



सत्यमेव जयते

## INDIA NON JUDICIAL

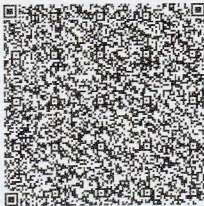
### Government of National Capital Territory of Delhi

₹100

e-Stamp

Certificate No.	: IN-DL22495288162403W
Certificate Issued Date	: 03-Jan-2024 11:05 AM
Account Reference	: SELFPRINT (PU)/ dl-self/ NEHRU/ DL-DLH
Unique Doc. Reference	: SUBIN-DL DL-SELF08131838202803W
Purchased by	: SANJEEV CHASWAL
Description of Document	: Article 12 Award - Movable
Property Description	: IN THE ARBITRATION MATTER OF BEAUTIFUL IN IDRP CASE NO 1783
Consideration Price (Rs.)	: 0 (Zero)
First Party	: SANJEEV CHASWAL
Second Party	: NA
Stamp Duty Paid By	: SANJEEV CHASWAL
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)

₹100 ₹100 ₹100 ₹100



₹100

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

IN-DL22495288162403W

Please write or type below this line

INDRP ARBITRATION  
UNDER THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]  
ADMINISTRATIVE PANEL PROCEEDING  
SOLE ARBITRATOR: SANJEEV KUMAR CHASWAL

In the Arbitration matter for the Domain name <beautiful.in> and in Case no: 1783

#### 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.



**INDRP ARBITRATION  
UNDER THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]  
ADMINISTRATIVE PANEL PROCEEDING  
SOLE ARBITRATOR: SANJEEV KUMAR CHASWAL**

**In the matter of Arbitration Proceeding for the Domain name  
<beautiful.in>**

**and in the matter of INDRP Case no: 1783**

**M/s. Beautiful Retail Private Limited )  
Shop No. 1, Pooja Apartment, )  
17th Road, Khar (West), )  
Mumbai – 400052**

**Complainant**

**Vs.**

**Unknown person )  
Bearing Client ID EDTRP-15245813 )  
Engeler Damm 110B )  
Bruchhausen-Vilsen, Niedersachsen, )  
Zip Code: 27305, Germany. )  
Email I.D.:- indom@dna.in**

**..... Respondent**

**ARBITRATION AWARD**

**Disputed Domain Name: <beautiful.in>**

**History:**

WHEREAS the undersigned has been appointed by NIXI as sole arbitrator pursuant to the complaint filed by the complainant The Complainant in this administrative proceedings is M/s. Beautiful Retail Private Limited, Shop No. 1, Pooja Apartment, 17th Road, Khar (West), Mumbai – 400052

represented through its authorized representative seeking invoking of arbitration proceedings, against the Registrant / Respondent as Unknown person, bearing Client ID EDTRP-15245813, Engeler Damm 110B ,

The Registrant / Respondent, who is identified and known with EDTRP-15245813 and this unknown person had obtained registration of domain name <*beautiful.in*> through the IN. registry Registrar's M/s. Endurance Digital Domain Technology LLP and the Registrar has withheld and concealed the registration record containing the name and the domain details of the said Registrant / Respondent by invoking "REDACTED FOR PRIVACY" But the NIXI is also able to provide details solely concerning the address only containing the address and the domain details of the Registrant / Respondent to the complainant as such the part details is being incorporated in the present notice.

As the Complainant has filed the above arbitral complaint against the Registrant / Respondent for registering the domain name <*beautiful.in*> though complainant being actual user and owner of the domain name and the Registrant / Respondent took the similar domain name India specific thus complainant moved an complaint seeking a claim of relief for transferring the domain name to the Complainant herein.

As sole arbitrator the undersigned had issued the directions to the complainant and to the Registrant / Respondent for complying notice of 12<sup>th</sup> of December 2023 of the arbitrator further unknown Registrant / Respondent was granted 15 days time to file reply, detail statement, if any, the reply detail statement, if any should reach by **29<sup>th</sup> of December 2023**. As the complainant had served the notice to the said respondent / registrant to their email address as listed in WHOIS records.

Wherein the respondent was directed to submit reply, detail statement, if any, on or before **29<sup>th</sup> of December 2023** as per INDRP Rules and procedure But even after grant of 15 days time to the unknown Registrant / Respondent known only with ID EDTRP-15245813A3, for filing statement or reply to the complaint, but the said unknown respondent / registrant has failed to submit reply or detail statement to the arbitrator within granted time.

A handwritten signature in black ink is positioned to the left of a circular stamp. The stamp is a circular seal with a double border. The outer border contains the text "SANJEEV KUMAR CHASWAL ADVOCATE, SOLE ARBITRATOR" in a circular arrangement. The inner circle contains the word "DELHI" in the center.

In view of non receipt of reply or statement of the unknown respondent / registrant within assigned time, the sole arbitrator is of considered view that the unknown respondent / registrant having ID EDTRP-15245813A3 have been duly served through their listed email address indom@dna.in and despite of being served of this notice,

The said unknown respondent / registrant had failed to submit its reply or Statement to the sole arbitrator office, thus it clearly shows that the said unknown respondent / registrant is not interested in pursuing the present arbitration proceedings, thus sole arbitrator had foreclosed the opportunity of filing of reply or statement granted to the respondent / registrant on 1<sup>st</sup> of January 2024 and the undersigned arbitrator reserved this domain dispute complaint <*beautiful.in*> for final orders on merits.

## 1. The Parties:

That the Complainant is M/s. M/s. Beautiful Retail Private Limited, Shop No. 1, Pooja Apartment, 17th Road, Khar (West), Mumbai-400052, the complainant is a Indian Company incorporated under the laws of the India with its principal place of business Mumbai represented through its authorized representative, has invoked this administrative domain arbitration proceedings against the Registrant / Respondent, in respect of registered domain name <*beautiful.in*>

The unknown respondent / registrant having ID EDTRP-15245813A3, Engeler Damm 110B , Bruchhausen-Vilsen, Niedersachsen, Zip Code: 27305, Germany in respect of registration of domain name <*beautiful.in*> As the Registrant / Respondent, who had obtained registration of domain name <*beautiful.in*> in the year 2005-02-16 and is valid up to 2024-02-16 through the IN. registry:

## 2. The Domain Name and Registrar:

2.1 The disputed domain name <*beautiful.in*> is registered by the IN. registry, the registrar of Registrar's M/s. M/s. Endurance Digital Domain Technology LLP:



### **3. Arbitration Proceedings Procedural History:**

- 3.1 This is a mandatory arbitration proceeding in accordance with the IN Domain Name Dispute Resolution Policy [INDRP], adopted by the National Internet Exchange of India ["NIXI"]. The INDRP Rules of Procedure [the Rules] as approved by NIXI in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to there solution of the disputes pursuant to the IN Dispute Resolution Policy and Rules framed there under.

According to the information provided by the National Internet Exchange of India ["NIXI"], the history of this proceeding is as follows:

- 3.2 In accordance with the Rules, 2(a) and 4(a), NIXI formally notified the Respondent to the Complaint, and appointed the undersigned as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed there under. IN Domain Name Dispute Resolution Policy and the Rules framed there under.

The Arbitrator as submitted the Statement of Acceptance and Declaration of Impartiality and Independence as required by the NIXI.

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

- 3.3 The present Arbitral Proceedings have commenced on 5<sup>th</sup> of Decmber 2023 by issuing of 1<sup>st</sup> notice under rule 5(c) of INDRP rules of procedure and the same was forwarded through email directly to the Respondent / Registrant as well as to complainant separately, directing the complainant to serve the copies of the domain complaint along with complete set of documents in soft copies as well as physically or via courier or post to the Respondent / Registrant at the address provided in the WHOIS. The said notice was successfully served by the complainant to the Respondent / Registrant through email too.



The block contains a handwritten signature in black ink to the left of a circular official stamp. The stamp is for 'SANJEY KUMAR CHASWAL ADVOCATE SOLE ARBITRATOR \* DELHI \*'. The signature appears to be 'S. Chaswal'.

3.4 Further as per the issued Notice to the Respondent / Registrant was directed to file their reply, detail statement, if any, to the above said complaint within 15 (fifteen) days from the date of this Notice or by 29<sup>h</sup> of December 2023, failing which the Complaint shall be decided on the basis of the merits.

3.5 Further as the Respondent / registrant has failed to submit its reply statement hence the sole arbitrator foreclosed the right of Respondent / registrant to file reply or statement On non receipt of reply as such the sole arbitrator now reserves this domain dispute complaint <*beautiful.in*> for final orders and shall be decided on merits.

**Parties to Dispute:**





The Complainant: M/s. Beautiful Retail Private Limited, Shop No. 1, Pooja Apartment, 17th Road, Khar (West), Mumbai – 400052

Registrant / Respondent: M/s. EDTRP-15245813, Engeler Damm 110B , Bruchhausen-Vilsen, Niedersachsen, Zip Code: 27305, Germany

**4 Complainant Contentions:**






- 4.1 The complainant has submitted many legal submissions under INDRP Rules of Procedure for seeking relief against the Registrant / respondent for registering domain name <*beautiful.in*> illegally.
- 4.2 The complainant has many legal points including TM registrations obtained in India were raised for seeking relief against the Registrant / respondent disputed domain name <*beautiful.in*> and the Complainant submits its detailed contentions in their complaint that are described in details as under:
- 4.3 The complainant has submitted that the said Company was established as a sole proprietary concern in the year 2001 and was running its business across Mumbai under the brand name of “Beautiful”. The business was doing well and hence M/s. Beautiful Retail Private Limited was registered as a private limited company and since then has been running its business under the said name.





- 4.4 The Complainant has been after few years of growing its business the complainant has converted its firm in to Private Limited Company and has been running since then in the name and style of M/s. Beautiful Retail Private Limited and “Beautiful” has become its brand name since years by which people recognize them. My Client is registered trademark holder of the brand “Beautiful”.
- 4.5 The Complainant company is selling varied products to its customers in respect of Online retail store service featuring cosmetic and beauty products, clothing and accessories, clothing, jewellery, smart watches, threads, Smartphone, yarns, umbrellas, toys, furniture, fabrics, footwear, cutlery, bags, musicals instruments, stationery supplies, sporting articles, printed matter, art materials;.
- 4.6 The Complainant has also obtained registration of trademark of Beautiful logo and enjoy prior trademark rights, in respect of the said registered mark in India **Beautiful** and their website is available and accessible world wide The Complainant has been using marks including “ and **Beautiful**” as their trade mark and as trade name since long. The domain name <https://www.beautiful.store/> the website has been in continuous operation since then.
- 4.7 That by virtue of honest adoption, extensive and continuous use in respect of the “ and **Beautiful**” the trademarks coupled with the registrations of the said trademarks, the Complainant is entitled to the exclusive proprietary rights therein, and the public at large associate in India and abroad the said trademarks with the goods/services offered by Complainant alone and none else. As the goods/services offered under the said trademarks conform to very high standards of quality.
- 4.8 That in addition to the popularity of the trademark “ and **Beautiful**” through the goods and services of the Complainant, one of the important factor is the popularity of the Complainant business is its online website <https://www.beautiful.store/> (hereinafter referred to as “the said website”) which is accessible to client’s from all over the world.
- 4.9 The disputed domain name **<beautiful.in>** incorporates the Complainant’s “ and **Beautiful**” trade mark in its entirety.





  


The alterations of the mark, made in forming the domain name, do not save it from the realm of confusing similarity. Precedents have shown that a domain name is identical to a trademark, when the domain name contains or is confusingly similar to the trademark, regardless of the presence of other words in the domain name (*INDRP Case No.868, Amazon Technologies, Inc. v. Jack Worli*).




- 4.10 In totality, the domain name <*beautiful.in*> in dispute is identical or extremely similar to a domain name trademark or service mark “ and *Beautiful*” owned by the Complainant and is extraordinary likely to confuse the relevant public. There is no relationship between the Complainant and the Respondent nor they have authorized the Respondent to register or use domain name related to “**BEAUTIFUL**”.
- 4.11 Due to the impeccable reputation of the Complainant world over due to its website, the mark “ and *Beautiful*” is associated solely with the Complainant and no one else. Though the Respondent / Registrant had registered the domain name and has not using it as such the the complainant was forced to register domain name *www.beautiful.store* and is selling products through domain <*www.beautiful.store*> and as such the Mark “ and *Beautiful*”. Further the Complainant has never authorized the Respondent to register domain name related to “*Beautiful*” as such it is <*beautiful.in*> being registered and / or used in bad faith as it is being India specific domain thereby gives indication that products originates from India.
- 4.12 The Respondent acted in bad faith in registering the disputed domain name <*beautiful.in*> when it knows that the Complainant's “ and *Beautiful*” owns trademarks. The Respondent must be aware of the Complainant website “ and *Beautiful*” and trademarks but the respondent continued to park the disputed Domain Name <*beautiful.in*>.
- 4.13 Where there is a distinctive name and trade mark in which the Complainant has established considerable goodwill and reputation through using the name and mark online and offline for many years, it would be impossible to conceive that the Respondent could have registered the disputed domain name <*beautiful.in*> in good faith or without knowledge of the Complainant’s rights in the mark.



- 4.14 Though the Complainant have trade mark rights in respect of the “ and **Beautiful**” marks. Moreover, the Complainant’s “ and **Beautiful**” marks. Instead, they are highly original and distinctive made-up marks that have developed remarkable international reputation through the Complainant’s long-term use.
- 4.15 Therefore, the Respondent should have full knowledge through internet that the Complainant mark and domain name as the complainant has a prior trademark rights and interests in the “ and **Beautiful**” marks, the Respondent still chose to continue to park the disputed Domain Name **<beautiful.in>**, whose main body had incorporated the aforementioned name and mark.
- 4.16 The Complainant has never authorized the Respondent to register or use any trade name, trademark, or domain name related to “ and **Beautiful**” reasons justifying that the impugned domain name is being registered and/ or used in bad faith.
- 4.19 The Respondent has used the Domain Name **<beautiful.in>** misleadingly to attract Internet users to its website by creating a false impression of a connection between that website and the Complainant and the disputed Domain Name is being used currently, the use itself can constitute a threatened abuse hanging over the head of the Complainant till it is stopped.

#### **Brief Contention of the Complainant:**

- 4.20 Firstly the Complainant submits that the Respondent has used the Complainant’s well-known trademark “ and **Beautiful**” as part of the impugned domain name **<beautiful.in>** in which the Complainant has legitimate right under common law as well as under statutory rights. The said acts of the Respondent, therefore, amount to an infringement of the complainant’s rights as are vested in the trade mark “ and **Beautiful**” . Secondly, the Respondent is well aware of the insurmountable reputation and goodwill associated with the Complainant’s trade and service mark” “ and **Beautiful**” which insures and continue to insure its legitimate right to Complainant only.

4.21 It is a settled law that registration of identical or confusingly similar domain name that is patently connected with a particular trademark owned by an entity with no connection with the trademark owner is indicative of bad faith as understood in the Policy. With regard to famous brands, successive UDRP panels have found Bad faith registration:

a) **Brief Contention of the Respondent:**

4.24 The Respondent / Registrant had failed to file its detailed reply /statement rebutting the claim of the Complaint. The Complaint did not submit its submissions on record and to stake a claim that the respondent is registered owner of the mark but did not file the reply rebutting the claim of the complainant that the respondent domain does not come ambit within the conditions laid down in IDR of the policy.

**5 Discussion and Findings:**

5.1 It is clear from the record of NIXI the Respondent / registrant redacted private policy to conceal their identity. Hence, the Respondent is not commonly known by the disputed domain name in terms of the Policy. Rather, the Respondent is trying to take advantage of the Complainant's reputation, giving a false impression that the Respondent has some authorisation or connection with the Complainant in terms of a direct nexus or affiliation but the same is not true.

5.2 It is evidently clear that the Respondent knowingly chose to registered and use the disputed domain name <*beautiful.in*> to confuse customers from the Complainants' official website and drawing damaging conclusions as to the Complainant's operations in India, thus adversely affecting the Complainant's goodwill and reputation and its right to use said India specific domain name. Doing so, it also violated Rule 3 clause (b) of INDRP, whereby a domain registrant declared that he would not infringe the intellectual property rights of others.

5.3 As per the complaint herein, the Complainant in its complaint has invoked paragraph 4 of the INDRP which read as under:

**"Brief of Disputes:**

Any Person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:



**(i) the Respondent's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;**

**(ii) the Respondent has no rights or legitimate interests in respect of the domain name; and**

**(iii) the Respondent's domain name has been registered or is being used in bad faith.**

5.4 According to paragraph 4 of the INDRP, there are 3 essential elements of a domain name dispute which are being discussed hereunder in the light of the facts and circumstances of this case.

**I. The Respondent's domain name is identical and confusingly similar to a name, trademark or service in which the Complainant has rights.**

5.5 The Complainant further submits that any person or entity using the mark “ and Beautiful” as a domain name that too with related keyword referring to its corporate name “ and Beautiful” is bound to lead customers and users to infer that its product has an association or nexus with the Complainant and it may lead to confusion and deception. It is indeed extremely difficult to foresee any justifiable use that the Respondent being of Germany may have registered disputed domain name. On the contrary, registering this domain name gives rise to the impression of an association with the Complainant. *[Daniel C. Marino, Jr. v. Video Images Productions, WIPO-D2000-0598]*.

The mark “BEAUTIFUL” has been known in both the electronic and print media; both in India and world over. According to the INDRP paragraph 3, it is the responsibility of the Respondent to find out before registration that the domain name he is going to register does not violate the rights of any proprietor/brand owner.

Paragraph 3 of the INDRP is reproduced below:





*"The Respondent's Representations: By applying to register a domain name, or by asking a Registrar to maintain or renew a domain name registration, the Respondent represents and warrants that: the statements that the Respondent made in the Respondent's Application Form for Registration of Domain Name are complete and accurate; to the Respondent's knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party; the Respondent is not registering the domain name for an unlawful purpose; and the Respondent will not knowingly use the domain name in violation of any applicable laws or regulations.*

*It is the Respondent's responsibility to determine whether the Respondent's domain name registration infringes or violates someone else's rights."*

5.11 The Respondent / Registrant has failed in his responsibility in submission of its detailed reply as discussed above and in the light of the pleadings and documents filed by the Complainant, the undersigned has come to the conclusion that the domain name **<beautiful.in>** is identity theft, identical with or deceptively similar to the Complainants' mark. Accordingly, the undersigned conclude that the Complainant has satisfied the first element required by Paragraph 4 of the INDRP.

5.12 The Respondent has registered India specific domain name though being resident of Germany and till date not using the domain name and choosing to continue with the domain name registration fully similar to the Complainant's widely known and distinctive trade mark but identical, intended to ride on the goodwill of the Complainant's trademark in an attempt to exploit, for commercial gain, Internet traffic destined for the Complainant. Potential partners and end users are led to believe that the website is either the Complainant's site, especially made up for the bearings, or the site of official authorized partners of the Complainant, while in fact it is neither of these [**Viacom International Inc., and MTV Networks Europe v. Web Master, WIPO- D2005-0321 – mtvbase.com**]

## **II. The Respondent has no rights or legitimate interests in respect of the disputed domain name**



The block contains a handwritten signature in black ink to the left of a circular official stamp. The stamp has a double border. The outer border contains the text "SANJEEV KUMAR CHHABWAL" at the top and "ADVOCATE, SOLE ARBITRATOR" at the bottom, separated by small stars. The inner circle contains the word "DELHI" in the center.

- 5.13 The second element that the Complainant needs to prove and as is required by paragraph 4(ii) of the INDRP is that the Respondent has no legitimate right or interests in the disputed domain name.
- 5.14 Moreover, the burden of proof is on a Complainant regarding this element in the domain name lies most directly within the Respondent's knowledge and once the Complainant makes a prima facie case showing that the Respondent does not have any rights or legitimate interest in the domain name, the evidentiary burden shifts to the Respondent to rebut the contention by providing evidence of its rights in the domain name.
- 5.15 The Respondent has not submitted its reply and has failed to rebut how the respondent has created the right over the domain name, when as a trademark it is registered and domain name by third party as such mere absence of contentions of the Respondent does not establish his/ her interest in protecting right and interest in the domain name.

Further, the Respondent is not commonly known by the disputed domain name and has not made any legitimate non-commercial or fair use of the disputed domain name. Thus, it is very much clear that the Respondent who is web site designer and they have failed to prove as such it has no legitimate right or interest in respect of the disputed domain name <*beautiful.in*> For these reasons, the Arbitrator opines that the Respondent / Registrant have no rights or legitimate interests in the disputed domain name.

### **III. The disputed domain name has been registered or is being used in bad faith.**

- 5.17 It has been contended by the Complainant that the Respondent / Registrant has registered and used the disputed domain name in bad faith and rather done a identity theft on their back. The language of the INDRP paragraph 4(iii) is clear enough, and requires that either bad faith registration or bad faith use be proved.
- 5.18 Further the due to act of the Respondent / Registrant has prevented the Complainant, who is the owner of the service mark "BEAUTIFUL" from reflecting in the domain name



The image shows a handwritten signature in black ink to the left of a circular stamp. The stamp is a professional seal for an arbitrator. It has a double-lined border. Inside the border, the text "SANJEEV KUMAR CHAWLA" is written along the top arc, "ADVOCATE" along the top straight edge, "SOLE ARBITRATOR" along the bottom arc, and "DELHI" in the center.

and also that the domain name is deceptively similar to the trademark of the Complainant and will lead to confusion with the Complainant's mark "BEAUTIFUL". Moreover, the Respondent / Registrant, who have intently, invoke private policy to conceal its actual identity details and have not been replying to the communications sent by the complainant.

- 5.19 The paragraph 6 of the INDRP Rules provides that the following circumstances are deemed to be evidence that a Respondent / Registrant has registered and used a domain name in bad faith:

*"Circumstances indicating that the Respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or the Respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its Website 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 its Website or location or of a product or service on its Website or location."*

- 5.21 From the circumstances of the case and the evidences placed before me by the Complainant herein,

I am of the opinion that the Respondent / Registrant had no previous connection with the disputed domain name and being web designer it has clearly registered the disputed domain name in order to prevent the Complainant, who is the owner of the said trademark from reflecting the said trademark in a corresponding domain name, It is clear case identity theft.

- 5.22 Moreover, use of Indian specific similar disputed domain name by the Respondent / Registrant would certainly result in confusion and deception of the trade, consumers and public,

The block contains a handwritten signature in black ink on the left and a circular professional stamp on the right. The stamp has a double-lined border. The outer ring contains the text "SANJEEV KUMAR CHARWAL" at the top and "ADVOCATE" at the bottom, separated by small stars. The center of the stamp contains the word "DELHI".



who would assume a connection or association between the Complainants as disputed domain name <*beautiful.in*>, is associated exclusively with the complainant, by the trade and public in India and all over the world.

- 5.24 Further the due to act of the Respondent / Registrant has prevented the Complainant, who is the owner of the service mark “BEAUTIFUL” from reflecting in the domain name and also that the domain name is deceptively similar to the trademark of the Complainant and will lead to confusion with the Complainant's mark “BEAUTIFUL”. Moreover, the Respondent / Registrant, who have intently, invoke private policy to conceal its actual identity details and have not been replying to the communications sent by the complainant.
- 5.25 Thus, all the three conditions given in paragraph 6 of the Rules are proved in the circumstances of this case and thus the registration of the impugned domain name of the Respondent is a registered in bad faith.

## 6 DECISION

- 6.1 The Respondent / Registrant has failed to comply with Para 3 of the INDRP which requires that it is the responsibility of the Respondent / Registrant to ensure before the registration of the impugned domain name by the Respondent that the domain name registration does not infringe or violate someone else's rights other than the complainant herein
- 6.2 The Complainant has given sufficient evidence to prove trademark rights on the disputed domain name. Further; the Respondent's registration of the domain name is dishonest and malafide.
- 6.3 That due to act of the Respondent / Registrant has prevented the Complainant, who is the owner of the trade mark “BEAUTIFUL” from reflecting in the domain name and also that the domain name is deceptively similar to the trademark of the Complainant and will lead to confusion with the Complainant's mark “BEAUTIFUL”. Moreover, the Respondent / Registrant, who have intently, invoke private policy to conceal its actual identity details and have not been replying to the communications sent by the complainant.



The image shows a handwritten signature in black ink to the left of a circular stamp. The stamp is a professional seal for an arbitrator. It has a double-lined border. Inside the border, the text "SANJEEV KUMAR CHHABWAL" is written along the top arc, "ADVOCATE" along the top straight edge, "SOLE ARBITRATOR" along the bottom arc, and "DELHI" in the center.

- 6.4 The document attached by the complainant here in clearly shows that the domain owner of <**beautiful.in**> is a squatter and does not have legitimate right claim over the domain name and the present respondent cannot claim or derive right of the third party, who is owner of the trademark “BEAUTIFUL”.
- 6.5 The Respondent / Registrant have not given any reason to register the domain name rightfully owned by the Complainant and therefore it can be presumed that the Respondent / Registrant had registered the domain name only to make monetary benefit by selling the domain name to the rightful owner or his competitor.

***[Relevant WIPO decisions: Uniroyal Engineered Products, Inc. v. Nauga Network Services D2000-0503; Thaigem Global Marketing Limited v. SanchaiAree D2002-0358; Consorzio del Formaggio Parmigiano Reggiano v. La casa del Latte di Bibulic Adriano D2003-06611***

- 6.6 It is a settled proposition that the registration of a domain name incorporating a well-known trademark has been upheld to be in bad faith and this contention upheld by numerous INDRP as well as UDRP decision. Some notable cases reaffirming this proposition are INDRP decision in *Trivago N.V. is. Shiv Singh (INDRP/1 171)* and *WIPO decisions in Marie Claire Album v. Mari Claire Apparel, Inc., Case No D 2003 0767 another case Verve ClicquotPonsardin, MaisonFortdée en 1772 v. The Polygenix group Co case Adidas D 2000 0163 and Adidas-Solomon AG v. Domain Locations Case No D 2003 04.*
- 6.7 The complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie the case* is made, Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. Thus it is very much clear that the Respondent / Registrant who is actually squatter is using the disputed domain name in bad faith and has registered the domain name.

***[Relevant WIPO decisions: Croatia Airlines d.d. v. Modern Empire Internet Ltd. D2003-0455; Belupod.d. v. WACHEM d.o.o. D2004-01101***



6.8 The Respondent's registration and use of the Domain Name <**beautiful.in**> is abusive and in bad faith as they have registered India specific domain <**beautiful.in**> though having based in Germany. The Respondent / Registrant has no right or legitimate interests in respect of the domain name <**beautiful.in**>. In my view, the Complainant has satisfied all the three requisite conditions laid down in paragraph 4 of the INDRP policy.

6.9 It has also well-settled and has been held by various Panels deciding under UDRP and INDRP that where the disputed domain name wholly incorporates the Complainant's registered trademark, the same is sufficient to establish the first element. ***FAIRMONT Sons Ltd v. mmt admin / OkFAIRMONTbyebye.com (WIPO Decision Case No. D2009-0646),***

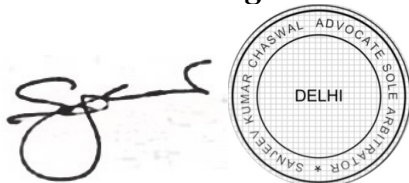
***F. Hoffmann-La Roche AG v. Jason Barnes, ecnopt, WIPO Case No. D2015-1305, Swarovski Aktiengesellschaft v. meixudong, WIPO Case No. D2013-0150, Wal-Mart Stores, Inc. v. Domains by Proxy, LLC / UFCW International Union, WIPO Case No. D2013-1304***

6.10 The prior decision of a Panel in ***M/s Retail Royalty Company v. Mr. Folk Brook INDRP/705*** wherein on the basis of the Complainant's registered trademark and domain names for "AMERICAN EAGLE", having been created by the Complainant much prior to the date of creation of the disputed domain name <**americaneagle.co.in**> by the Respondent,

***It was held that "The disputed domain name is very much similar to the name and trademark of the Complainant. The Hon'ble Supreme Court of India has recently held that the domain name has become the business identifier.***

***A domain name helps identify the subject of trade or service that entity seeks to provide to its potential customers. Further that there is strong likelihood confusion that a web browser looking for AMERICAN EAGLE products in India or elsewhere would mistake the disputed domain name as of the Complainant. "***

6.11 It was observed that ***"it is the Registrant's responsibility to determine whether the Registrant's domain name registration infringes or violates someone else's rights"***

A handwritten signature in black ink is positioned to the left of a circular stamp. The stamp is a professional seal for an advocate in Delhi. It features a double-lined border. Between the lines, the text "SANJEEV KUMAR CHAWHAL" is written along the top arc, "ADVOCATE" along the right arc, and "SOLE ARBITRATOR" along the bottom arc. In the center of the stamp, the word "DELHI" is printed.



and since the Respondent failed to discharge such responsibility, it was held that the Complainant has satisfied the first element required by Paragraph 4 of the INDRP.

In the present dispute as well, the Respondent, in registering the India specific domain name without legitimate business interests and till date they have not used it, thus registration by the respondents has done is in clear violation of the exclusive rights of the Complainant in the FAIRMONT name and mark. *In Lockheed Martin Corporation v. Aslam Nadia (INDRP/947)* The WIPO Administrative Panel in *Veuve Clicquot Ponsardin, Maison Fondée en 1772 vs. The Polygenix Group Co., WIPO Case No. D2000-0163* has been held that registration of a domain name so obviously connected with a well-known product that its very use by someone with no connection with the product suggests opportunistic bad faith. The Respondent is also guilty of the same.

- 6.12 In my considered view, the Respondent's registering the India specific domain name though being having no business relation in India looks as solely the domain has been registered without cause thus being squatter as the respondent company is based in Germany, thus impugned registration is abusive and in bad faith. The Registrant / Respondent have no rights or legitimate interests in respect of the domain name.

Further considered view, though Respondent's has registered this India specific domain name <*beautiful.in*> in the year 2005 for almost 19 years and the same is expiring in the year 2024 and all these years even after registering the India specific domain name <*beautiful.in*>, the Respondent's has been sitting over domain name registration for all these years without one day used and being having no business relation in India or elsewhere it seems the Respondent's has registered this domain <*beautiful.in*> solely without any plausible cause or reason from the non use till date of the this impugned domain name seems to be looks like squatting thus it clearly shows that the Respondent's is a squatter as the respondent company is based in Germany as such till date there is no reason shown that seems to justify the registration of the impugned domain name by the Respondent's herein, thus impugned registration is abusive and in bad faith. The Registrant / Respondent have no rights or legitimate interests in respect of the domain name

Secondly if the domain is taken off the record of the Respondent's name herein will not much effect the respondent as the respondent has not been using the domain name <*beautiful.in*> for almost 19 years as for all these 19 years, it is just kept parked as a registration in the records of NIXI and

if the registration of domain name <*beautiful.in*> is taken off from the present Respondent's herein, as such no loss of goodwill or reputation will occur to the Respondent's herein, as the Respondent's has not been using the India specific domain name <*beautiful.in*> in its legitimate business in India or elsewhere in any manner.

Therefore, It is clearly proves from the document as mentioned that the Complainant has satisfied all the three requisite conditions laid down in paragraph 4 of the INDRP policy. In accordance to the INDRP defined Policy and Rules, the sole arbitrator directs that the disputed domain name <*beautiful.in*> be transferred from the Registrant / Respondent restored Back to the Complainant herein with a request to NIXI to monitor the transfer of domain name in time bound manner.



A handwritten signature in black ink, appearing to be "Sg" or similar, written over a light blue grid background.

**SANJEEV KUMAR CHASWAL  
SOLE ARBITRATOR  
INDRP ARBITRATION NIXI**

**NEW DELHI      DATE 2<sup>nd</sup> of January 2024**





