

INDRP ARBITRATION CASE No.1789
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA

ARCELORMITTAL
Vs.

GEETANJALI HOMESTATE PVT. LTD.

DISPUTED DOMAIN NAME: **"MITTALGROUPS.IN"**



INDRP ARBITRATION CASE NO.1789
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA

ARCELORMITTAL
24-26, Boulevard d'Avranches
1160 Luxembourg
LUXEMBOURG.

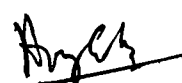
... Complainant

VERSUS

GEETANJALI HOMESTATE Pvt. Ltd.
Geetanjali Homestate
1017, DLF Corporate Greens
Sector 74-A, Gurgaon-12201
(HARYANA) – [INDIA]

... Respondent

Disputed Domain Name: **"MITTALGROUPS.IN"**



1. THE PARTIES

- 1.1 The **Complainant** ARCELORMITTAL in this arbitration proceedings is a company specialized in steel production and its contact address is **ARCELORMITTAL** 24-26, boulevard d'Avranches 1160 Luxembourg LUXEMBOURG.
- 1.2 Complainant's **Authorized Representative** in this administrative proceeding is NAMESHIELD, 79 rue Desjardins, 49100 Angers FRANCE - +33.(0)2.41.18.28.28, +33.(0) 2.41.18.28.29 - legal@nameshield.net
- 1.3 In this arbitration proceeding, the Respondent is Geetanjali Homestate Pvt Ltd. Geetanjali Homestate 1017, DLF Corporate Greens, Sector 74 A, Gurgaon, Haryana, 122001 – [INDIA) as per the details given by the WHOIS database maintained by the National Internet Exchange of India (NIXI).

2. THE DOMAIN NAME AND REGISTRAR

- 2.1 The disputed domain name is "MITTALGROUPS.IN" and the Registrar with which the disputed domain name is registered : GoDaddy.com, LLC 14455 North Hayden Rd Suite 219 Scottsdale AZ 85260 United States +1-480-505-8800 legal@godaddy.com

3. PROCEDURAL HISTORY [ARBITRATION PROCEEDINGS]

- 3.1 This arbitration proceeding is 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] were approved by NIXI on 28th June 2005 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 the resolution of the disputes under the .IN Dispute Resolution Policy and Rules framed thereunder.
- 3.2 The history of this proceeding is as follows :



- 3.2.1 In accordance with Rules 2(a), NIXI on 04.12.2023 formally notified the Respondent of the complaint along with a copy of the complaint & annexures/documents, and appointed me as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Resolution Policy and the Rules framed thereunder. That I submitted the Statement of Acceptance & Declaration of Impartiality and Independence dated 04.12.2023 to NIXI.
- 3.2.2 That commencing the arbitration proceedings an Arbitration Notice Dated 04.12.2023 was emailed to the Respondent on 04.12.2023 by this panel under Rule 5(c) of INDRP Rules of Procedure with direction to file a reply of the complaint, if any, within 10 days.
- 3.2.3 That complying with the directions of this panel, the complainant via its mail dated 06.12.2023 furnished before this panel the proof of the despatch of copy of the complaint to the respondent by submitting/attaching the courier receipt. The Complainant further, via its mail dated 13.12.2023 informed this panel about the delivery of the hard copy of the complaint along with annexures to the respondent and also attached the tracking details as the proof of the same .
- 3.2.4 This panel vide its Arbitration Notice dated 04.12.2023 had directed the Respondent to file the reply of complaint, if any, within 10 days of the notice and therefore Respondent was supposed to file the reply of the complaint by 13.12.2023.
- 3.2.5 However, since the Respondent failed to file the reply of Complaint, within time i.e. by 13.12.2023 as directed by this panel, this panel again in the interest of justice vide its mail dated 15.12.2023 granted a further period of 04 days i.e. by Date 18.12.2023 to file the reply of the complaint. The Respondent, despite the receipt of Notice Dated 04.12.2023 and reminder dated 15.12.2023 of this panel neither replied to the Arbitration notice nor filed a reply of complaint in time. The



respondent despite repeated opportunities however, failed to file the formal reply to the complaint ; hence, on 19.12.2023 the Respondent was proceeded ex-parte.

4. THE RESPONDENT'S DEFAULT

4.1 The Respondent failed to file reply to the notice and the complaint. It is a well-established principle that once a Complainant makes a prime facie case showing that a Respondent lacks rights to the domain name at issue; the Respondent must come forward with proof that it has some legitimate interest in the domain name to rebut this presumption. The disputed domain name in question is "**MITTALGROUPS.IN**".

4.2 The INDRP Rules of Procedure require under Rule 8(b) that the arbitrator must ensure that each party is given a fair opportunity to present its case. Rule 8(b) reads as follows :

"In all cases, the Arbitrator shall ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case."

4.3 The Respondent was notified of this administrative proceeding as per the Rules. The .IN discharged its responsibility under Rules paragraph 2(a) to employ reasonably available means calculated to achieve actual notice to the Respondent of the complaint.

4.4 The panel finds that the Respondent has been given a fair opportunity to present his case. The Respondent was given direction to file a reply of the complaint if any, but the Respondent neither gave any reply to notice nor to the complaint despite repeated opportunities. The 'Rules' paragraph 12 states, "In the event, any party breaches the provisions of INDRP rules and/or directions of the Arbitrator, the matter can be decided ex parte by the Arbitrator and such arbitral award shall be binding in accordance to the law." In the circumstances, the panel's decision is based upon the Complainant's assertions, evidence, inferences, and merits only as the Respondent has not replied to

the complaint despite repeated opportunities given in this regard and was proceeded ex parte.

5. Background of the Complainant & its Submissions about the trademark "MITTAL", its statutory and common law rights Adoption :

5.1 The Complainant, in the present arbitration proceedings to support their case, has relied and placed on records documents as Annexures and made the following submissions :

5.1.1 The Complainant submits that ARCELORMITTAL is a company specialized in steel production. The Complainant claims to be the largest steel producing company in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging with 59 million tons crude steel made in 2022, and it holds sizeable captive supplies of raw materials and operates extensive distribution networks.

5.1.2 The Complainant submits that it is present in India through numerous entities. The Complainant submits it owns several trademarks including the wording "MITTAL" in several countries, including in India, such as:

The Indian trademark MITTAL n°1363006 registered since 2005-06-10,
The Indian trademark MITTAL n°1319446 registered since 2004-11-08

5.1.3 The Complainant further submits that it also owns and communicates on Internet through various domain names, such as <mittalgroupindia.com> registered on August 28th 2021 and <mittal.eu> registered since February 23rd, 2010.

6. SUBMISSIONS OF COMPLAINANT ABOUT THE RESPONDENT AND ITS USE OF THE DOMAIN NAME

6.1 The Complainant submits that the disputed domain name <**mittalgroups.in**> was registered by the Respondent on October 22th, 2023 and resolves to a parking page with commercial links related to the Complainant and its activities.



7. THE ISSUES INVOLVED IN THE DISPUTE

- 7.1 The Complainant in its complaint has invoked paragraph 4 of the INDRP, which reads :

"Class 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:-

The disputed domain name is identical or confusing similar to a trademark in which the Complainant has statutory/common law rights.

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

The disputed domain name has been registered or is/ are being used in bad faith."

- 7.2 The above-mentioned 3 essential elements of a domain name dispute are being discussed hereunder in light of the facts and circumstances of this complaint.

8. PARTIES CONTENTIONS

- 8.1 **The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.**

9. COMPLAINANT

- 9.1 The Complainant submits that the disputed domain name <mittalgroups.in> is confusingly similar to the trademark MITTAL, as it incorporates the trademark in its entirety. The Complainant submits that the addition of the term "GROUPS" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark MITTAL. It does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the

Complainant, its trademark and the domain names associated. It is submitted by the complainant that on the contrary, the term may refer to the structure of the Complainant and may therefore lead consumers to believe that the disputed domain name is related to the Complainant.

9.2 It is further submitted by the Complainant that the addition of the ccTLD ".IN" is not sufficient to escape the finding that the domain is identical to its trademark MITTAL and does not change the overall impression of the designation as being connected to the trademarks of the Complainant.

9.3 In this regard the complainant has relied on INDRP Case No. 1645, Sudhir Kumar Sengar Vs John Doe ("The disputed domain name contains the Complainant's mark in full and is almost identical to the mark of the Complainant exception addition of a generic number. The top level domain ".in" is irrelevant and does little to make it different.").

9.4 It is therefore submitted by the Complainant that the disputed domain name <mittalgroups.in> is confusingly similar to its trademarks.

10. RESPONDENT

10.1 The Respondent has not replied to Complainant's contentions.

11. PANEL OBSERVATIONS

11.1 This Panel on pursuing the documents, records and submissions made by the Complainant observes that the Complainant is a steel producing company and is the market leader worldwide in steel for use in automotive, construction, household appliances and packaging etc. with extensive distribution networks around the world.

11.2 This panel observe that the complainant has common law as well as statutory rights in its trade mark "MITTAL". It is also observed by this panel that the Complainant has successfully



secured registrations of MITTAL in many countries including India. The Complainant has proved that it has trademark rights and other rights in the mark "MITTAL" by submitting substantial details and documents in support of it.

- 11.3 This panel observe that the disputed domain name incorporates the Complainant's trademark "MITTAL" in toto and the addition of the term "GROUPS" is not sufficient to escape the finding that the disputed domain name MITTALGROUPS.IN is confusingly similar to the trademark MITTAL, and has the potential to cause consumer confusion and will cause the user to mistakenly believe that it originates from, is associated with or is sponsored by the Complainant. It is further observed by this panel that suffix ".in" is not sufficient to escape the finding that the domain is confusingly similar to Complainant's trademark.
- 11.4 This panel, therefore, is of opinion that the disputed domain name "mittalgroups.in" being identical/confusingly similar to the trademark of Complainant will mislead the public and will cause an unfair advantage to Respondent. The Panel is of the view that there is a likelihood of confusion between the disputed domain name and the Complainant, its trademark, and the domain names associated. The disputed domain name registered by the Respondent is confusingly similar to the trademark "MITTAL" of the Complainant.
- 11.5 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 and the Respondent has miserably failed in following this condition.
- 11.6 This Panel, therefore, in light of the submission made by the Complainant concludes that the disputed domain name is confusingly similar to the Complainant marks. Accordingly, the Panel concludes that the Complainant has satisfied the first element required by Paragraph 4(a) of the INDR Policy.



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

12. COMPLAINANT

- 12.1 The Complainant submits that according to the Case No. INDRP/776, Amundi v. GaoGou, the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name, and If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4 (II) of the INDRP Policy.
- 12.2 The Complainant submits that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the trademark, or apply for registration of the disputed domain name by the Complainant.
- 12.3 The Complainant submits that the disputed domain name <mittalgroups.in> resolves to a parking page with commercial links related to the Complainant and its activities and past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use. The Complainant has relied on WIPO Case No. D2007-1695, Mayflower Transit LLC Vs Domains by Proxy Inc./Yariv Moshe ("Respondent's use of a domain name confusingly similar to Complainant's trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use.").
- 12.4 The Complainant submits that the Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public and therefore is not making a legitimate, fair or bona fide use of the domain name.

13. RESPONDENT

13.1 The Respondent has not replied to Complainant's contentions.

14. Panel Observations

14.1 It is observed by this panel that the Respondent has failed to rebut the allegations of the complainant that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way with the Complainant, and the Complainant does not carry out any activity for, nor has any business with the Respondent. The Respondent has also failed to rebut the contentions of the Complainant that neither license nor authorization has been granted to the Respondent to make any use of the trademark, or apply for registration of the disputed domain name by the Complainant.

14.2 It is observed by this panel that 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 burden to give evidence shifts to the Respondent to rebut the contention by providing evidence of its rights or interests in the domain name. The Respondent has failed to place any evidence to rebut the allegations of the Complainant.

14.3 It is further observed by this panel that Para 6 of the .IN Domain Name Dispute Resolution Policy (INDRP) states :

14.3.1 Any of the following circumstances, in particular, but without limitation, if found by the Arbitrator to be proved based on its evaluation of all evidence presented, shall demonstrate the Registrant's rights to or legitimate interests in the domain name for Clause 4 (b) :

"(a) *before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;*

- (b) *the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or (c) the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."*

14.3.2 This panel observe that the Respondent has failed to full fill any of the requirements as mentioned in Para 6 of INDRP Policy which demonstrates the Registrant's rights to or legitimate interests in the domain name.

14.3.3 This Panel therefore holds that the Complainant has proved that the Respondent does not have any rights or legitimate interests in the disputed domain name "mittalgroups.in".

The domain name was registered or is being used in bad faith

15. COMPLAINANT

15.1 The Complainant submits that the disputed domain name <mittalgroups.in> is confusingly similar to its trademark MITTAL. It is submitted by the complainant that Prior UDRP panels have established that the trademarks are well-known and has relied upon the WIPO Case No.D2018-1086, ArcelorMittal S.A. Vs Registrant of lakshmimittal.org, C/o WHOISt trustee.com Limited / Zeus Holding Market Ltd. ("The Domain Name wholly incorporates a well-known mark [MITTAL]"); WIPO Case No. D2010-2049, Arcelormittal Vs Mesotek Software Solutions Pvt. Ltd. ("the Complainant's marks MITTAL and MITTAL STEEL have been widely used and are well-known.").

15.2 The Complainant submits that given the distinctiveness of the Complainant's trademarks and reputation, it is inconceivable



that the Respondent could have registered the disputed domain name <mittalgroups.in> without actual knowledge of Complainant's rights in the trademarks, which evidences bad faith.

15.3 The Complainant further submits that the disputed domain name resolves to a parking page with commercial links related to the Complainant and its activities. The Complainant contends that the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks for its own commercial gain, which is an evidence of bad faith.

15.4 In this regard the complainant has given the instance of WIPO Case No.D2018-0497, Studio Canal Vs Registration Private, Domains By Proxy, LLC/Sudjam Admin, Sudjam LLC ("In that circumstance, whether the commercial gain from misled Internet users is gained by the Respondent or by the Registrar (or by another third party), it remains that the Respondent controls and cannot (absent some special circumstance) disclaim responsibility for, the content appearing on the website to which the disputed domain name resolve [...] so the Panel presumes that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.").

15.5 The Complainant in the given facts has contends that the Respondent has registered the disputed domain name and is using it in bad faith.

16. RESPONDENT

16.1 The Respondent has not replied to Complainant's contentions.

17. PANEL OBSERVATION

17.1 Paragraph 7 of the INDRP provides that the following circumstances are deemed to be evidence that Respondent has registered and used a domain name in bad faith :

"(a) Circumstances indicating that the Respondent has registered or has acquired the domain name primarily for selling, renting, or otherwise transferring the domain name registration to the Complainant who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration over the Registrar's documented out of pocket costs directly related to the domain name; or

(b) the Respondent has registered the domain name 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

(c) by using the domain name, the Respondent has intentionally attempted to attract internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its Website or location or a product or services on its website or location."

17.2 This panel while going through the complaint and documents which are placed in the form of annexures has observed that the Respondent registered the disputed domain name in October 2023, while the Complainant has been using the mark "MITTAL" since 2004 and further the complainant owns and communicates on Internet through various domain names, such as <mittalgroupindia.com> registered on August 28th 2021 and <mittal.eu> registered since February 23rd, 2010.

17.3 It is observed by this panel that the Complainant has statutory and common law rights in the mark MITTAL in many countries including in India. It is observed by this panel that in view of the above-mentioned facts and circumstances, it is impossible to conceive that the Respondent could have registered the disputed domain name



in good faith or without knowledge of the Complainant's rights in the mark MITTAL.

17.4 It is further observed by this panel that Respondent has failed to rebut the allegations of the Complainant that the disputed domain name resolves to a parking page with commercial links related to the Complainant and its activities and the Respondent has attempted to attract Internet users for commercial gain to his own website for its own commercial gain, which is an evidence of bad faith.

17.5 The Complainant has thus rightly established that the Respondent has registered the disputed domain name in bad faith, and there is evidence that points to the existence of circumstances as mentioned in clause 7(C) of the INDRP Policy. The Respondent's domain name registration meets the bad faith elements outlined in Para 4 (c) of the INDRP Policy. Therefore the Panel concludes that the registration by Respondent is in bad faith. Consequently, it is therefore established that Respondent has wrongfully acquired/registered the domain name in its favor in bad faith.

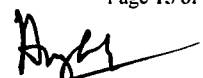
18. REMEDIES REQUESTED

18.1 The Complainant has prayed to this Administrative Panel that the disputed domain <MITTALGROUPS.IN> be transferred to the Complainant.

19. DECISION

19.1 The following circumstances are material to the issue in the present case :

19.1.1 Through its contentions based on documents/ records and evidence, the Complainant has been able to establish that the mark "MITTAL" has Steel producing and related business in many countries including India and it holds sizeable captive supplies of raw materials and operates extensive distribution networks. The



Complainant has also established that the MITTAL is popularly known exclusively concerning the Complainant. The Complainant has also established that the trademark MITTAL is inherently distinctive of the Steel producing business of the Complainant and has secured trademark protection for MITTAL by registering trademarks in many countries including India.

19.1.2 The Respondent despite repeated opportunities given, however, has failed to provide any evidence that it has any rights or legitimate interests in respect of the domain name, and the Respondent is related in any way to the Complainant. The Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the Disputed DomainName.

19.1.3 The Complainant has rather been able to establish that the Respondent has held the impugned domain since October 2023 despite having no legitimate interest in the name/mark MITTAL coupled with the fact that Respondent has not used the same for any legitimate purpose, which gives the impression, that it is a case of passive holding and the same is tantamount to the fact that the Respondent does not hold interest in the domain name. It is therefore established that respondent by attracting the internet user has tried to get the monetary gain has registered the disputed domain name, rather than any bona fide offering for goods thereunder, which is evidence of bad faith. This panel while considering the complaint and records in the form of annexures submitted by the Complainant, has concluded that there exist circumstances as stated in para 7 (C) of INDRP Policy.

19.1.4 This panel taking into account the nature of the disputed domain name and in particular, incorporating the Complainant's registered trade mark MITTAL by the respondent, observe that it would also inevitably

associate the disputed domain name MITTALGROUPS.IN closely with the Complainant's group of domains in the minds of consumers/internet users, and all plausible actual or contemplated active use of disputed Domain Name by the Respondent is and would be illegitimate.


19.1.5 The Respondent also failed to comply with Para 3 of the INDRP, which requires that it is the responsibility of the Respondent to ensure before the registration of the impugned domain name by him that the domain name registration does not infringe or violate someone else rights. The Respondent should have exercised reasonable care and efforts to ensure there was no encroachment on any third-party rights.

19.1.6 This panel is of the view that, it is for the Complainant to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name but the Respondent has failed to do that. It is also observed by this panel that Respondent's registration and use of the domain name [MITTALGROUPS.IN] are in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name and also the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

RELIEF

Following INDRP Policy and Rules, this Panel directs that the disputed domain name **[MITTALGROUPS.IN]** be transferred from the Respondent to the Complainant; with a request to NIXI to monitor the transfer.

New Delhi, India
Dated: 20 December, 2023


[AJAY GUPTA]
Sole Arbitrator