submitted that it is well-known that the Olympics are the most prestigious competition athletes can attend and due to the high worldwide viewership of the Olympics, the Trade Mark LENOVO received maximum visibility and publicity. The Complainant further submitted that in 2012, the Complainant signed the popular Indian actor, Ranbir Kapoor to promote its goods and services under the Trade Mark LENOVO and some of the advertisements appeared in leading magazines and newspapers having wide circulation around the world including India. The Complainant further submitted that the Complainant has also advertised its products extensively on television and this has given maximum visibility to the Complainant and its goods. The Complainant further submitted that some of these advertisements are available on YouTube, which is the world's leading video-sharing website. The Complainant submitted that the Complainant's Trade Mark LENOVO has been extensively publicized and promoted and, by virtue of it the said trademark is exclusively associated with the Complainant alone. The Complainant further submitted that the said trademark had achieved the status of a well-known trademark long back in various countries of the world including India. The Complainant submitted that the annual global advertising and promotional expenses incurred by the Complainant in the last six years are as under:

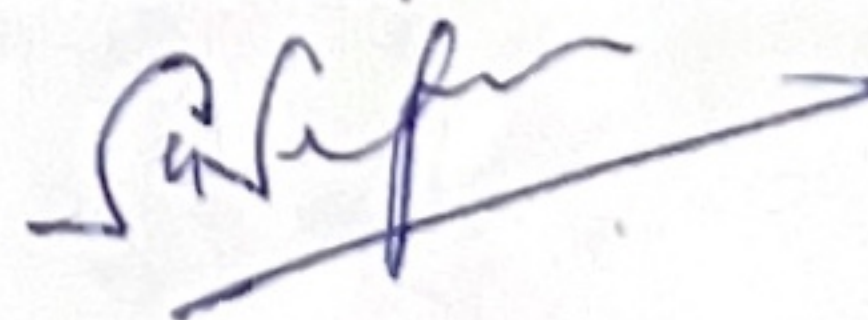
Years	Worldwide figures (In USD)	AP Region
2019/2020	\$ 935 Million	\$ 140 Million
2018/2019	\$ 793 Million	\$ 121 Million
2017/2018	\$945 Million	\$163 Million
2016/2017	\$918 Million	\$114 Million
2015/2016	\$677 Million	\$95 Million
2014/2015	\$826 Million	\$78 Million
2013/2014	\$479 Million	\$75 Million

The Complainant further submitted that the above promotional figures have been taken from the records and/or the financial statements as maintained in the ordinary course of business by the Complainant and/or as provided by the Complainant's permitted agents/associates/franchisees. The Complainant further stated that the Complainant started its subsidiary in India to ease out its operations in the country and Lenovo (India) Private Limited was incorporated on 08 March 2005. The Complainant further submitted that the



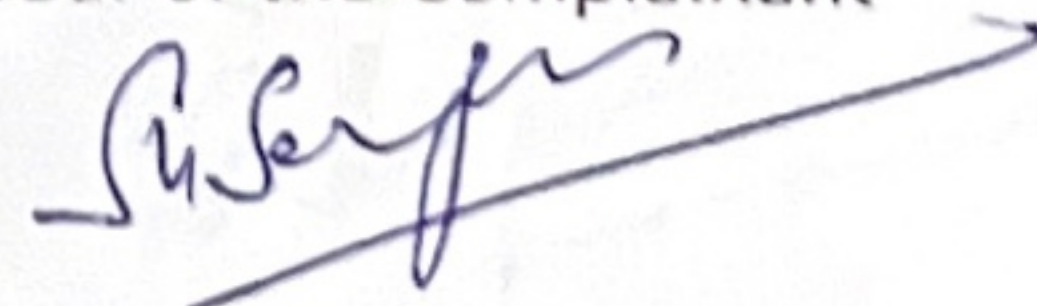


Complainant has gained significant market share in India through bulk orders to large companies and government agencies. The Complainant submitted that the government of Tamil Nadu ordered a million laptops from the Complainant in 2012 and single-handedly made the firm a market leader. The Complainant submitted that the Complainant distributes most of the personal computers it sells in India through five national distributors including Ingram Micro and Redington. The Complainant further submitted that as of 2013, the Complainant had about 6,000 retailers selling smart phones and tablets in India. The Complainant further stated that in February 2013, the Complainant established a relationship with Reliance Communications to sell smart phones and the smart phones carried by Reliance have dual-SIM capability and support both GSM and CDMA. The Complainant further submitted that in India, the Complainant grants distributors exclusive territories but allows them to sell computers from other companies and the Complainant uses its close relationships with distributors to gain market intelligence and speed up product development. The Complainant further submitted that the Complainant reported a year-on-year increase of about 951% in tablet sales in India for the first quarter of 2014 and Canalys, a market research firm, said the Complainant took market share away from Apple and Samsung in the country. The Complainant further submitted that in light of the challenges to education due to the restrictions imposed due to the COVID-19 pandemic and the decrease in student to teacher ratio, the Complainant had launched a SmartEd Education program in collaboration with Vidyalyoka, a non-profit organization in India. The Complainant submitted that the Complainant has been consistently recognized for its achievement around the globe and across their businesses and the Complainant has received numerous awards and accolades for the quality and standards maintained in respect of the goods and services provided under the Trade Mark LENOVO. The Complainant submitted that by virtue of such awards and accolades, immense goodwill and reputation has accrued upon the Complainant and Trade Mark LENOVO, which are associated exclusively with the Complainant. The Complainant further submitted that the Laptop Magazine in 2006 called the ThinkPad the highest-quality laptop computer keyboard available and it was ranked first in reliability and support in PC Magazine's 2007 Survey. The Complainant further submitted that the Lenovo ThinkPad was the PC Magazine 2006 Reader's Choice for PC-based laptops, and ranked number 1 in Support for PC-based laptops. The Complainant further submitted that the ThinkPad Series was the first product to receive PC World's Hall of Fame award and the LENOVO ThinkPad X Tablet-series was PC Magazine Editor's Choice for tablet PCs. The Complainant further submitted that the 1.6 kg (3.5 lb) ThinkPad X60s was ranked number one in ultraportable laptops by PC World. It lasted 8 hours and 21 minutes on a single charge with its 8-cell battery. The Complainant further submitted that the LENOVO ThinkPad X60s Series is on PC World's Top 100 Products of 2006. The Complainant further submitted that the 2005 PC World Reliability and Service survey ranked ThinkPad products ahead of all other brands for reliability and in the 2004 PC World Reliability and Service survey, they were ranked second. The Complainant further



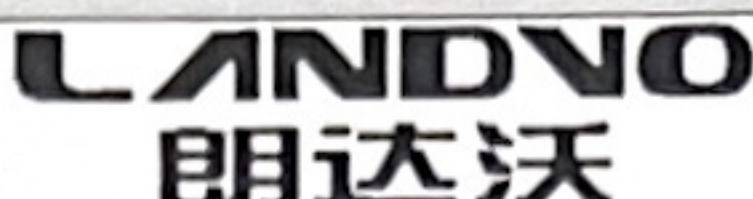




submitted that the Complainant was named the most environment-friendly company in the electronics industry by Greenpeace in 2007. The Complainant further submitted that the LENOVO ThinkPad T60p received the Editor's Choice award for Mobile Graphic Workstation from PC Magazine. The Complainant further submitted that LENOVO ThinkPad X60 is the PC Magazine Editor's Choice among ultra-portable laptops and the LENOVO ThinkPad T400-Series was on PC World's Top 100 Products of 2009. The Complainant further submitted that in 2014, Lenovo India won the prestigious 'Golden Peacock Awards' for innovation in customer services. The Complainant further submitted that the Awards, established in 1991 by the Institute of Directors- India (an independent unbiased body) are a benchmark in Corporate Excellence across the world. The Complainant further submitted that in 2013 the Complainant presented IT Innovation awards recognizing the contribution of the Information Technology industry wherein the best of India's IT companies was honored and celebrated for their innovation and contribution in the field. The Complainant further submitted that the Trade Mark LENOVO of the Complainant has been listed in the Best Global 500 brands in the world. The Complainant further submitted that the Trade Mark LENOVO has achieved a high degree of distinctiveness and association with the Complainant's products due to its extensive use in several parts of the world, including India. The Complainant further submitted that the relevant public in India has immense knowledge of the Complainant and its goods under the Trade Mark LENOVO and they associate the same with the Complainant alone and the Trade Mark LENOVO is therefore liable to qualify as a well-known mark in India. The Complainant further submitted that the Trade Mark LENOVO is considered a well-known mark globally, as per the provisions of Article 6 bis of the Paris Convention Treaty, to which India is a signatory, as well as the provisions of Section 2(1)(zg) of the Trade Marks Act, 1999. The Complainant further submitted that the Complainant has a complete right to use the earlier and well-known Trade Mark LENOVO in exclusion of all others in relation to its goods/services and furthermore, the Complainant has a right to prevent use by third parties of the mark which is identical and/ or similar to the Complainant's Trade Mark LENOVO in relation to goods and services of any description whatsoever. The Complainant further submitted that the Complainant has initiated legal action before various forums worldwide against third-party infringers for the misuse of its well-known, earlier and registered mark LENOVO. These matters have been decreed in favour of the Complainant





Complainant and details of some of the disputes are in the table given below.

Other Mark	Forum/ Court	Country	Date of decision
	Trade Marks Registry, India	India	29.11.2019
	Trade Marks Registry	India	23.02.2017
LOVENO	Trade Marks Registry	India	09.07.2018
LOVENO	Trade Marks Registry	India	31.08.2018
FONOVO	Trade Marks Registry	India	08.03.2018
	Trade Marks Registry	India	21.03.2022
DENOV0	Trade Marks Registry	India	04.05.2022
lenovoeducation.co m	WIPO Arbitration & Mediation Center		11.01.2021

#### The Respondent

The Respondent is Raj Kumar, 3 ADYAR, CHENNAI, Tamil Nadu-600042 (Telephone:+91.956219995,E-Mail: info@lapstoreindia.com). The Respondent has registered the nearly identical disputed domain name lenovoindia.co.in on June 15 , 2018.

#### Legal Grounds

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

#### Complainant's Contentions

The Complainant contends that the Complainant owns trademark rights in the earlier well-known Trade Mark LENOVO in India and throughout the world. The Complainant further contends that the domain name registered in connection with the .in extension is LENOVO INDIA wherein the word INDIA is not-distinctive, thereby making a false impression that the

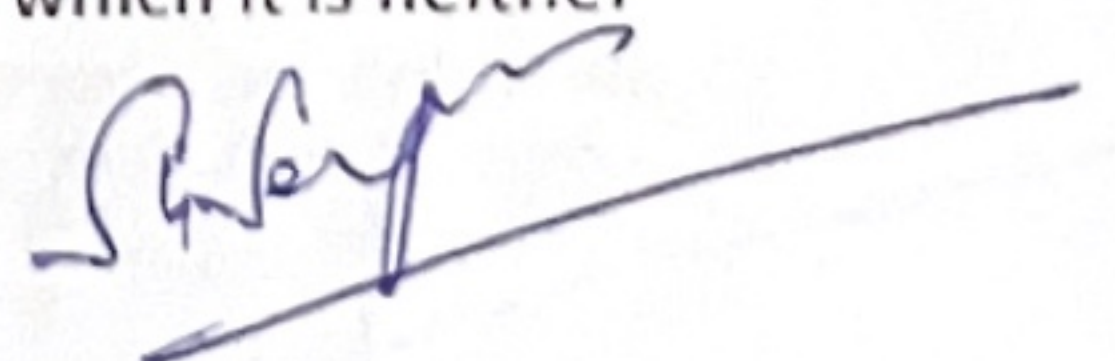




said domain name is Complainant's Indian website. The Complainant further contends that for purposes of comparison, the top-level suffix in the disputed domain i.e. ".in" should be disregarded because it is a necessary requirement to register and use the disputed domain and would not be considered distinctive element of the disputed domain by Internet Consumers. The Complainant further contends that previous Panels have ruled that the specific top level of a domain name such as ".in" etc. does not serve to distinguish the domain name from the trademark. See, for e.g., WIPO Case No. D2000-0834 CBS Broadcasting Inc. v. Worldwide Webs, Inc. The Complainant further contends that the Respondent's Domain Name is identical to the trademark in which the Complainant has rights. The Complainant further contends that anyone who sees the disputed domain name is bound to mistake it as a name related to the Complainant and therefore, with reference to the reputation of the trademark LENOVO, there is a considerable risk that the members of the trade and public will perceive the disputed domain name as that of the Complainant, and that the goods are offered/emanating from the Complainant. The Complainant further contends that by using the Complainant's trademark as a dominant part of the disputed domain name, the Respondent exploits the goodwill and the image of the Complainant's famous mark LENOVO, which are bound to result in dilution and other damage for the Complainant. The Complainant further contends that the Complainant is concerned to note that the Respondent has adopted the impugned domain name, which is identical and/or deceptively similar to the Complainant's well-known, registered and earlier mark LENOVO, and the Respondent's dishonest and malafide intentions are evident from the similarities as mentioned herein below-

- a) The Respondent has malafidely registered a domain name- <https://www.lenovoindia.co.in/> incorporating the identical impugned mark LENOVO.
- b) The Respondent has want only adopted and is using the impugned domain name <https://www.lenovoindia.co.in/> which is identical to the Complainant's well-known, registered and earlier mark LENOVO.

The Complainant further contends that the Respondent has completely copied the Complainant's well-known, registered and earlier LENOVO trademark, which it is neither





authorized nor permitted to do. The Complainant further in order to give a correct and clearer picture, a side by side comparison has been given below:

<u>Particulars</u>	<u>Complainant's earlier and well-known trademark</u>	<u>Respondent's impugned mark</u>
Domain Name	<a href="https://www.lenovo.com/in/en">https://www.lenovo.com/in/en</a>	<a href="https://www.lenovoindia.co.in/">https://www.lenovoindia.co.in/</a>
Trademark	LENOVO	LENOVO

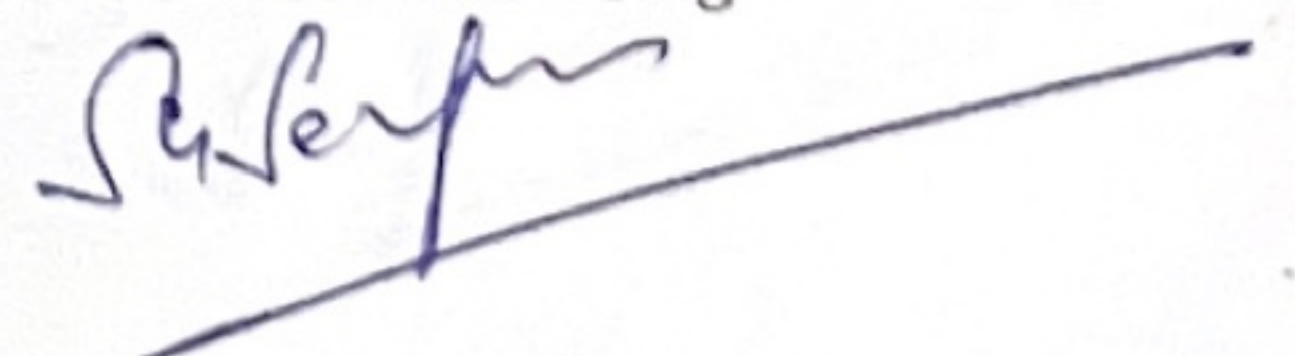
The Complainant further contends that a bare perusal of the impugned domain name shows that the Respondent's impugned domain name is a complete reproduction/imitation of the Complainant's well-known, registered and earlier mark LENOVO, particularly the well-known trade mark and trade name LENOVO. The Complainant further contends that the adoption and/or use of the impugned mark by the Respondent as its domain name or any other manner amounts to the blatant infringement of the Complainant's statutory rights in its well-known, registered and earlier mark LENOVO. The Complainant further contends that the Complainant's well-known, registered and earlier mark LENOVO has been slavishly copied by the Respondent and the impugned domain name is visually, structurally, phonetically identical to the Complainant's well-known, registered and earlier mark LENOVO and domain name.

#### **Respondent's Contentions**

The Respondent has not submitted any response to the arbitration notice issued by this panel.

#### **B. The Respondent has no rights or legitimate interests in the domain name.**

The Complainant further contends that the Respondent has registered the impugned domain name in bad faith to make unlawful gains out of the transactions. The Complainant further contends that the term LENOVO is associated only with the Complainant and the Respondent does not have any right or legitimate interest in the disputed domain. The Complainant further contends that the Complainant is a prior user and registered proprietor of the well-known and highly distinctive mark LENOVO and the Respondent had no previous connection with the domain name <https://www.lenovoindia.co.in/> and has clearly registered the said domain name in order to ride upon the goodwill and reputation of the Complainant in its trademark and trade name LENOVO. The Complainant further contends that the disputed domain name is misleading the consumers to believe that the goods and services are being





provided by the Complainant. The Complainant further contends that the Complainant has not authorized or given permission to the Respondent to use the Complainant's trademark in the disputed domain name and the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant further contends that the Respondent has not obtained any authorization or license to register or use any domain name incorporating the mark LENOVO and the Respondent has wrongfully registered the disputed domain for the purpose of encasing upon the goodwill and reputation of the Complainant. The Complainant further contends that the sole purpose for registration of the disputed domain is to illegitimately profit from its association with the Complainant. The Complainant further contends that the Respondent is disrupting the Complainant's business by relying on consumer confusion (consumers mistaking the disputed domain for the Complainant) to earn revenue through the Respondent's illegitimate business hosted on the disputed domain and this clearly does not establish Respondent's rights or legitimate interest. The Complainant further contends that the Respondent cannot be said to have any legitimate rights in the disputed domain in the manner because:

- a )The Respondent is neither known by the disputed domain nor has it been licensed by the Complainant to register the disputed domain name incorporating the mark LENOVO; and
- b )There is no non-commercial/fair use as the Respondent is offering products and services of the Complainant under the disputed domain name that is not authorized or licensed by the Complainant which is misleading consumers to believe that the products and services are being offered by the Complainant and its company. This negates the possibility that the disputed domain is used for non-commercial or fair purposes. In addition, the Respondent has not obtained authorization of any kind whatsoever to use the Complainant's mark in the disputed domain name.

#### **Respondent's Contentions**

The Respondent has not submitted any response to the arbitration notice issued by this panel.

#### **C. Domain Name registered and used in Bad Faith by the Registrant/Respondent**

The Complainant further contends that the Respondent has registered the impugned domain name in bad faith to make unlawful gains through the disputed domain name. The Complainant further contends that the term LENOVO is associated only with the Complainant and the Respondent has clearly registered the said domain name in order to ride upon the goodwill and reputation of the Complainant in its trademark LENOVO. The Complainant further contends that it is pertinent to note that any use of the impugned domain name <https://www.lenovoindia.co.in/> by the Respondent, would certainly result in confusion and deception of the trade, consumers and public, who would assume that





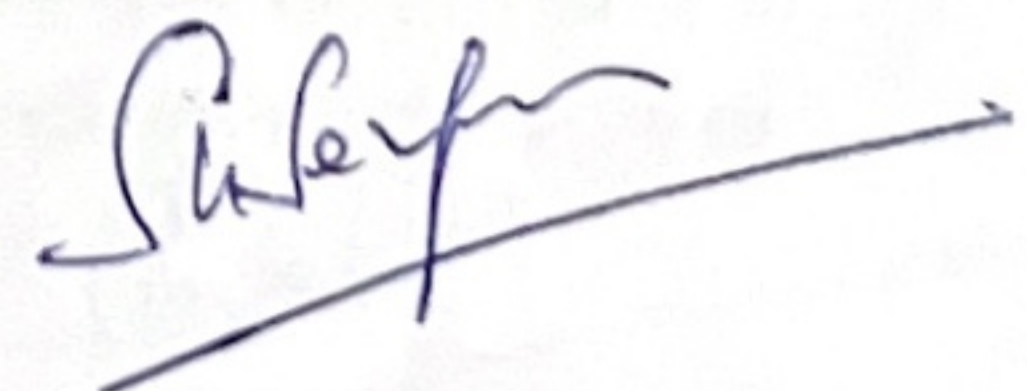
the disputed domain name has been hosted or maintained by the Complainant when this is not the case, a connection or association will be drawn by the consumers and public between the Complainant and the disputed domain name, due to the use by the Respondent of the Complainant's said trademark in the impugned domain name <https://www.lenovoindia.co.in/>. The Complainant further contends that the Complainant's well-known, registered and earlier trademark LENOVO has been widely used and advertised in India and all over the world by the Complainant and is associated exclusively with the Complainant alone. The Complainant further submitted that the mark LENOVO has no meaning except that of Complainant's name and mark. The Complainant further contends that Complainant's business under the mark is substantial, is well-known in India and worldwide. The Complainant further contends that it is further pertinent to mention that a mere glance at the Respondent's domain name <https://www.lenovoindia.co.in/> makes it evident that Respondent is attempting to portray that the said domain name is hosted or maintained by the Complainant.

#### **Respondent's Contentions**

The Respondent has not submitted any response to the arbitration notice issued by this panel.

#### **7. Discussion and findings**

The Complainant LENOVO (BEIJING) LTD, a Chinese multinational technology company with headquarters in Beijing, China, and Morrisville, North Carolina, designs, develops, manufactures and sells personal computers, tablet computers, smartphones, workstations, servers, electronic storage devices, IT management software, smart televisions, and smart technology devices, as well as various other computer- and technology-related goods and services. The Company incorporated under the name LEGEND in 1984, changed name to its present LENOVO LTD in 2004. The Complainant operates in many countries of the world including India. The Complainant acquired International Business Machine's ("IBM") personal computer business in 2005. The Complainant adopted distinctive mark LENOVO which does not have any dictionary meaning. To safeguard its Intellectual Property Rights the Complainant has registered its mark LENOVO in various countries around the world, across several classes, including India. The Complainant is owner of top level domain <Lenovo.com> which was registered by the Complainant in 2002 years before registration of disputed domain name by <lenovoindia.co.in> the respondent in 2018. The Complainant is also owner of domains <lenovo.in> and <shoplenovo.co.in>. The Complainant has a significant presence on internet and the Complainant maintains active website accessible to consumers of many countries including India where the Respondent is based. The products of the Complainant are available for sale through online shopping portals amazon, flipkart, snapdeal etc. The Complainant has spent significant amount for promotion of their products through advertising, publicity and market research. The Complainant was also cosponsor of Olympic games in 2006 and 2008. The Complainant operates in India through its Indian





subsidiary company Lenovo (India) Private Limited since 2005. The Complainant's trade mark LENOVO qualifies to be a well known mark on the basis of documents submitted before this panel and well known mark of the Complainant needs to be protected by unauthorized use by third parties. The disputed domain name <lenovoindia.co.in> was registered by the Respondent in 2018 years after the registration of domain/trade mark by the Complainant. The Respondent is selling the Complainant's products through website hosted on disputed domain unauthorizedly. The Respondent's intent is to profit from the popularity of well known mark of the Complainant. The Complainant has not licensed or permitted the Respondent to use its well known mark. This panel also takes notice of the fact that the Complainant has lodged complaint after almost five years of the registration of disputed domain name in 2018. The Complainant being prior user and registered proprietor of the well-known and distinctive mark LENOVO, the delayed submission of complaint by the Complainant is admissible to address the grievance of the Complainant. The Respondent has failed to rebut the contentions of the Complainant as he has preferred not to respond to the notice issued by this panel.

#### **Respondent's Default**

The INDRP Rules of Procedure require that Arbitrator must ensure that each party is given fair opportunity to present its case. Rule 8(b) reads as follows;

"In all cases, the arbitrator shall at all times treat the parties with equality and provide each one of them with a fair opportunity to present their case."

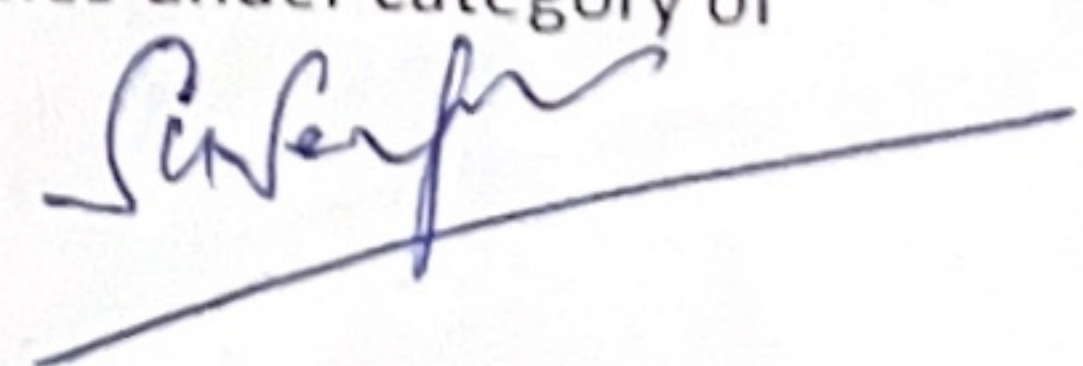
Rule 12 empowers arbitrator to proceed with an ex parte decision in case any party does not comply within the time limits or fails to reply against the complaint. Rule 12 reads as follows:

"In the event any party breaches the provisions of INDRP rules and /or the directions of the Arbitrator, the matter can be decided ex parte by the Arbitrator and such arbitral award shall be binding in accordance with the law."

The respondent was given notice of administrative proceedings in accordance with Rules. The panel finds that the Respondent has been given fair opportunity to present his case. The Rules paragraph 12(a) provides that the Arbitrator shall decide the complaint on the basis of the Complainant's contention and documents submitted in accordance with Rules and any other law which Arbitrator deems fit to be applicable. In the circumstances, the Arbitrator's decision is based upon the Complainant's assertions, evidence and inferences as the respondent has not replied.

**The domain name <lenovoindia.in> is nearly identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights.**

The Complainant has been able to prove that it has trademark rights and other rights in marks 'LENOVO' by submitting substantial documents. The mark comes under category of





well known trademark .The mark is widely used by the Complainant in advertising and has a strong presence in internet world. The disputed domain contains name which is nearly identical and similar to mark 'LENOVO' as the disputed domain contains Complainant's mark completely. Addition of word India and addition of top level domain (CCTLD) extension 'co.in' is insignificant and does little to make it different. There can't be coincidence that the respondent has chosen domain name confusingly similar to the marks of the Complainant. The top level domain <lenovo.com> was registered by the Complainant in 2002 years before registration of disputed domain by the Respondent on 2018.The respondent has failed to reply to the notice issued by this panel to rebut the contentions of the Complainant.

Bases on the forgoing analysis, I am of the opinion that the disputed domain name is nearly identical and confusingly similar to the complainant's mark.

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

The Complainant has been able to prove by submitting evidences that it has legitimate interest in trademark LENOVO. The Respondent is neither a licensee nor authorized by the Complainant, to use Complainant's mark. The Respondent is not known by the mark and can't have legitimate interest in the disputed domain. The Respondent should have come forward with evidence to show his legitimate interest by rebutting the contention of the Complainant. The Respondent failed to submit his response to justify legitimate non commercial use of disputed domain name. The Respondent has also failed to respond to the contentions of the Complainant. This panel is of the view that mere registration of domain name can't establish rights in disputed domain. According to the Policy that "once the Complainant makes a prima facie showing that the registrant does not have rights or legitimate interests in the domain name, the burden shifts to the registrant to rebut it by providing evidence of its rights or legitimate interests in the domain name". The burden of proof to establish any legitimate interest falls on the respondent. The Respondent could have invoked any of the circumstances set out in paragraph 6 of the Policy, in order to demonstrate rights or legitimate interests in the Disputed Domain Name but the Respondent has not filed any response to justify the legitimate interests in the disputed domain name to rebut the contentions of the Complainant.

Therefore, in light of complaint and accompanying documents , I am therefore of the opinion that the Respondent has no rights or legitimate interest in the disputed domain name.

**The Domain Name was registered or is being used in bad faith**

This can't be a coincidence that the Respondent registered disputed domain name fully incorporating well known mark of the Complainant. The Complainant has been the using the mark for several years when the Respondent registered the disputed domain name in

A handwritten signature in blue ink, appearing to read 'S. S. S.', is written over a horizontal line.



2018. The panel finds that the Respondent has used the well known mark of the Complainant in disputed domain name giving impression that this site is Indian subsidiary of the Complainant. The sole purpose of the respondent is to create confusion to an ordinary internet user. The Respondent is using disputed domain to profit from the popularity of the Complainant's mark. The intent of the Respondent to profit from the reputation of the Complainant's mark is definitely a bad faith registration use. The Respondent must have done dilly diligence to ensure that domain name registered does not infringe upon someone other's rights. The panel also takes notice of the fact that the Respondent has preferred not reply to the notice issued in this arbitration proceedings.

In view of the above, In view of the above, I am of the opinion that registration of disputed domain name is bad faith.

### Decision

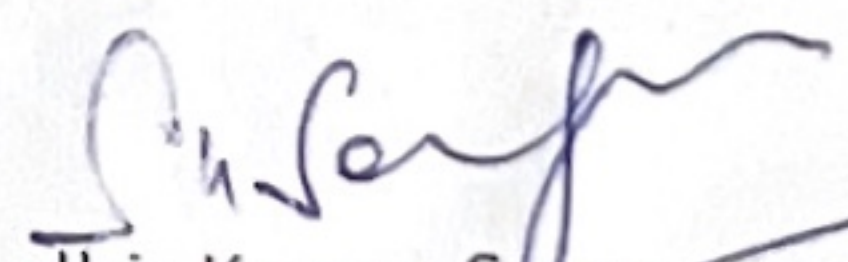
Based on the of contentions of the complainant , the attached documents , cited decisions and in view of the above read with all the facts of the present case, the Complainant's contentions are tenable. The test of prudence demands fairness of actions by the Respondent. The Respondent has failed to file any response to rebut the Complainant's contentions. In view of the forgoing discussion, I am of the opinion that the disputed domain name is nearly identical/confusingly similar to the Complainant's marks/domain. The Respondent does not have rights or legitimate interest in the disputed domain name and disputed domain name was registered in bad faith.

In accordance with the Policy and Rules I direct that the Disputed Domain name be transferred to the Complainant, with a request to NIXI to monitor the transfer.

The award is being passed within statutory deadline of 60 days from the date of commencement of arbitration proceedings.

No order to costs.

June 26,2023

  
Sudhir Kumar Sengar  
26/6/23  
Sole Arbitrator