



सत्यमेव जयते

INDIA NON JUDICIAL
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e-Stamp

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Certificate Issued Date : 28-Apr-2025 03:15 PM
Account Reference : SHCIL (FI)/ tnshcil01/ Saidapet-SRO/ TN-CS
Unique Doc. Reference : SUBIN-TNTNSHCIL0123029784442652X
Purchased by : SAISUNDER NV
Description of Document : Article 12 Award
Property Description : NA
Consideration Price (Rs.) : 0
(Zero)
First Party : SAISUNDER NV
Second Party : SAISUNDER NV
Stamp Duty Paid By : SAISUNDER NV
Stamp Duty Amount(Rs.) : 200
(Two Hundred only)



Please write or type below this line

NV SAISUNDER
SOLE ARBITRATOR
.IN REGISTRY- INTERNET EXCHANGE OF INDIA
INDRP CASE NUMBER: 1963
DISPUTED DOMAIN NAME: <lululemon.co.in>



PF 0006333584

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IN THE MATTER OF ARBITRATION BETWEEN:

Lulelemon Athletica

1818 Cornwall Ave
Vancouver BC
V6J 1C7

..... Complainant

Versus

Doublefist Limited,

A3, JhiaZhaoYe, Jiang Bei
Huicheng District, HuiZhou City
GuangDong Province, China

..... Respondent

ARBITRATION AWARD

DATED: 30/04/2025


1. PARTIES:

The Complainant in this proceeding is Lulelemon Athletica Canada, Inc., a Vancouver based company headquartered in British Columbia and incorporated in Delaware, United States of America. The Complainant is represented by its authorised representative Remfry & Sagar, having office at Remfry House at the Millennium Plaza, Sector-27, Gurugram – 122009, India.

The Respondent in this proceeding is Doublefist Limited, A3, JhiaZhaoYe, Jiang Bei Huicheng District, HuiZhou City GuangDong Province, China as per the WHOIS details disclosed by NIXI.

2. DOMAIN NAME AND REGISTRAR:

The disputed domain name <lulelemon.co.in> (“Disputed Domain Name”) is registered with Dynadot LLC.



N V SAISUNDER
ADVOCATE
Chennai

3. PROCEDURAL HISTORY:

The Statement of Acceptance and Declaration of Impartiality was submitted by me on 26th March 2025, as required by NIXI. Further, in accordance with Rules 3 and 5(b), NIXI appointed me as the sole arbitrator for deciding on the complaint filed in respect of the disputed domain name on 04.04.2025 to arbitrate the dispute between the Parties in accordance with the Arbitration and Conciliation Act, 1996 and accordingly notified the Parties of the same on the same date. Thereafter, in accordance with Rule 5(c), a notice to the Respondent was issued on 04.04.2025 by the Arbitrator and the Respondent was called upon to submit his response, if any, within 10 (ten) days from the date of issuance of the notice. Also, the Complainant was directed on the 09.04.2025 to serve the hard and soft copy of the Complaint on the Respondent and furnish proof of such despatch as required under the INDRP. It is noted that the Respondent did not file any response within the stipulated timelines and nor has this panel received any response even as on the date of this award viz., 30th April 2025. Further, the Arbitrator did not receive any delivery failure notification from the Respondent's email id and hence the complaint is deemed to be served. Therefore the complaint is decided *ex-parte* solely based on the materials and evidence placed before the Arbitrator.

4. FACTUAL BACKGROUND:

The Complainant claims to be a Vancouver based multinational premium athletic apparel and claims its most well-known product lines include the High Rise Align Fit Mini flare leggings, Dance Studio pants, Scuba hoodies, and the Define sports jacket. The Complainant sells athletic wear, including playing tops, sports jackets, hoodies, joggers, running shoes, underwear, and leggings, including yoga pants and casual wear and has trademarked several proprietary fabrics, including Luon, Luxtreme, Nulu, Nulux, Everlux, and more. The Complainant opened their first retail space in a local yoga studio in Kitsilano, Vancouver, Canada in 1998. The Complainant operates around 720 stores across 22 countries with almost 38,000 employees worldwide. The Complainant claims that its market capital in 2024 is 47.76 billion USD, which make it world's 419th most valuable company. The Complainant has registered its business in multiple jurisdictions including but not limited to China, Malaysia, Australia, Hong Kong, Japan, New Zealand, Singapore, thereby establishing a worldwide presence of its business under the trademark LULULEMON. In addition to the aforesaid, the Complainant's owns the


N V SAISUNDER
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website, www.lululemon.com which was registered as early as the year 1999, as its primary presence on the Internet for global promotion. Apart from the above mentioned website, the Complainant owns and operates other websites for sale of its merchandise including <SHOP.LULULEMON.COM>, <LULULEMON.CH>, <LULULEMON.CO.UK> to name a few.

The Complainant is the registered proprietor of the trademark "LULULEMON" and claims to have been continuously using the mark in the global market. Complainant provides for the following list of registration for the "LULULEMON" mark:

Country	Registration Number	Application Date	Class
CANADA	TMA813087	12/01/2011	3, 5, 9,10, 14,16, 17,18, 21, 24, 25, 26, 28
AUSTRALIA	896137	26/11/2001	25
CHINA	64536245	05/11/2022	35
EUROPEAN UNION	1086102	29/06/2011	35
INDIA	1284534	18/05/2004	25

Additionally, the Complainant claims to also holds trademark registrations for the mark "LULULEMON" in various other international jurisdictions such as Argentina, Bahamas, Brazil, Columbia, Denmark, Egypt, France, Germany, Hongkong, Indonesia, Israel, Japan Mexico, New Zealand, Pakistan, Singapore, South Africa, Srilanka, Saudi Arabia, Thailand, UAE, United Kingdom, USA etc. The Complainant has also submitted that it started operations in the Indian market from 22nd March 2021 by incorporating its subsidiary under the name of LULUMELON India (Services) Pvt. Ltd.

The disputed domain name <lululemon.co.in> was registered on 28th December 2012 and resolves to a parking page which contains pay-per-click advertisements. The Complainant's trademark registration of the mark "LULULEMON" in various jurisdictions, predate the registration of the disputed domain name. From the whois details disclosed, the Respondent appears to be an entity named Doublefist Limited, based out of China.



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5. PARTIES CONTENTIONS:

A. Complainant:

The Respondent's impugned domain name 'lululemon.co.in' is identical to and comprises in its entirety, the Complainant's trade/service mark/name LULULEMON, which is a registered trade mark of Complainant and 'LULULEMON' has, on account of extensive and continuous use and trade mark registrations, become exclusively identified with the Complainant and its business having all the characteristics of 'well known' mark. With Complainant's global presence, it has acquired goodwill and reputation in the aforesaid mark. The Complainant's adoption and registration of the mark was as early as 1999, while the disputed domain name was registered on 2012.

The Registrant is attempting to associate itself with the Complainant by having references to the category of products sold by the Complainant. The identity/deceptive similarity between the Complainant's mark on one hand and Registrant's choice of its domain name on the other hand, is patently misleading to the members of the trade and public. The Respondent intentionally rides on the reputation of Complainant's mark and cannot constitute '*bona fide*' offering of goods and services. Further, Registrant is not commonly known by the domain name 'lululemon.co.in' and is not authorized or licensed by the Complainant to use its trade/service mark/name.

Registration of the impugned domain is aimed to benefit from the goodwill and reputation of the Complainant's trade/service mark/name by diverting visitors/customers by creating initial confusion and thereby commercially profit from use of the Complainant's trade/service mark/name 'LULULEMON'. Thus, the Registrant is indulging in: (i) unfair use of the domain name with an intention to reap profits therefrom, (ii) tarnishing the goodwill and reputation enjoyed by the Complainant's well known mark.

Respondent:

The Respondent did not file any response to the submissions of the Complainant.

6. DISCUSSION AND FINDINGS:



N V SAISUNDER

Under the INDRP, the following three elements are required to be established by the complainant in order to obtain the remedy of transfer of the disputed domain name to the complainant:

- (i) The disputed domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and,
- (ii) The Respondent lacks rights or legitimate interests in respect of the disputed domain name; and,
- (iii) The disputed domain name has been registered or is being used in bad faith.

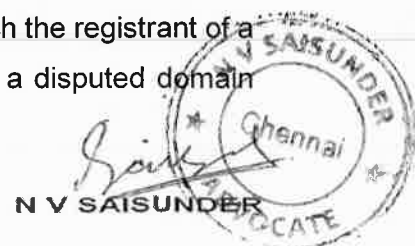
A. Identical or confusingly similar:

The Disputed Domain Name incorporates the Complainant's "lululemon" mark in its entirety whereby the Complainant's registration of mark in India dating back to 2004. It is well accepted principle that the first element functions primarily as a standing requirement. The threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Disputed Domain Name. The Complainant has submitted evidence of its trademark registrations that establish that the Complainant has statutory rights in the mark for the purpose of policy and specifically also holds registration in India and also in China where the Respondent is operating out of. Further, the trade mark of the Complainant, "LULULEMON" has been reproduced in the Disputed Domain Name "lululemon.co.in". It is a well-established principal that when a domain name wholly incorporates a complainant's mark, the same is sufficient to establish identity or confusing similarity for purposes of the Policy. The Complainant has also provided sufficient evidence of the reputation, goodwill and global presence associated with its mark due to its extensive and continuous use and it appears to be a well-known mark.

The Disputed Domain Name is accordingly found to be identical or confusingly similar to the Complainant's mark. The Complainant has successfully fulfilled the first element under paragraph 4(a) of the Policy, that the Disputed Domain Name is identical or confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate interest:

Paragraph 6 of the Policy provides a list of circumstances in which the registrant of a domain name may demonstrate rights or legitimate interests in a disputed domain



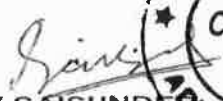
name. While the overall burden of proof in the proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

The Panel finds the following from the records before it:

- a. before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name with a bona fide offering of goods or services.
- b. the Respondent has not been commonly known by the Disputed Domain Name.
- c. the Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.
- d. the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Disputed Domain Name.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name.

On perusal of the content of the Disputed Domain Name, it appears to be a website hosting Pay Per Click links having reference to workout clothing for women. This invariably indicates the intention of Respondent to unjustly enrich itself through creation of false association with the Complainant which is well-known globally for workout outfits. Panels appointed under the domain dispute policies have found that the use of a domain name for illegal activity, such as impersonation or passing off, cannot confer rights to or legitimate interests in a domain name.


N V SAISUNDER
Chennai
ADVOCATE

In the light of the facts and circumstances discussed, it is accordingly found that the Complainant has made out a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name. The second element under paragraph 4(b) of the Policy has been met by the Complainant.

C. Registered and/or used in bad faith:

Given the Complainant's mark's well-known nature, its widespread use and repute in the world, including in India, the Respondent's adoption thereof does not create a trade for bonafide purpose under the Disputed Domain Name. The Complainant is extremely well-known and popular and there is virtually no possibility that the Respondent was unaware of its existence or presence in the market. Assuming that Respondent was unaware of the Complainant's mark, the intentional ignorance of the Respondent in not conducting a trade mark search as part of its due diligence prior to commencing use of the trade/service mark/name 'LULULEMON' and domain name comprising the said same, only evidences its malafide use.

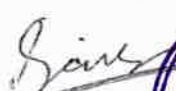
From the evidences submitted by the Complainant, it is seen that the Respondent happens to be a habitual infringer. All of the aforementioned indicates the bad faith towards the Respondent and hence in the Panel's view the bad faith is evidently established and hence the very use of the Disputed Domain by the Respondent with no connection to the trademark suggests opportunistic bad faith

The Panel notes that, for the purposes of paragraph 4(c) of the Policy, paragraph 7 of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

7. DECISION:

In view of the above findings it is ordered that:

- a. The Disputed Domain Name <lululemon.co.in> be transferred to the Complainant.
- b. The Respondent pay the Complainant a sum of INR 1,50,000/- (Indian Rupees One Lakh Fifty Thousand only) towards costs of these proceedings.


N V SAISUNDER
Arbitrator



Date: 30th April 2025