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INDIA NON JUDICIAL

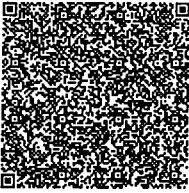
Government of National Capital Territory of Delhi

₹100

e-Stamp

Certificate No. : IN-DL29811895205570W
 Certificate Issued Date : 19-Jan-2024 10:38 AM
 Account Reference : IMPACC (IV)/ dl717303/ DELHI/ DL-DLH
 Unique Doc. Reference : SUBIN-DL71730322161673598492W
 Purchased by : AJAY GUPTA ARBITRATOR
 Description of Document : Article 12 Award
 Property Description : Not Applicable
 Consideration Price (Rs.) : 0
 (Zero)
 First Party : AJAY GUPTA ARBITRATOR
 Second Party : Not Applicable
 Stamp Duty Paid By : AJAY GUPTA ARBITRATOR
 Stamp Duty Amount(Rs.) : 100
 (One Hundred only)

₹100



Please write or type below this line IN-DL29811895205570W

INDR/PCase No. 1809

Disputed Domain Name: "KNOWLEDGEACADEMY.IN"

The Knowledge Academy Holdings limited

Vs.
Jadhav

Handwritten signature

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INDRP ARBITRATION CASE No.1809
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA

THE KNOWLEDGE ACADEMY HOLDINGS LIMITED

VERSUS

JADHAV

DISPUTED DOMAIN NAME: "KNOWLEDGEACADEMY.IN"

INDRP ARBITRATION CASE NO.1809
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA

THE KNOWLEDGE ACADEMY HOLDINGS LIMITED
Reflex, Cain Road, Bracknell
Berkshire, RG12 1HL
[UNITED KINGDOM] ... Complainant

VERSUS

JADHAV
Prpally, Hanuman Nagar
Chourasta, Sangareddy-500020
[TELANGANA] INDIA ... Respondent

Disputed Domain Name: "KNOWLEDGEACADEMY.IN"



1. THE PARTIES

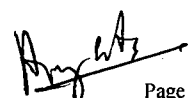
- 1.1 The **Complainant**, The Knowledge Academy Holdings Limited, in this arbitration proceeding, is a business and IT training company and its contact address is Reflex, Cain Road Bracknell Berkshire RG12 1HL United Kingdom.
- 1.2 The Complainant's **Authorized Representative** in this administrative proceeding is Iain Connor and Matthew King Address: Michelmores LLP, 100 Liverpool Street, London, EC2M 2AT, [UNITED KINGDOM].
- 1.3 In this arbitration proceeding, the **Respondent** is Jadhav, Address: Prpally Hanuman Nagar. Chourasta Sangareddy-500020 (TELANGANA), 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 "**KNOWLEDGEACADEMY.IN**" and the Registrar with which the disputed domain name is registered is HIOX SOFTWARES PRIVATE LIMITED.

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 By Rules 2(a) and 4(a), NIXI on 11.01.2024 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. I submitted the Statement of Acceptance and Declaration of Impartiality and Independence dated 11.01.2024 to NIXI.
- 3.2.2 That commencing the arbitration proceedings an Arbitration Notice Dated 12.01.2024 was emailed to the Respondent and others on 12.01.2024 by this panel under Rule 5(c) of INDRP Rules of Procedure with direction to the Respondent to file a reply of the complaint, if any, within 10 days.
- 3.2.3 This panel vide Arbitration Notice dated 12.01.2024 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 22.01.2024.
- 3.2.4 The Respondent in response to the arbitration notice dated 12.01.2024 of this panel, via his email dated 16.01.2024 replied that ***"I'm ready to transfer the "KNOWLEDGEACADEMY.IN" domain to "The Knowledge Academy Holdings Limited"*** This panel in response to the email dated 16.01.2024 of the Respondent, via email dated 18.01.2024 directed the Respondent to file the reply of complaint if any, by 21.01.2024 as the opportunity provided to him in the Arbitration Notice. The Respondent despite the opportunity given failed to give the parawise reply of the complaint in time i.e. by 21.01.2024. However, the Respondent via his email dated 20.01.2024 submitted the following reply :

"Dear All,

I would like to express my sincere apologies for any inconvenience caused by this situation.

I am relatively new to the blogging industry and, in my enthusiasm to share computer related content in Hindi, I searched for available domains and found "knowledgeacademy.in" Unfortunately, I was unaware of any existing concerns or legal matters related to this domain. I purchased the .in domain and initiated my blog.

However, after receiving your notice, I have promptly deleted the website and ceased using the domain as I understand the seriousness of the matter.

I must admit that I am not familiar with the "INDRP Rules of Procedure". I genuinely want to resolve this matter amicably, and I am willing to transfer the domain to The Knowledge Academy Holdings Limited as requested in the Complaint.

Could you please guide me on the steps to transfer the domain? Your assistance in this matter would be greatly appreciated.

Once again, I apologize for any unintended inconvenience caused, and I am committed to resolve this matter promptly.

Thank you for your understanding.

**Sincerely
Sathish Jadhav"**

3.2.5 This panel in view of the above submissions of the Respondent reserved the matter for passing of the award and informed all the parties about the same via email dated 22.01.2024.

4. **THE ISSUES INVOLVED IN THE DISPUTE**

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

“Types 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.”

- 4.2 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.

5. **PARTIES’ CONTENTIONS**

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

COMPLAINANT

- 5.2 The Complainant submits that The Knowledge Academy Holdings Ltd and was incorporated on 14 July 2013. The Complainant is the holding company of The Knowledge Academy Ltd which was incorporated on 1 April 2009 and which is a business and IT training company which operates globally, providing training solutions to corporate, public sector,

multinational organizations and private individuals. Its primary focus is delivering training in a wide range of areas from IT technical, personal development, human resources and management courses to project, programme and IT service management.

- 5.3 The Complainant submits that the Complainant's group offers its services to the public through various channels, including through its website www.theknowledgeacademy.com (the "Website"), through e learning courses, and face to face through its extensive network of highly experienced instructors.
- 5.4 The Complainant submits that the Complainant is the world's largest and most established provider of training courses globally, with the capability to deliver over 30,000 courses in over 1,000 locations across 190 countries. To date, the Complainant has successfully trained over 1 million delegates. Such services are offered by reference to the Complainant group's registered trademarks as set out above.
- 5.5 The Complainant submits that its Indian headquarters offices is in Bangalore in the state of Karnataka. It employs over 280 people in India including in its offices at Ahmadabad in the state of Gujarat.
- 5.6 The Complainant submits that it has used the Registered Marks continuously across a range of products since they were registered. In addition, the Complainant has advertised goods and services bearing the Registered Marks both online through its websites and off-line in a variety of publications. As a result of the Complainant's activities it has built up substantial goodwill and gained a valuable reputation in the Registered Marks in relation to the goods and services to which they are registered with which the Complainant and no other is associated.

- 5.7 The Complainant submits that the goodwill associated with the name THE KNOWLEDGE ACADEMY is the property of the Complainant and cannot pass to any third party without a formal assignation. No such assignation in favour of the Respondent has taken place.
- 5.8 The further submits that the Domain Name is identical to the Complainant's business and trading name and to the registered trademarks.
- 5.9 The Complainant submits that given the international presence and associated reputation of the Complainant's name THE KNOWLEDGE ACADEMY, no party would choose the Domain Name unless with the intention to create a false impression of association with the Complainant in order to attract business from the Complainant or misleadingly to divert the public from the Complainant to the Respondent.

RESPONDENT

- 5.10 The Respondent has not replied to the Complainant's allegations, except what he has stated in his email dated 20.01.2024.

6. PANEL OBSERVATIONS

- 6.1 This panel observes that the Complainant has common law as well as statutory rights in its trade/service mark "THE KNOWLEDGE ACADEMY". It is also observed by this panel that the Complainant has successfully secured registrations for the THE KNOWLEDGE ACADEMY mark all over the world including India. The Complainant has proved that it has trademark rights and other rights in the mark "THE KNOWLEDGE ACADEMY" by submitting substantial documents in support of it.
- 6.2 It is observed by this panel that the trademark "THE KNOWLEDGE ACADEMY" in the Disputed Domain Name

“knowledgeacademy.in” comprises the Complainant’s trademarks in their entirety 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. The removal of word “THE” from the disputed domain name does not eliminate the similarity between the Complainant’s trademark and the disputed domain name. 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.

6.3 This panel, therefore, is of opinion that the disputed domain name “KNOWLEDGEACADEMY.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 “THE KNOWLEDGE ACADEMY” of the Complainant.

6.4 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.

6.5 This Panel, therefore, in light of the contentions raised 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 Registrant/Respondent has no rights or legitimate interest in respect of the disputed domain name.

COMPLAINANT

- 6.6 The Complainant submits that the Respondent registered the Domain Name on 22nd August 2023 and the Domain Name goes to a website which purports to be a blog named "Knowledge Academy" which purports to "provide knowledge of computer courses in Hindi language to all the people".
- 6.7 The Complainant submits that given the Domain Name in dispute, the Complainant considers it is reasonable to conclude that the Respondent registered the Domain Name knowing that it is likely to attract interest from internet users who are searching for the Complainant.
- 6.8 The Complainant submits that given the Complainant's reputation in THE KNOWLEDGE ACADEMY, the Complainant considers it reasonable to conclude that the Respondent registered the Domain Name in the full knowledge of its activities and reputation. The Complainant further submits that it is not possible for the Respondent to have acquired any legitimate right to use the Domain Name since its registration, or before.

RESPONDENT

- 6.9 The Respondent has not replied to the Complainant's allegations, except what he has stated in his email dated 20.01.2024.

7. PANEL OBSERVATIONS

- 7.1 This Panel holds that the second element that the Complainant needs to prove and as is required by paragraph 4(b) of the INDRP is that the Respondent has no legitimate right or interests in the disputed domain name.
- 7.2 This panel observes that the Complainant by placing documents /records and evidence along with the complaint has been able to prove that the Complainant is doing its business under the mark

'THE KNOWLEDGE ACADEMY' in many countries including India. The Complainant by its priority in adoption, goodwill, and long, continuous and extensive use of the mark, the Complainant has acquired the exclusive right to the use of the 'THE KNOWLEDGE ACADEMY' mark in respect of its business.

- 7.3 Whereas, it is observed by this panel that the Respondent has failed to rebut the allegations of the Complainant that given the Complainant's reputation in THE KNOWLEDGE ACADEMY, it is reasonable to conclude that the Respondent registered the Domain Name in the full knowledge of its activities and reputation. The Respondent also failed to rebut the allegations of the Complainant that, it is not possible for the Respondent to have acquired any legitimate right to use the Domain Name since its registration, or before.
- 7.4 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.
- 7.5 It is further observed by this panel that para 6 of the .IN Domain Name Dispute Resolution Policy (INDRP) states :

“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.”

- 7.6 This panel observe that the Respondent also 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 for Clause 4 (b). For these reasons, the Panel holds that the Complainant has proved that the Respondent does not have any rights or legitimate interests in the disputed domain name “KNOWLEDGEACADEMY.IN”.

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

COMPLAINANT

- 7.7 The Complainant submits that given the widespread use and reputation of the Complainant Marks, the Respondent must have been aware that in registering the Domain Name it was and is misappropriating the valuable intellectual property of the Complainant.
- 7.8 The Complainant submits that it is reasonable to conclude that the Domain Name has been registered in bad faith for illegitimate purposes in order to infringe the Complainant's Marks; to deceive the public into believing that the goods and services offered by the Respondent are connected to the Complainant.
- 7.9 The Complainant further submits that the Respondent will never be capable of using the Domain Name for a legitimate purpose as

the reputation of THE KNOWLEDGE ACADEMY is such that members of the public will always assume that there is an association between the Respondent and the Complainant.

RESPONDENT

7.10 The Respondent has not replied to the Complainant's allegations, except what he has stated in his email dated 20.01.2024.

8. PANEL OBSERVATION

8.1 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.”*

- 8.2 This panel while going through the complaint and documents which are placed in the form of annexes has observed that the Respondent registered the disputed domain name on 22 August 2023, by which time the Complainant has been using the mark THE KNOWLEDGE ACADEMY mark for many years. It is observed by this panel that the Complainant has statutory and common law rights in the mark THE KNOWLEDGE ACADEMY worldwide including in India. It is observed by this panel that given 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 THE KNOWLEDGE ACADEMY.
- 8.3 It is observed by this panel that the Respondent has failed to rebut the allegation of the Complainant that given the widespread use and reputation of the Complainant Marks, the Respondent must have been aware that in registering the Domain Name and it was and is misappropriating the valuable intellectual property of the Complainant. The Respondent further failed to rebut the allegation of the Complainant that it is reasonable to conclude that the Domain Name has been registered in bad faith for illegitimate purposes in order to infringe the Complainant's Marks; to deceive the public into believing that the goods and services offered by the Respondent are connected to the Complainant.
- 8.4 It is further observed by this panel that the Respondent has failed to rebut the allegation of the Complainant that, the Respondent will never be capable of using the Domain Name for a legitimate purpose as the reputation of THE KNOWLEDGE ACADEMY is such that members of the public will always assume that there is an association between the Respondent and the Complainant.

8.5 The Complainant has rightly established that the Respondent registered the disputed domain name "KNOWLEDGEACADEMY.IN" in bad faith with contention that the Respondent provided no evidence whatsoever of any actual or contemplated good faith use. 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 established that the disputed domain name was registered in bad faith or used in bad faith and the Respondent has wrongfully acquired/registered the domain name in its favor in bad faith.

9. REMEDIES REQUESTED

9.1 The Complainant has prayed to this Administrative Panel that the domain name <KNOWLEDGEACADEMY.IN> be canceled or transferred to the complainant and, imposing of the cost on the Respondent.

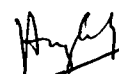
10. DECISION

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

"Through its contentions based on documents/ records and evidence, the Complainant has been able to establish that the mark " THE KNOWLEDGE ACADEMY" is a business and IT training company and well-known name globally including in India. The Complainant has established that the trademark THE KNOWLEDGE ACADEMY is inherently distinctive of the business of the Complainant and it has secured trademark protection for THE KNOWLEDGE ACADEMY by registering trademarks in many countries."

10.2 The Respondent 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.

- 10.3 The removal the word “THE” by the Respondent in the Complainant’s well known registered trade mark “THE KNOWLEDGE ACADEMY”, when registering the disputed name “knowledgeacademy.in” establishes that *disputed domain name has been registered in bad faith.*
- 10.4 The Respondent 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 efforts to ensure there was no encroachment on any third-party rights.
- 10.5 Taking into account the nature of the disputed domain name and in particular, the “.in” extension alongside the Complainant’s mark which is confusingly similar, which would inevitably associate the disputed domain name closely with the Complainant’s group of domains in the minds of consumers, all plausible actual or contemplated active use of disputed Domain Name by the Respondent is and would be illegitimate.
- 10.6 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 miserably failed to do that. The Respondent’s registration of the domain name [knowledgeacademy.in] is 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.
- 10.7 This panel however, observed that although the Respondent has failed to defend his case within parameters given in INDRP



Policy by not replying to the allegations made in the complaint , but the Respondent via his email dated 20.01.2024 has fairly admitted his mistake and not only apologized but also offered to transfer the disputed domain name to the Complainant.

RELIEF

Following the INDRP Policy and Rules, this Panel directs that the disputed domain name [KNOWLEDGEACADEMY.IN] be transferred from the Respondent to the Complainant, requesting NIXI to monitor the transfer.

New Delhi,India
Dated:January 29, 2024


[AJAY GUPTA]
Sole Arbitrator