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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

<dropbox.in> and in the matter of INDRP Case no: 1807

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**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
<dropbox.in>**

and in the matter of INDRP Case no: 1807

**M/s. Dropbox, Inc.
1800 Owens Street,
San Francisco, California 94158,
United States of America**

....Complainant

Vs.

**M/s. Kristina Ivanova,
Petra, ap.70 6,
Varna 9000,
Bulgaria,
freddie.borisov@gmail.com**

..... Respondent

ARBITRATION AWARD

Disputed Domain Name: <dropbox.in>

History:

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. Dropbox, Inc. 1800 Owens Street, San Francisco, California 94158, USA represented through its authorized attorneys seeking invoking of arbitration proceedings, against the Registrant / Respondent M/s. Kristina Ivanova, Petra, ap.70 6, Varna 9000, Bulgaria, email: freddie.borisov@gmail.com in respect of registration of domain name <dropbox.in>




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

As the Registrant / Respondent, who had obtained registration of domain name <dropbox.in> in the year 2021 through the IN. registry Registrar's M/s. Hosting Concepts B.V. d/b/a, Open provider Inc, 197 Hanlon Creek Boulevard, Ontario, Canada, NIC 0A1abuse@openprovider.com but the Registrar domain has withheld and concealed the registration record containing the address and the domain details by invoking "REDACTED FOR PRIVACY" on request of the complainant the NIXI has provided the copies of WHOIS record containing the address and the domain details of the Registrant / Respondent to the complainant.

The complainant after receipt of the said domain details the address etc., from the NIXI in relation to the Registrant / Respondent, the complainant has moved an amended complaint by incorporating all the details of the Registrant / Respondent, who has obtained the registration of the disputed domain name from the domain Registrar.

That in the above said arbitral reference, the sole arbitrator had issued the directions to the complainant and the Registrant / Respondent to comply notice of 10th of January 2024 to file reply, detail statement, if any, **within 15 (fifteen) days from issue the date of this Notice**, the reply detail statement, if any should reach by **26th of January 2024**. The complainant had served the notice to the respondent / registrant to their email address as listed in WHOIS records. As such the issued notice is duly served to the respondent / registrant

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As the respondent / registrant M/s. Kristina Ivanova, Petra, ap.70 6, Varna 9000, Bulgaria, who has obtained registration in respect of domain name <dropbox.in> has failed to submit reply, or any detail statement to the above arbitral complaint reference after receipt of notice. As such the undersigned as being sole arbitrator has decided on 31st of January 2024 foreclosed the opportunity of filing of reply or statement and reserved this domain dispute complaint <dropbox.in> for final orders on its merits.

1. The Parties:

That the Complainant in this arbitration proceeding is M/s. Dropbox, Inc. 1800 Owens Street, San Francisco, California 94158, USA, the complainant is a American corporation incorporated under the laws of the USA with its principal place of business at United States of America represented through its authorized representative, has invoked this administrative domain arbitration proceedings against the Registrant / Respondent, in respect of registered domain name <dropbox.in>

Registrant / Respondent M/s. Kristina Ivanova, Petra, ap.70 6, Varna 9000, Bulgaria, email: freddie.borisov@gmail.com in respect of registration of domain name <dropbox.in>. As the Registrant / Respondent, who had obtained registration of domain name <dropbox.in> in the year 2021

2. The Domain Name and Registrar:

- 2.1 The disputed domain name <dropbox.in> is registered by the IN. registry, M/s. Hosting Concepts B.V. d/b/a, Open provider Inc, 197 Hanlon Creek Boulevard, Ontario, Canada, NIC 0A1abuse@openprovider.com but the Registrar domain has withheld and concealed the registration record containing the address and the domain details of the Registrant / Respondent by invoking “REDACTED FOR PRIVACY”

 

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 11th of January 2024 by issuing of 1st 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.



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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 26th of January 2024, 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 <dropbox.in> for final orders and shall be decided on merits.

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 <dropbox.in> illegally.
- 4.2 The complainant has raised three pertinent grounds under INDRP Rules of Procedure for seeking relief against the Registrant / respondent disputed domain name <dropbox.in> is stated as under:

A. Complainant Grounds for proceedings

I. The Complainant counsel states that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has statutory/common law rights.

II. The Complainant counsel states that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

III. That the disputed domain name has been registered or is/are being used in bad faith.



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The Complainant submits its detailed contentions in their complaint that are described in details as under:

- I. The Complainant counsel states that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has statutory/common law rights.***

The Complainant's Claim of Statutory Rights

- 4.3 The complainant is the prior user and owner of the cloud storage and file hosting services and is ranked as one of the most valuable startups in the world. It was founded by two MIT students, Drew Houston and Arash Ferdowsi with the objective of creating a solution that could enable anyone to access their most important information anytime from any device. The Complainant provides several cutting-edge services in the digital space which include cloud storage, file synchronization, document sharing, eSignature, workflow management, and others .
- 4.4 The Complainant Company is headquartered in San Francisco, California, United States of America and operates out of offices located in several cities including Austin (Texas), Mountain View (California), Seattle (Washington), Dublin (Ireland), and Sydney (Australia)..
- 4.5 The Complainant company provides file hosting services under its trademark 'DROPBOX', which brings files together in one central place by creating a special folder on the user's computer. The contents of these folders are synchronized to the Complainant's servers and to other computers and devices where the user has installed 'DROPBOX', keeping the same files up-to-date on all devices. 'DROPBOX' uses a freemium business model, where users are offered a free account with a set storage size, with paid subscriptions available that offer more capacity and additional features. 'DROPBOX' is available as a computer application for Microsoft Windows, Apple MacOS and Linux, and as a mobile application for smart phones and tablets running iOS, Android and Windows.



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All products of the Complainant including 'DROPBOX' are listed in detail on its official website 'www.dropbox.com' which can be viewed and accessed from anyone, anywhere in the world

- 4.6 The Complainant enjoy prior trade name rights, prior trademark rights, prior domain name rights and other related rights in respect of the "DROPBOX" marks in various countries and regions worldwide. The Complainant has been using marks including "DROPBOX" as their trade name since long. Apart from the aforementioned registration in India, The Complainant have a registration of Trademark qua 'DROPBOX' wide application 2448055 for classes 9, 39 and 42.

The Complainant holds a large number of registrations for its trade mark DROPBOX and other 'DROPBOX' formative marks across the world, including in Albania, Australia, Bahrain, Canada, Cambodia, Chile, Costa Rica, Cuba, European Union (EUTM), Ghana, Iceland, Israel, Indonesia, Jordan, Kenya, Morocco, Mexico, Malaysia, New Zealand, the Philippines, Serbia, Singapore, Switzerland, United Kingdom, United States of America, Uruguay, Vietnam, and others.

- 4.7 The Complainant has had a steady growth since its inception. It surpassed 1 million registered users milestone soon after its launch, in April 2009, and it reached 3 million users at the end of November 2009. In 2017, the Complainant surpassed 1 billion US Dollars in revenue, making it the fastest Software as a Service (SaaS) company to reach this milestone to date.

- 4.8 That by virtue of prior adoption, extensive and continuous use in respect of the "DROPBOX" 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 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.



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- 4.9 The Complainant has a gigantic, enviable global presence. The technology and solutions provided by the Complainant are used in homes, businesses, and daily life by a large number of people worldwide. The global popularity and reputation of the Complainant can be gauged from the fact that DROPBOX has over 700 million registered users, as of September 2023, out of which more than 16.14 million users have opted for the Complainant's paid premium services. The Complainant's users are located across more than 180 countries, including India.
- 4.9 The disputed domain name <**dropbox.in**> incorporates the Complainant's "DROPBOX" mark in its entirety, with the descriptive word "asset" as a suffix. 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**).
- 4.11 The Complainant has never authorized the Respondent to register or use any trade name, trademark, or domain name related to "DROPBOX" the impugned domain name is being registered and / or used in bad faith.

II. The Complainant counsel states that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

4.12 The fact that the Respondent has no legitimate interest in the impugned domain name <**dropbox.in**> is clearly evident. The unlawful acquisition of the impugned domain name <**dropbox.in**> without due reason and with the sole objective of obtaining illegal revenue on account of misdirected traffic intending to reach the Complainant's website, further establishes that the Respondent has registered the same in bad faith.

4.13 The registration and usage of the impugned domain <**dropbox.in**> by the Respondent is an attempt to ride on the back of the massive reputation and goodwill that is enjoyed by the Complainant and to pass off the impugned domain name as that belonging to the Complainant.

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In fact, it is an established principle that a domain name adopted by the Complainant is entitled to equal protection against passing off as in the case of a trademark. In support of this submission, reliance is placed upon the judgments in *Yahoo! Inc. vs Akash Arora & Anr. (78 (1999) DLT 285)*; and *Rediff Communication Ltd Vs. Cyberbooth and Anr AIR 2000 AIR Bom. 27*;

- 4.14 On the basis of the Whois report, the Respondent appears to be an individual / entity. The Respondent is not affiliated and/or connected in any manner whatsoever with the Complainant or its entities. It is also pertinent to note that the Respondent has never had any prior dealings with the Complainant or its affiliates and/or subsidiaries in connection with the 'DROPBOX' business of the Complainant. The Respondent has no authorization, leave, license and/or consent from the Complainant to use the impugned domain name in any manner..

4.15 It is therefore amply clear that the Respondent has absolutely no rights whatsoever in the impugned domain name <dropbox.in>. Further, the fact that the website accessible through the impugned domain name is not being used for any bona fide purpose whatsoever indicates that the Respondent is not making any fair or legitimate use of the impugned domain name and has no intention to do so. Evidently, the prime motive of the Respondent appears to be coerce and intimidate the Complainant into make ill-gains out of the same.

III. That the disputed domain name has been registered or is/are being used in bad faith.

- 4.16. Based on the WHOIS report and commercial investigation conducted by the Complainant as well as the aforementioned facts and circumstances, it is submitted that the Respondent has acquired and registered the impugned domain name <dropbox.in> primarily for the unlawful purpose of diluting the reputation and goodwill of the Complainant mark 'DROPBOX'.

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The Respondent might try to sell, rent, or otherwise transfer the impugned domain name registration to the Complainant which is the owner of the trademark 'DROPBOX' along with several 'DROPBOX' based domain names, or to a competitor of the Complainant, for valuable consideration in excess of the documented out-of-pocket costs incurred by the Respondent in relation to the domain name. In support of the said contentions, the Complainant places reliance upon the submissions made in the preceding paragraphs which are not being reproduced for the sake of brevity.

- 4.17 Further, it is clear beyond doubt that the impugned domain name *<dropbox.in>* has been acquired by the Respondent with the sole objective of misappropriating and encroaching upon the vast goodwill and reputation subsisting in favour of the Complainant, and to prevent the Complainant as the owner of the 'DROPBOX' trademarks to exercise its legal rights and conduct business using a corresponding domain name that reflects the trademark owned by it.
- 4.18 The mischievous and mala fide conduct of the Respondent is evident from the fact that the Respondent deliberately chose to acquire the impugned domain name *<dropbox.in>* whilst having no association with either the Complainant or any of its group companies, or with the word 'DROPBOX'. The Respondent, by intentionally creating a likelihood of confusion and deception as to the source, affiliation, patronage and/or endorsement of its website, has attempted to attract unsuspecting visitors to its website accessible through the impugned domain *'dropbox.in'*, resulting in unjust enrichment of the Respondent on the back of the Complainant's hard-earned goodwill and reputation.
- 4.19 The Respondent has used the Domain Name *<dropbox.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.



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Brief Contention of the Complainant:

- 4.20 Firstly the Complainant submits that the Respondent has used the Complainant's well-known trademark "DROPBOX" as part of the impugned domain name *<dropbox.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 / service: mark "DROPBOX". Secondly, the Respondent is well aware of the insurmountable reputation and goodwill associated with the Complainant's trade and service mark "DROPBOX" 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 where:

a) Brief Contention of the Respondent:

- 4.22 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. 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.



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5.2 It is evidently clear that the Respondent knowingly chose to registered and use the disputed domain name <**dropbox.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.

5.3 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.

5.4 The Complainant further submits that any person or entity using the mark "DROPBOX" as a domain name that too with related keyword referring to its corporate name "DROPBOX" is bound to lead customers and users to infer that its product or service has an association

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or nexus with the Complainant and lead to confusion and deception. It is indeed extremely difficult to foresee any justifiable use that the Respondent may have with the disputed domain name. On the contrary, registering this domain name gives rise to the impression of an association with the Complainant, which is not based in fact. **[Daniel C. Marino, Jr. v. Video Images Productions, WIPO-D2000-0598]**.

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 <**dropbox.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 by choosing to register and use a domain name which is not only 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.



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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

- 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 domain name in dispute was registered on November 15, 2021, which is much later than the time of the Complainant and its affiliates' earliest use and registration of the trademarks "DROPBOX" and the domain name *<dropbox.in>* and there is no relationship between the Complainant and the Respondent. The Complainant has never authorized the Respondent to register or use any trade name, trademark, or domain name related to "DROPBOX" reasons justifying that the impugned domain name is being registered and/ or used in bad faith.
- 5.16 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.



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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 “DRPBOX” 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 “DROPBOX”. 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:
- 5.20 *"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;*



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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 similar disputed domain name by the Respondent / Registrant would certainly result in confusion and deception of the trade, consumers and public, who would assume a connection or association between the Complainants as disputed domain name <**dropbox.in**>, is associated exclusively with the complainant, by the trade and public in India and all over the world.
- 5.23 Further the due to act of the Respondent / Registrant has prevented the Complainant, who is the owner of the service mark "DROPBOX" 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 "DROPBOX". 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.
- 5.24 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.



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 CHASWAL" is written along the top arc, "ADVOCATE" along the top straight edge, "SOLE ARBITRATOR" along the bottom arc, and "DELHI" in the center.

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 the complainant has also provide domain details wherein the registrant / respondent has also registered many similar, where probably the actual prior domain owner does not know that the similar domain registered by the third party, the registration of many similar domain names by the present registrant / respondent clearly indicates that the respondent is regular squatter and it registers similar domain names regularly and later trade upon as ransom on higher rates with rightful owners right.
- 6.4 Further the due to act of the Respondent / Registrant has prevented the Complainant, who is the owner of the service mark "DROPBOX" 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 "DROPBOX". 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.
- 6.5 The document attached by the complainant here in clearly shows that the thus it clearly shows that the domain owner of <*dropbox.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 "DROPBOX".



The image shows a handwritten signature in black ink to the left of a circular stamp. The stamp is a professional seal for an advocate in Delhi. The text within the stamp, starting from the top and moving clockwise, reads: "SANJAY KUMAR CHAWLA", "ADVOCATE", "SOLE ARBITRATOR", and "DELHI". There is a small star symbol at the bottom center of the stamp.

- 6.6 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

- 6.7 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. 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*.
- 6.08 While the overall burden of proof rests with the Complainant, The panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the Respondent.
- 6.09 Therefore a 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



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 contains the text 'SANJEEV KUMAR CHASWAL' around the top inner edge, 'ADVOCATE' at the top, 'SOLE ARBITRATOR' at the bottom, and 'DELHI' in the center.

- 6.10 The Respondent's registration and use of the Domain Name is abusive and in bad faith. The Respondent / Registrant has no rights or legitimate interests in respect of the domain name. In my view, the Complainant has satisfied all the three requisite conditions laid down in paragraph 4 of the INDRP policy.
- 6.11 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*
- 6.12 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."*
- 6.13 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"* 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.



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In the present dispute as well, 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.

As the Registrant / Respondent, who had obtained registration of domain name **<dropbox.in>** unauthorisedly in the year 2021 through the IN. registry Registrar's and the impugned registration is valid up to 15th November 2024, as and the said registration nearing to completion of three years, as such no financial loss will occur to the Registrant / Respondent, if the impugned registration is restored back to the complainant herein but if the impugned registration is not restored to back complainant then monetarily as well as reputation, goodwill loss will certainly occur to the complainant herein as the impugned domain **<dropbox.in>** will be open to misuse and misappropriation by any third party.

As such 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 **<dropbox.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.



SANJEEV KUMAR CHASWAL
SOLE ARBITRATOR
INDRP ARBITRATION NIXI

NEW DELHI

DATE 4th of February 2024