



## INDIA NON JUDICIAL

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#### e-Stamp

Certificate No. : IN-DL69949809070204W  
Certificate Issued Date : 05-Apr-2024 10:51 AM  
Account Reference : IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH  
Unique Doc. Reference : SUBIN-DLDSLHIMP1798855949156767W  
Purchased by : ALOK KUMAR JAIN  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : ALOK KUMAR JAIN  
Second Party : Not Applicable  
Stamp Duty Paid By : ALOK KUMAR JAIN  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



BEFORE ALOK KUMAR JAIN, SOLE ARBITRATOR  
INDRP Case No. 1818  
Disputed Domain Name: <RADISSONRESORTSPA.CO.IN>  
**ARBITRATION AWARD**

RADISSON HOSPITALITY BELGIUM BV/SRL Complainant

Versus

NAJIM

Respondent

**BEFORE ALOK KUMAR JAIN, SOLE ARBITRATOR  
.IN REGISTRY  
NATIONAL INTERNET EXCHANGE OF INDIA(NIXI)  
INDRP ARBITRATION  
INDRP Case No. 1818**

**Disputed Domain Name: < RADISSONRESORTSPA.CO.IN>**

**ARBITRATION AWARD**

**Dated 23.4.24**

**IN THE MATTER OF:**

**Radisson Hospitality Belgium BV/SRL**

**Avenue du Bourget 44,**

**B-1130, Brussels,**

**Belgium**

**Complainant**

**v.**

**Najim**

**Shivaji Nagar, Road No 2**

**Govandi (W), Mumbai – 400043**

**Maharashtra**

**Respondent**

**1. The Parties**

The Complainant is Radisson Hospitality Belgium BV/SRL, a Belgium private limited liability company, which includes its predecessors-in-title i.e. Radisson Hotels International, Inc., with an address at Avenue du Bourget 44, B-1130, Brussels, Belgium (hereinafter referred to as "the

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Complainant”) and authorized representative of the Complainant as per the following details: Latha R Nair,K&S Partners,himes,61,Sector 44,Gurugram,Haryana-122003,National Capital Region,India,PH.+91 124 4708777,M-9810206715,email : latha@knspartners.com 3.

The Respondent

The Respondent in the present proceeding is Najim and his details as available through .IN Whois on January 12, 2024, are as follows:

2. Najim , Shivaji Nagar, Road No 2 ,Govandi (W), Mumbai Maharashtra - 400043 ,India,(91)74900216 Email: ajaysin5469@gmail.com

1 **Domain Name and Registrar:-**

- 1.1 The Disputed Domain name is  
<www.RADISSONRESORTSPA.CO.IN>

The Registrar with whom the disputed domain name is registered is Key-Systems GmbH.

**Procedure History**

- 3.1. This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (the "Policy") adopted by the National Internet Exchange of India ("NIXI") and the INDRP Rules of Procedure (the "Rules") which were approved in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the Disputed Domain Name with a NIXI accredited Registrar, the Respondent agreed to the resolution of disputes pursuant to the said Policy and the Rules.

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

- 3.2. The Complaint was filed by the Complainant with NIXI against the Respondent . On 23.2.2024 I was appointed as Sole Arbitrator to decide the disputes between the parties. I submitted statement of Acceptance and Declaration of Impartiality and Independence same day as required by rules to ensure compliance with Paragraph 6 of the Rules. NIXI notified the Parties of my appointment as Arbitrator *via* email dated 23.2.2024 and served by email an electronic Copy of the Complaint with Annexures on the Respondent at the email address of the Respondent.
- 3.3. I issued notice to the parties vide email dated 29.2.2024 directing the Complainant to serve complete set of Complaint on the Respondent in soft copies as well as in physical via courier /Post. The Respondent was directed to file its response within 10 days from the date of notice. No response was received from the Respondent till 15.3.2024. Therefore, on 16.3.2024. I granted further time to Respondent directing the Respondent to file response by 23.3.24 failing which the matter shall be decided on merit. The extra time given to the Respondent also expired. Respondent did not file any reply within the extended time or thereafter .On 4.4.24 I intimated the parties that now the matter will be decided on its own

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merit. Accordingly now the complaint is being decided on merit. No personal hearing was requested by any parties.

3.4 A Complete set of Complaint was served by NIXI in electronic form by email to the Respondent on 23.2.2024 at the email provided by the Respondent with WHOIS ,while informing the parties about my appointment as Arbitrator. Thereafter notice was sent vide email. All communications were sent to Complainant, Respondent and NIXI by the Tribunal vide emails. None of the emails so sent have been returned so far. Therefore I hold that there is sufficient service on the Respondent through email as per INDRP rules. The Respondent has not filed any response to the Complaint despite two opportunities.

3.5. Clause 8(b) of the INDRP Rules requires that the Arbitrator shall at all times treat the Parties with equality and provide each one of them with a fair opportunity to present their case.

3.6. Clause 12 of INDRP Rules provides that in 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 law.

3.7 As stated above, the Respondent failed to file any Response to the Complaint despite opportunities and chose not to answer .

the Complainant's assertions or controvert the Complaint and the contentions raised. As a result, I find that the Respondent has been given a fair opportunity to present his case but has chosen not to come forward and defend itself.

- 3.8 Further Clause 13(a) of the Rules provides that an Arbitrator shall decide a Complaint on the basis of the pleadings submitted and in accordance with the Arbitration & Conciliation Act, 1996 amended as per the Arbitration and Conciliation (Amendment) Act, 2015 read with the Arbitration & Conciliation Rules, Dispute Resolution Policy, the Rules of Procedure and any by-laws, and guidelines and any law that the Arbitrator deems to be applicable, as amended from time to time.

In these circumstances the Tribunal proceeds to decide the complaint on merit in accordance with said Act, Policy and Rules on Respondent's failure to submit a response despite having been given sufficient opportunity and time to do so.

4. **Grounds for Arbitration Proceedings.**

**INDRP Policy para 4. Class of Disputes provides as under:**

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

- (a) the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and

(b) the Registrant has no rights or legitimate interests in respect of the domain name; and

(c) the Registrant's domain name has been registered or is being used in bad faith.

**5. The Case of the Complainant :-**

5.1 The Complainant has averred in the Complaint that the Radisson Hotel Group operates hotels and resorts, spanning the luxury and economy segments, throughout the world, both directly and through subsidiaries and franchisees. It has an expanding portfolio of approximately 750 hotels in operation and under development, with a global footprint in approximately 85 countries and territories. Its brands of well-known and highly popular international hotels include 'RADISSON', 'RADISSON BLU', 'RADISSON RED', RADISSON COLLECTION, RADISSON INDIVIDUALS, 'PARK PLAZA', 'PARK INN BY RADISSON' and 'COUNTRY INN & SUITES BY RADISSON. An internet extract from the Radisson Hotel Group website providing information regarding the above listed brands is attached with the complaint and marked as **Annexure 4**.

5.2 The first RADISSON hotel became operational in 1909 in Minneapolis, Minnesota. It had 425 rooms, 2 restaurants and employed 250 people. The hotel was purchased by Curt

Carlson in 1962, who expanded the RADISSON brand first around Minnesota, then USA, eventually around the world. Today, there are more than 700 RADISSON, RADISSON BLU, RADISSON RED, RADISSON COLLECTION, RADISSON INDIVIDUALS, PARK INN BY RADISSON, and COUNTRY INN & SUITES BY RADISSON hotels in operation or under development throughout Europe, the Middle East, Asia Pacific and Africa. In India, the first RADISSON hotel opened in 1997 in Calcutta. As on date, there are over 100 RADISSON hotels operational in India. An internet extract regarding the above history is attached with the complaint and marked as **Annexure 5**. Fact sheets from the Complainant's websites are attached as **Annexure 6**. Additional internet extracts showing the locations of the Complainant's hotels around the world are attached as **Annexure 7**.

5.3 The RADISSON mark is well known and the same includes variants such as and (hereinaf referred to as the 'RADISSON marks') which are registered and/ or applied for registration in various classes in over 120 jurisdictions worldwide including but not limited to France, Canada, Australia, Japan, China, EU, Hong Kong etc. In India there are registrations/ applications for the RADISSON marks in several classes such as 3, 9, 16, 18, 24, 25, 35, 36, 42 and 43. The earliest registration for the mark RADISSON in class 16 dates to February 28, 1990. Copies of the registration certificates in

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respect of the above marks in India as well as a list of pending applications are attached hereto and collectively attached as **Annexure 8**. A detailed list of the international trademark registrations of the RADISSON marks along with copies of a few registration certificates are attached with complaint as **Annexure 9**.

5.4 In addition to the above trademark registrations, the Complainant owns numerous domain names comprising of the mark RADISSON and runs websites corresponding to some of these including [www.radisson.com](http://www.radisson.com), [www.radissonblu.com](http://www.radissonblu.com), [www.radissonred.com](http://www.radissonred.com), [www.radisson.co.in](http://www.radisson.co.in), [www.radissoncollection.com](http://www.radissoncollection.com), and [www.radissonrewards.com](http://www.radissonrewards.com), which all redirect to the brand page [www.radissonhotels.com](http://www.radissonhotels.com). The said websites are accessible to and in fact have been accessed by users of the Internet in India directly and through redirects from [www.radisson.co.in](http://www.radisson.co.in) and [www.radissonred.in](http://www.radissonred.in). Copies of the WHOIS extracts of the said domain names which are valid and registered are attached hereto and collectively marked as **Annexure 10**.

5.5 The Complainant has been very vigilant in taking action against third parties who unauthorizedly adopt the mark RADISSON. In India, the Complainant has initiated close to 47 trademark oppositions against such parties. While several of such opposition proceedings are pending, such oppositions have also led many parties to abandon their marks and provide undertakings to the Complainant acknowledging its rights in

the RADISSON marks and agreeing never to use the same without authorization from the Complainant. Copies of some such abandonment orders and undertakings received by the Complainant are attached as **Annexure 11**.

5.6 The Complainant has also been successful in initiating domain name complaints against third parties who have adopted domain names in respect of the RADISSON marks or part thereof. Attached as **Annexure 12** are copies of some such orders.

5.7 Recently, the Complainant also filed an INDRP complaint before the .IN Registry against a party for misuse of its mark RADISSON as part of its domain name <radisson.in>. Pursuant to the complaint, the Domain name Registry issued an order dated June 9, 2023, in favor of the Complainant, acknowledging Complainant's rights in the mark RADISSON and observing that the Respondent had adopted the disputed domain name <radisson.in> in bad faith. The Domain name Registry also held that the domain name in question is identical /confusingly similar to the mark RADISSON and directed the transfer of the disputed domain name to the Complainant. A copy of the said order is attached as **Annexure 13**.

5.8 The Complainant's hotels under the RADISSON marks are one of the most popular and in demand hotel chains in India and command immense respect and recognition in the eyes of the public.

5.9 The Complainant's fame in India is also evidenced by the unsolicited media attention it has received in respect of its activities in India. The business and services bearing the RADISSON marks have been advertised in leading magazines, newspapers, in-flight magazines and periodicals all over the world including in India. Copies of some such advertisements are attached as **Annexure 15**.

5.10 In view of the international presence, including in India, there is enviable reputation, goodwill and public recognition associated with the mark RADISSON such that members of the public and trade always associate the trade name/trade mark exclusively with the Complainant's business and services only.

5.11 It is stated that the Complainant recently learnt that the impugned domain name <radissonresortspa.co.in> has been registered by Najim (hereinafter 'the Respondent').

**5 Discussions and findings:**

The Complainant has invoked Clause 4 of the Policy to initiate the Arbitration Proceeding.

Clause 4 of the INDRP Policy provides as under:

**4. Class of disputes:**

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

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- (a) the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
- (b) the Registrant has no rights or legitimate interests in respect of the domain name; and
- (c) the Registrant's domain name has been registered or is being used in bad faith.

Therefore in order to succeed in the Complaint, the Complainant has to satisfy inter alia all the three conditions provided in clauses 4(a),4(b) and 4(c) quoted above.

**6.1 Condition 4(a):) the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights;**

**6.1.1** I have gone through the complaint and perused all the documents annexed with the Complaint.

As per averments made in the Complaint, the Complainant is the proprietor of the trademark **RADISSON** and has been continuously and exclusively using the same in relation to their business since at least as early as 1909 and first RADISSON hotel was opened in Calcutta, India in 1997. Further The earliest registration for the mark RADISSON in class 16 dates to February 28, 1990 , i.e. almost 115 years prior to the date on which the Respondent registered the disputed domain name.



The Disputed Domain Name incorporates the Complainant's mark **RADISSON** making the same conceptually, structurally and phonetically nearly identical to Complainant's registered **RADISSON** Marks.

The Complainant has well-established rights in respect of the **RADISSON** Marks, with the name and mark **RADISSON** *per se* having been considered and formally declared as 'well-known' by courts and judicial forums around the world, including by the Indian Trade Marks Registry and NIXI

The Disputed Domain Name comprises of the Complainant's registered trademark **RADISSON** in its entirety, and in the same manner in which the Complainant uses its name.

Complainant has referred to various decision passed in favour of the Complainant.

The Complainant has been continuously and extensively using the registered trademark **RADISSON** in commerce since its adoption in 1909 – and thus its rights in the **RADISSON** Marks are well established. Moreover, since the Disputed Domain Name has only been registered recently it is much later to the Complainant's common law and statutory rights in the **RADISSON** Marks globally as well as in India.

It has been held by prior panels deciding under the INDRP that there is confusing similarity where the disputed domain name wholly incorporates the Complainant's trade mark such

as *Kenneth Cole Productions v. Viswas Infomedia INDRP/093*. Further, a TLD/ccTLD such as “.in ” “CO.IN’ is an essential part of domain name. Therefore, it cannot be said to distinguish the Respondent’s domain name <RADISSONRESORTSPA.CO.IN> from the Complainant’s trademark **RADISSON**. This has been held by prior panels in numerous cases, for instance in *Dell Inc. v. Mani, Soniya INDRP/753*. 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 before 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 a business identifier. A domain name helps identify the subject of trade or service that an entity seeks to provide to its potential customers. Further that there is a strong likelihood that a web browser looking for AMERICAN EAGLE products in India or elsewhere would mistake the disputed domain name as of the Complainant. ”*

The Complainant has acquired rights in the trade mark **RADISSON** by way of trademark registrations, and by virtue of use as part of their company and domain names since much

prior to the date on which the Respondent created the impugned domain <**RADISSONRESORTSPA.CO.IN**> incorporating the Complainant's identical company name, trade mark and trade name **RADISSON** in toto. This evident identity between the Respondent's domain name and the Complainant's marks, domain names and company name incorporating **RADISSON** is likely to mislead, confuse and deceive the Complainant's customers as well as the general public as to the source, sponsorship, affiliation or endorsement of the Respondent's domain name.

The Respondent has not filed any response to the complaint as such all the averments of the complainant has remained un rebutted.

It is evident from above and documents annexed with the complaint that the complainant has sufficiently established its rights in and to the ownership of the **RADISSON** Trademarks.

A mere perusal of the disputed domain name '**RADISSONRESORTSPA.CO.IN**' of the Registrant/Respondent shows that the Respondent has used the Complainant's trading mark '**RADISSON**' in its entirety. it is well established that the mere addition of the Country

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Code Top Level Domain '.in' does not add any distinctive or distinguishing element.

In view of the above facts and submissions of the complainant, and on perusal of the documents annexed with the Complaint, I hold that the Disputed Domain Name <RADISSONRESORTSPA.CO.IN> of the Registrant is identical OR CONFUSINGLY SIMILAR to the trademark **RADISSON** of the Complainant and the domain names of the complainant.

6.2 **Condition no.4 (b) the Registrant has no rights or legitimate Interest** The Complainant stated in the complaint that the Respondent has no legitimate interest in the domain name <RADISSONRESORTSPA.CO.IN>. The mere fact that the Disputed Domain Name is registered does not imply that the Respondent has any rights or legitimate interests in them. In Deutsche Telekom AG v. Phonotix Ltd. (WIPO Case No. D2005-1000), it has been held that “*Registration of a domain name in itself does not establish rights or legitimate interests for purposes of paragraph 4(a)(ii) of the Policy*”. The Respondent is using the Disputed Domain Name, for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s Trademarks Therefore, any use of the Disputed Domain Name by the Respondent is not a legitimate non commercial or fair use of, and it has no rights or legitimate interests in, the Disputed Domain Name.

**Facebook, Inc. vs. Domain Admin, Whois Privacy Corp. WIPO Case No. D2016-1832** wherein it was observed *“Given the widespread reputation of the Complainant’s trademark, the Panel does not consider that the Respondent could actively use the disputed domain names in a legitimate way. Any use of the disputed domain names would likely result in misleading diversion and taking unfair advantage of the Complainant’s right.*

It is evident that the Complainant has not assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or make use of **RADISSON** Marks. The inclusion of the well-known mark ‘**RADISSON**’ in the Disputed Domain Name in its entirety, suggests that the intention of the Respondent is to deceive the public into believing that some association or commercial nexus exists between the Complainant and the Respondent.

It was held in **Orange Brand Services Limited vs P.R.S. Reddy <orangesms.in> - INDRP/644** *“...the disputed domain name incorporates the “Orange” mark, a mark in which the Complainant has the sole and exclusive right and that has become well known owing to the Complainant’s efforts”* and also held that *“It is also a well settled principle that the registration of a domain name that incorporates a well-known mark by an entity that has no relationship to the mark is evidence of bad faith. [Relevant Decision: The Ritz*

*Carlton Hotel Company LLC v Nelton! Brands inc., INDRP/2507*

The inclusion of the well-known mark 'RADISSON' in the Disputed Domain Name reflects the mala fide intention of the Respondent to use the Dispute Domain Name for earning profits. Such a conduct demonstrates anything but a legitimate interest in the domain name. **The Sports Authority Michigan, Inc. v. Internet Hosting, NAF Case No. 124516** wherein it was held "*It is neither a bona fide offerings of goods or services, nor an example of a legitimate non-commercial or fair use under Policy 4(c)(i) and (iii) when the holder of a domain name that is confusingly similar to an established mark uses the domain name to earn a profit without approval of the holder of the mark*".

There is no justification for the Respondent's registration and/or use of the Disputed Domain Name. By virtue of dishonest adoption and *malafide* intent of the Respondent, as established above, there is no scenario wherein the Respondent can claim to make legitimate non-commercial or fair use of the domain name.

In the **WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0")**, the consensus view has been adopted that "*While the overall burden of proof rests with the complainant, 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. Therefore, a 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 burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP...”.*

The Complainant herein has amply established a *prima-facie* case for the absence of rights or legitimate interests in the Disputed Domain Name in favour of the Respondent.

The Respondent's mere registration of the Disputed Domain Name does not establish rights or legitimate interests in a domain name so as to avoid the application of paragraph 4(a)(ii) of the Policy.

The Respondent has not filed any response as such the facts stated in the complaint had remained un rebutted. Further the Respondent has failed to satisfy the conditions contained in clause 6(a),(b) and 6(c) of INDRP Policy.

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On the contrary the Complainant has established that the Registrant has no rights or legitimate interest in respect of the Disputed Domain Name and has never been identified with the Disputed Domain Name or any variation thereof. The Registrant's use of the Disputed Domain Name will inevitably create a false association and affiliation with Complainant and its well-known trade mark **RADISSON**.

Therefore, in view of the submissions made in the complaint and on perusal of the accompanying documents, I am of the opinion that the Respondent has no rights or legitimate interests in respect of the domain name;

Accordingly I hold that the Registrant has no rights or legitimate interests in respect of the Disputed Domain Name.

6.3

**Condition 4(C): the Registrant's domain name has been registered or is being used in bad faith**

Clause 7 of INDRP Policy provides as under:

Clause 7. Evidence of Registration and use of Domain Name in Bad Faith

For the purposes of Clause 4(c), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:

(a) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of



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 in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or

(b) the Registrant 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 Registrant has engaged in a pattern of such conduct; or

(c) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.

The Complainant is vested with worldwide statutory and common law rights in its **RADISSON** Marks since the year 1990 in multiple classes. The Respondent's registration of a Disputed Domain Name wholly incorporating the Complainant's well-known house mark is of concern due to the grave likelihood of creating confusion in the minds of the public.

The Disputed Domain Name was adopted/ registered by the Respondent recently which is much subsequent to the Complainant's adoption and use of the **RADISSON** Marks in the year 1909 and despite being aware of the Complainant's well-known trade mark and trade name and the goodwill attached to the same. Such conduct of the Respondent clearly reflects its dishonesty and shows the mala-fide intention of the Respondent. Registration of a domain name containing a well-known mark is strong evidence of bad faith.

The Complainant has further averred in the Complaint that the Respondent has created the website (corresponding to the disputed domain name) merely to defraud the consumers. This is clear from the address of the hotel displayed on the said website as the same pertains to one of the hotels of the Complainant. The Respondent appears to be an individual located in Maharashtra, India. The Respondent is not connected or affiliated with the Complainant in any manner and the Complainant has no knowledge of the Respondent. The Complainant has not authorized or permitted the Respondent to apply for, register, or use the disputed domain name which contains the Complainant's registered mark "RADISSON" in its entirety. As stated above, the details displayed on the website including the address of the hotel belong to the Complainant. This indicates that the Respondent has created a phishing website in order to scam the public into paying money who are

looking to book hotel rooms by misleading them into believing that the website is owned by the Complainant. The Respondent is, thus, a phisher, which is clear from the fact that the said domain corresponds to a website containing information of the Complainant's hotel, making the bad faith and unlawful purpose of the Respondent clear. The Respondent cannot possibly have any justification whatsoever for the adoption and use of the disputed domain name other than an unlawful intention to wrongfully gain and take undue advantage of the intellectual property rights of the Complainant as well as the reputation and goodwill enjoyed by the Complainant in its mark RADISSON. The Respondent's acts, in as much as it relates to registration of the disputed domain name and creating a fraudulent website are not only in clear violation of the statutory and common law rights of the Complainant but also detrimental to the public interests as explained above. Accordingly, the Respondent's registration of the disputed domain name < radissonresortspa.co.in> is contrary to and in violation of paragraph 4 of the INDRP Policy.

It was held in **Confédération nationale du crédit mutuel v. Yu Ke Rong (WIPO Case No. D2018-0948)** wherein the Administrative Panel opined that "Given the reputation and fame of the Complainant's trademark and the Complainant's prior registration of almost identical domain names, the registration of the disputed domain name is clearly intended to

*mislead and divert consumers to the disputed domain name. Even a cursory Internet search would have already made it clear to the Respondent that the Complainant owns a trademark in CREDIT MUTUEL and uses it extensively... In the Panel's view, this clearly indicates the bad faith of the Respondent, and the Panel therefore rules that the Respondent registered the disputed domain name in bad faith.*

In the present case, at the time of registration of the Disputed Domain Name <radissonresortspa.co.in>, the Complainant had been known by its business / corporate / trade name **RADISSON** for nearly 100 years. Even so, the Respondent chose to register the Disputed Domain Name so as to misappropriate the Complainant's **RADISSON** Marks in an unabashed and unauthorised manner. Thus, a finding of bad-faith registration of the Disputed Domain Name is irrefutable and must follow.

In this regard the decision of prior Panel in *M/s Merck KGaA v Zeng Wei INDRP/323* can be referred wherein it was stated that:

*"The choice of the domain name does not appear to be a mere coincidence, hut a deliberate use of a well-recognized mark... such registration of a domain name, based on awareness of a trademark is indicative of bad faith registration. "*

The Respondent had no reason to adopt an identical name/ mark with respect to the impugned domain name except to create a deliberate and false impression in the minds of consumers that

the Respondent is somehow associated with or endorsed by the Complainant, with the sole intention to ride on the massive goodwill and reputation associated with the Complainant and to unjustly gain enrichment from the same.

In view of above facts, submissions of the Complainant and on perusal of the documents annexed with the Complaint , I find that the Complaint has proved the circumstances referred in Clause 7(a)(b) and (c) of INDRP policy and has established that the registration of disputed domain name is in bad faith.

Accordingly I hold that the Registrant's Domain Name has been registered in bad faith.

### Decision

- 7.1. In view of the foregoing, I hold that the Disputed Domain Name is identical and or confusingly similar to the Complainant's well-known 'RADISSON' Trademarks and that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and that the Disputed Domain Name was registered in bad faith.

In accordance with the INDRP Policy and Rules, I direct that the Disputed Domain Name registration be transferred to the Complainant.

Delhi  
Dated 23.4.2024

*Alok Kumar Jain*  
Alok Kumar Jain  
Sole Arbitrator