



हरियाणा HARYANA

M 321676

**BEFORE THE NATIONAL INTERNET EXCHANGE OF  
INDIA**

**ARBITRATION AWARD**

**In The Matter Between**

**LINKED IN CORPORATION**  
2029 Stierlin Court  
Mountain View, CA 94043  
USA

**Complainant**

**Versus.**

**NORBERT MAYER-WITTMANN**  
2, Lighthouse Lane,  
Old Greenwich -067870  
USA

**Respondent**

*Haviv Narayany*

## **1. The Parties**

The Complainant is LinkedIn Corporation of California USA and is represented in these proceedings by Anand & Anand of India.

The Respondent is Norbert Mayer-Wittmann, USA and is represented in these proceedings by Mahesh Bhagnari of Bhagnari & Co, India.

## **2. The Domain name, Registrar and Policy**

The present Arbitration proceeding pertains to a dispute regarding the domain name <linked.in>. The registrar for the disputed domain name is Key-Systems GmbH(R-48-AFIN).

The Arbitration proceeding is conducted in accordance with the Arbitration and Conciliation Act of 1996 (India), the .IN Domain Name Dispute Resolution Policy (the “INDRP Policy” or “Policy”), and the INDRP Rules of Procedure (the “Rules”).

## **3. Procedural History**

The sole arbitrator appointed in the case is Mrs. Harini Narayanswamy. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, in compliance with the Rules.

*Harini Narayanswamy*

The Arbitrator received the Complaint from the .IN registry on March 22, 2013 and on March 23, 2013 transmitted by email a notification of commencement of the arbitration proceedings to the Respondent. Under the INDRP Rules, copies of the said notification were sent to other interested parties to the dispute. The Respondent was given twenty-one days time from the date of the notification to file a response. The Respondent sent the response to the Complainant, and the Complainant's counsel forwarded the Response to the Arbitrator on April 22, 2013. The Complainant made a representation to the Arbitrator requesting time to file a Rejoinder to the Response and was given one-week for the same. The Rejoinder was filed on April 30, 2013. The Respondent was also given one week to file a reply to the Rejoinder, which was filed on May 7, 2013.

### **Factual Background**

The Complainant runs a professional networking website from [www.linkedin.com](http://www.linkedin.com). It adopted the trademark LINKEDIN for its business and has used it since the year 2003. The Complainant has several registered trademarks for its LINKEDIN mark in numerous countries and has provided a list of its registered marks, including details of ten registered marks in the United States of America, the country where the Respondent resides. The Complainant's US registered trademark details in various classes are: application number 78/245,639 for trademark number 3,074,241 under class 35 with an application date of May 5, 2003, application number 77/782,811 for trademark No. 4,023,236 under class 38, application number 77/981,606 for trademark number 3,963,244 under class 35, application number

*Hanni Narayana*

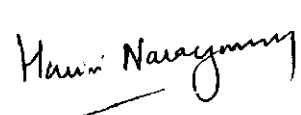
77/981,731 trademark No. 3,967,561 under class 42, application number 77/982,139 for trademark 4,023,512 under class 09, application number 77/982132 for trademark 4,007,079 under class 45, application number 77/982,140 for trademark 4,016,685 under class 41, application number 77/982,924 for trademark registration 4,158,263 under class 35, application number 77/782,819 for trademark 4,147,007 under class 42, application number 77/782,849 under class 45. India trademark registration under class 35 for LINKEDIN bears registration number 1607728 and the Indian trademark application number 1869601 is filed under classes: 09,35,38,41,42 and 45. The Complainant has submitted a copy of its Indian registration certificate number 1607728.

The Respondent registered the disputed domain name <linked.in> on February 16, 2005.

## **The Parties Contentions**

### **A. Complainant's Submissions**

The Complainant states that it started its business in 2003 and launched the world's largest professional networking website at [www.linkedin.com](http://www.linkedin.com) on May 5<sup>th</sup> 2003. The website provides a platform for professionals to connect and is a means of seeking career opportunities, expertise requests, consulting offers, business deals, new ventures, personal reference requests, job enquiries and the like. The Complainant states that it has its headquarters in Mountain View California and its US offices are in Chicago, Los Angeles, New York, Omaha and San Francisco. Its international offices are located in

 4

Amsterdam, Bangalore, Delhi, Dubai, Dublin, and Hong Kong. In India, the Complainant's offices are located in the cities of Delhi, Mumbai and Bangalore. At the end of 2012, the Complainant states its website had more than 200 million members from over 200 countries and 17 million users in India alone. The Complainant states that its website is accessible to its users in many languages.

The Complainant states that it has invested significant time, effort and money in advertising and promoting the mark throughout the world. The Complainant alleges that the vast presence and use of its website is itself evidence of immense recognition of its LINKEDIN mark globally. The Complainant states it has tried to cater to the needs of each territory and claims it has become a popular Internet destination. The Complainant has provided copies of National Arbitration Forum decisions upholding its rights in the mark.

The Complainant states that the disputed domain name <linked.in> is identical or confusingly similar to its trademark LINKEDIN in which it has statutory and common-law rights. Further, as the mark has acquired distinctiveness, the disputed domain name can be easily confused with the Complainant's mark. The Respondent has taken advantage of the ".in" country code top level domain (ccTLD) by registering the former part of the trademark "linked" with the ".in" " ccTLD asserts the Complainant.

The Complainant further argues the Respondent has no rights or legitimate interests in the disputed domain name as it is comprised of its famous mark and is likely to mislead Internet. The Complainant states the Respondent has

*Haviv Narayana*

offered the disputed domain name for sale and is not making any legitimate use of it. Further, the Respondent is not commonly known by the disputed domain name and has shown no demonstrable preparations to use the disputed domain name for any commercial purposes.

The Complainant asserts that the disputed domain name was registered in bad faith, as the Respondent ought to have known of the Complainant's mark at the time of registration. The website linked to the domain name has no suitable content of its own which indicates that the domain name was registered for squatting and to prevent the Complainant registering the domain name. Use of the Complainant's famous mark without legitimate commercial interests is itself *prima facie* evidence that the disputed domain name was registered in bad faith to attract Internet users based on the fame of the mark argues the Complainant. The Complainant further states that Internet users are likely to believe that the Complainant has licensed or authorized the Respondent to use its mark or has some connection or affiliation to the Complainant. The Complainant argues that the Respondent's *mala fide* intentions can be garnered from the website set up. Various links from the website redirects users to other domain names bearing the same content or to a page offering the disputed domain name for sale. The Complainant states the Respondent has registered the disputed domain name in bad faith as it incorporates its famous trademark in entirety and requests for transfer of the disputed domain name with heavy costs.

### **Respondent's Submissions**

*Hanni Narayany* 6

The Respondent in his Response has submitted that the subject matter of the dispute is not the country code top-level domain (ccTLD) “.IN” and argues that in all domain name disputes including the ones referred to by the Complainant, only the second level domain name is considered and the top level domain (TLD) is excluded. The second level name in the present case is the word “linked” and the Respondent requests the dispute to be limited to the word “linked”. The Respondent then discusses at length the semantic usage of the word “linked” and provides various examples of the use of the word and states:

*“ The aim of the website linked.in is to provide a forum to help bridge the gaps between the academic field of information science, the common language approach to general scientific and research literature and also the modern concept of being linked, which has a long standing tradition in the fields of bibliography and information science.”*

The Respondent further states that the word “link” is used akin to a footnote in the digital world. The term “linked” in the disputed domain name is used as an element of common language and not as a trademark claims the Respondent and adds that the Complainant does not have exclusive rights in the common English word “linked”. The Respondent further argues that the Complainant is not the owner of the domain names <linked.com>, <linked.net>, <linked.info>, and <linked.co.in> has not initiated infringement action against the owners of these domain names as the Complainant has no rights for the common generic word “linked”.

*Hevin Narayanan* 7

The Respondent argues that the Complainant's services fall under class 35 whereas the Respondent offers services under class 38. The Respondent further argues that the disputed domain name was registered on February 16, 2005, which is more than two years prior to the Complainant's Indian trademark registration. The crux of the Respondent's argument is that the Complainant is trying to prevent the Respondent from the use of a common English word "linked" that is being used by the Respondent for a different class of services.

The Complainant's allegations that the website is offered for sale is denied by the Respondent. The Respondent states that there is a paid community registration offered through a link from its website at "MYour.org" community for EUR 10,00 and this is being mistaken as advertisement for the domain name sale by the Complainant. The Respondent denies that the Complainant's mark has been used on its webpage, but that it has merely used the webpage address "linked.in" and not the trademark.

The website at <linked.in>, the Respondent claims, has gone through many stages of development and that its website has a totally different look and feel from the Complainant's and denies bad faith on its part. The Respondent further states that it has used the website for a *bona fide* offering of goods and services prior to filing the Complainant and has offered as evidence. Annexure C, which on one page displays a few lines starting with: "Linked In Web logs + Social Networks + Online Communities" and on the next page there is a heading followed by some news items and the heading reads: "Linked In News @ Online Internet Web Network".

Haini Narayany

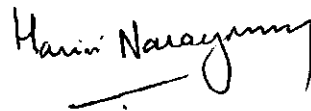


The Respondent claims that the site provides links to several information resources and users have the option of signing up for membership of a community to exchange ideas within the forum. The Respondent states that although no members have been inducted yet, it expects to launch the feature of blog in the near future. The Respondent claims the Complainant has been aware of the Respondent's website since 2009 and has filed communication that have allegedly been exchanged between the parties. The Respondent argues that the Complainant has to seek its remedy under the Trademark Act 1999 for trademark infringement and the present forum is not the appropriate jurisdiction for the case. The Respondent requests that the Complaint is denied and has also mentioned that this is a case of reverse domain name hijacking.

### **Complainant's Rejoinder**

The Complainant in its Rejoinder to the Response states that the word "linked" per se is not in dispute and that the Complainant does not claim exclusivity on the word "linked". The Complainant further argues that the Respondent has admitted that the services offered through its website are the same as that being offered through the Complainant's website.

The Complainant states that the reason for any inaction against other domain name registrants using the word "linked" with other TLDs, is because the word "linked" is not used in conjunction with "IN" and cites the Delhi High Court decision in *Pankaj Goel v Dabur India Ltd (2008) 38 (PTC) 49Del*, stating that a concession given in one case does not entitle others to the same concession.



The Complainant states the Respondent arguments regarding the Complainant's services falling under class 35 and the Respondent's services being under class 38 are fallacious and misleading, as the Respondent is not offering any goods or services under class 38. The Complainant further clarifies that it has various trademark applications under class 38 including its multiclass Indian trademark application bearing number 1869601. The Complainant argues that the Respondent is contradicting its own arguments of excluding the ".IN" TLD by displaying it along with the word "linked" on its website. The Complainant states that the Respondent has no clarity about the nature of the remedy and the role of this forum.

The look and feel of the contents of the website is not relevant here, asserts the Complainant, as this is not a "passing off" case, but the issue is the confusion arising from similarity of the domain name not the website. The Respondent's averments that it is supplying links to sources of information is false, argues the Complainant, as the Respondent's website is only offering domain names and web properties for sale and fits the description of a cyber squatter. The Complainant states the alleged emails filed as evidence of correspondence between the parties in 2009 does not display the sender's identity and requests the Panel to dismiss the remedy sought by the Respondent and to impose heavy costs on the Respondent for its misconduct.

### **Respondent's reply to the Rejoinder**

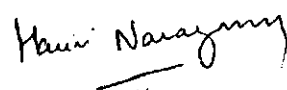
In the Respondent's reply to the Rejoinder, the Respondent again emphasizes that the TLD is to be excluded as it only indicates the two-letter

*Hanvi Narayana*

country code and has nothing to do with the trademark. The Respondent further argues that the Complainant is the first to stake a claim for including the TLD in assessing trademark similarity and such a claim has not been made anywhere in the world. The Respondent further argues that the Complainant's stand implies that any trademark ending with the letters "in" will give the trademark owner rights to the subset of characters preceding the letters "in" and reiterates that no where in the world have the authorities allowed the ccTLD to be part of the dispute and such an unprecedented request if allowed in this case it will have far reaching implications throughout the world.

The Respondent denies that it has indicated in its Response that its services are identical to the Complainant's and alleges that the burden of proving the Respondent's awareness of the Complainant's mark lies on the Complainant and relies on the case *The Restored Church of God v. Alexra* WIPO Case No. D2013-0320. The Respondent argues that the sale of membership to a community is not the same as domain name sale and that the display of the ccTLD on the website is not uncommon and refers to the websites flipkart.com and rediff.com as examples. The Respondent then goes on to state that the Complainant's arguments that it has offered services similar to that of the Complainant is false, as a news website is different from a professional networking site.

The Respondent tries to address the Complainant's allegation that the email communications filed with the Response are not from the Complainant and states that the said emails were sent by Mark Monitor, on behalf of the Complainant and has now filed the email details as a separate document.



(However, as the Respondent has not filed the documents in a proper manner in the first instance the Arbitrator declines to accept such piecemeal documents filed by the Respondent.) The Respondent reiterates its request for denial of the Complaint and the attempt of Reverse Domain Name Hijacking and for the Complainant to bear the costs of both parties.

### **Discussion and Findings**

Under the INDRP Policy, the registrant of the domain name is required to submit to a mandatory arbitration proceeding in the event that a complaint is filed in the .IN Registry alleging that there has been a violation of Complainant's rights. Paragraph 4 of the INDRP Policy mandates that the Complainant has to establish the following three elements to succeed in the proceedings:

- (i) The domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights, and
- (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.

### **Identical or Confusingly Similar**

*Haviv Narayany*

The first element requires the Complainant to prove that the domain name registered by the Respondent is identical or confusingly similar to a mark in which the Complainant has rights.

The Complainant has demonstrated its unassailable rights in the LINKEDIN trademark and has submitted a list of its international trademark registrations running to over five pages. As trademark registration is considered *prima facie* evidence of rights in a mark, the Complainant is found to have established that it has used the mark extensively in numerous countries around the world.

The disputed domain name consists of the term LINKED and the country code Top Level domain (ccTLD) “.IN”. The Respondent has argued that the domain name dispute pertains only to the second level domain name and requests the present dispute be limited to the second level domain name, namely the term “linked” and requests for exclusion of the TLD “.IN” from the dispute. As correctly mentioned by the Respondent, the majority of the domain name disputes are restricted only to the second level domain name and the TLD is usually disregarded or excluded from the analysis of confusing similarity. The reason for the disregarding the TLD in domain name cases is because the trademark is found only in the second level portion of the domain name. However, in the present case, the ccTLD “.IN” is not merely a technical necessity for the domain name but when combined with the term “linked”, it becomes almost identical to the Complainant’s mark LINKEDIN.

Hanvi Narayanan

The INDRP Policy and the Rules does not expressly state that the TLD is to be omitted while making an assessment of confusing similarity. The Policy merely states that the **domain name** has to be confusingly similar the mark and does not define the domain name to include only the second level name. Given the facts of the present case, it is necessary to analyze the domain name as a whole for assessing confusing similarity. The Complainant's submission that there is confusing similarity between the domain name <linked.in> and the trademark LINKEDIN, does not imply that the Complainant is staking a claim for the common English word "linked" or for the ccTLD ".in" separately, but claims protection for the composite term LINKEDIN in which it has rights.

The Complainant's trademark is a combination of two common English terms "linked and "in". It is a well-established principle under trademark law that a mark formed by combining two or more common words is not necessarily descriptive but is recognized as one composite term. Trademark law is replete with instances of the combination of two generic words that have acquired distinctiveness through extensive use, FACE BOOK, MASTER CARD, HARD ROCK, TICKET MASTER, are a few such instances of marks that have acquired secondary meaning and fame as trademarks despite combining two common words. If the Complainant or the owner of the mark has proved its rights and has shown extensive usage and investments in popularizing the mark, such a composite term is recognized as having acquired secondary meaning. In the present case, as discussed, the Complainant has clearly established that its mark LINKEDIN has acquired such secondary meaning through extensive use. Further under domain name jurisprudence the analysis of confusing similarity is based on

the principle of “Initial Interest Confusion”, that when a user encounters the domain name, the user is likely to be confused as to the origin and source of the domain name. The Complainant has shown the composite term has become a distinct identifier of its services and has also clearly stated that it disclaims any rights to the common term “linked”.

The disputed domain when taken in entirety with all its component parts, including the ccTLD, clearly incorporates the LINKEDIN mark, except for the dot between the terms; the dot being a technical requirement can be disregarded and the disputed domain name is found to be almost identical or confusingly similar to the mark in which the Complainant has rights. The Internet Corporation for assigned names and numbers (ICANN) has recently allowed the registration of trademarks as TLD’s, therefore the Respondent’s arguments that the TLD cannot be a trademark or part of the trademark is unsustainable.

For the reasons discussed, the Arbitrator finds that the Complainant has satisfied the first element under paragraph 4 of the Policy, that the disputed domain name registered by the Respondent is identical and confusingly similar to a mark in which the Complainant has rights.

### **Rights and Legitimate Interests**

The second element requires the Complainant to show that the Respondent lacks rights and legitimate interests in the disputed domain name. It is sufficient for the Complainant to put forward a *prima facie* case regarding the Respondent’s lack of rights and legitimate interests.

Hani Navayany

The burden of proving rights or legitimate interests in the disputed domain name rests with the Respondent. Paragraph 7 of the Policy, provides the circumstances that the respondent could rely on to establish his or her rights in the domain name. These briefly are: (i) if before notice of the dispute, the registrant had used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services or (ii) the registrant (as an individual, business organization) has been commonly known by the domain name, or (iii) The registrant is making legitimate, non commercial or fair use of the domain name without intent for commercial gain.

The Respondent has not put forward any convincing evidence that suggests that the disputed domain name is used in connection with a *bona fide* offering of goods or services. All that the Respondent has offered by way of evidence is Annexure C, which just displays a few lines starting with: “Linked In Web logs + Social Networks + Online Communities” and on the next page there is a heading that reads: “Linked In News @ Online Internet Web Network” followed by some news items. Furthermore, the Respondent’s website content as argued by the Complainant, redirects users to other domain names having the same content. In the Arbitrator’s view these material do not provide convincing evidence of a legitimate business offering of goods or services. It is well established that the defense of a website that offers links to third party sites, particularly when the domain name is found confusingly similar to another’s trademark is not a valid defense in domain name cases, and such activity is not considered legitimate activity under the Policy. See for instance the case *AB Electrolux v. Ruo*

Hanni Narayana



*Chang*. <electrolux-professional.co.in> INDRP Case No. 333 (April 2, 2012), where a domain name with a well known trademark was used for placing links to other third party sites was not considered legitimate use of a domain name.

The Respondent has argued that the Complainant's services fall under class 35 whereas the Respondent offers services under class 38. These arguments do not help the Respondent's case, as the Respondent has not provided sufficient documents to establish that it is running a *bona-fide* business under class 38. Furthermore, as mentioned by the Complainant, there are numerous trademark registrations held by the Complainant under class 38. The Respondent further argues that the disputed domain name was registered on February 16, 2005, which is more than two years prior to the Complainant's Indian trademark registration. This argument does not help the Respondent's case either as the Respondent is located in the USA and the Complainant has provided documents that prove it has adopted and used the mark from May 5, 2003. The crux of the Respondent's argument that the Complainant is trying to prevent the Respondent from the use of a common English word "linked" that is being used by the Respondent for a different class of services is therefore not tenable for the reasons discussed.

The Respondent has put forward the argument that, the domain name was registered, as a generic word prior to the Complainant acquiring any trademark rights in India and is therefore entitled to rights in the domain name. The Respondent has relied on the case *M. Corentin Benoit Thiercelin v. Cyberdeal, Inc.*, WIPO Case No- 2010-0941 where the registration of a domain name <virtualexpo.com> consisting of the generic term(s) "virtual"

*Havin Narayana*

and “expo” was done on May 2, 1996, and it was found that the earliest trademark of the complainant in that case was dated December 14, 2005. As the domain name <virtualexpo.com> was registered almost nine years prior to the complainant showing any rights in the trademark, it was held to be a valid argument in favor of the respondent. However the facts in the present case are that the Complainant has shown its first trademark filing date as May 5, 2003 and the disputed domain name was registered on February 16, 2005. As clearly mentioned in the *Cyberdeal* case [supra] if it appears from the facts that the respondent has registered the domain name with the intention of taking advantage of the confusion between the domain name and any potential complainant rights, it will not be a valid defense. Further the Respondent’s argument that the Complainant’s Indian trademark registration was done after the domain name registration is unfounded as proprietary rights in a complainant’s trademark or service mark can also be garnered from prior adoption, use and registration in countries other than India for the purposes of INDRP proceedings. See *McAfee v. Chen Shengulu*, INDRP Case No. 29 (January 12, 2007). Similarly, in *The Restored Church of God, v. Alexa Properties LLC*, WIPO Case No. D2013-0320, regarding the domain name <rt.org> the complainant in that case began using the terms much after the respondent registered the domain name in 1998.

In the INDRP case *Shevaldas C. Raghani v. Stephan Koenig*, regarding the domain name <computer.in > relied on by the Respondent, the complainant in that case was selling sarees in India under the trademark COMPUTER. The respondent based in another country had registered the domain name <computer.in> . These facts can be distinguished from the facts in the present case where both parties are from the USA the same geographic

*Hanni Narayanan*

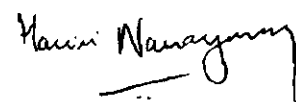
location. Further, the number of users aware of the Complainant's LINKEDIN mark runs into over two hundred million, this fact alone establishes the international popularity of the LINKEDIN mark, whereas the cross boarder reputation of a trademark COMPUTER used in connection with sarees, a garment worn primarily in India, apparently lacks the international fame and reputation of the LINKEDIN mark. Therefore the cases referred to by the Respondent are different from the facts in the present dispute.

If the Respondent had registered the disputed domain name prior to May 2003, the arguments extended by the Respondent would have been valid. However, as the document clearly show that the Complainant's mark has been adopted in 2003 and has been used extensively from 2003 and acquired a strong reputation in a very short time, under these circumstances the Respondent's arguments do not hold good.

Accordingly, for the reasons discussed, the Arbitrator finds the Complainant has made a *prima facie* case that the Respondent lacks rights and legitimate interests in the disputed domain name and has satisfied the second element under paragraph 4 of the Policy.

### **Bad Faith**

Under the INDRP Policy the Complainant is required to establish that the domain name was registered or is being used in bad faith. The Complainant has asserted that the Respondent has intentionally registered the disputed domain name with the purpose of imitating the LINKEDIN mark in order to



exploit its fame and states that Internet users are likely to be misled by the Respondent's domain name. The Complainant has also argued that the Respondent has advertised the sale of the disputed domain name, which shows its bad faith motives.

The Respondent has argued that there is no bad faith on its part, as it has registered and used the disputed domain name in a manner consistent with generic and common use of the term "linked". The Respondent had denied that it has put up the disputed domain for sale, and that the Complainant is misconstruing its offer of paid community memberships as sale of the disputed domain name.

The Arbitrator accepts the Respondent's argument that the Complainant has not established the disputed domain name has been advertised for sale. The Complainant has not provided sufficient uncontroverted evidence to find the Respondent has put up the disputed domain name for sale.

As discussed earlier it is found that the Complainant has adopted and used the mark LINKEDIN extensively in several jurisdictions and its registered marks bear testimony to this fact. Further it is noted that the mark is a composite of two common words and has acquired distinctiveness as a coined mark referring to the Complainant and its services. The fact that the disputed domain name is being used to link to other sites and that there is no proper content for the website, the registration of the term "linked" with the ccTLD ".in", does not appear to be a co-incidence. It is also noted that the links from the Respondent's website leads to a webpage where some of the content is in German and the community membership charges are being

*Harish Narayanan*

quoted in Euros. From all the material on record by registering the domain name it is apparent that the Respondent: i) has created a likelihood of confusion with the Complainant's trademark. ii) diverts users looking for the users of the Complainant's site to promote its own or other's products. iii) in doing so seeks to derive some revenue from users. In situation such as this, and several previous domain name decisions have held that this type of registration and use demonstrates bad faith.

On balance, given the circumstances and assessing factors such as :i) whether the Complainant's mark has a strong reputation and has a well known mark ii) whether there is sufficient convincing evidence of the Respondent's use of the domain name in connection with a *bona fide* offering of goods or services iii) whether it is impossible to conceive of any good faith use of the domain name by the Respondent without infringing the Complainant's rights, it is not unreasonable to infer that the registration of the disputed domain name by the Respondent was done with the intention of attracting Internet users to its website based on the trademark, which is indicative of registration of the disputed domain name in bad faith under the INDRP Policy.

Under Paragraph 6 (iii) of the Policy, if the registrant of the domain name in dispute, has used the domain name to intentionally attract Internet users to the Registrant's website or other online location by creating a likelihood of confusion with the trademark of another, it is considered evidence of bad faith. The Arbitrator finds the circumstances here suggest that the Respondent seeks to use the Complainant's mark in the manner mentioned under Paragraph 6 (iii) of the Policy, namely to attract Internet traffic to the

Havin Narayany

Respondent's website, which is considered bad faith registration and use of the disputed domain name under the Policy.

Further as the Complainant's trademark was already known when the disputed domain name was registered, and it is highly unlikely that the Respondent could have been unaware of Complainant's use of the mark. Based on all the facts and circumstances of the case the Arbitrator has no hesitation in finding that the disputed domain name was registered in bad faith and has been used in bad faith.

The present complaint has been filed in the appropriate forum, as this is clearly a case of abusive domain name registration.

The Arbitrator finds the Complainant has satisfied the third element under paragraph 4 of the Policy.

### **Decision**

For the reasons discussed, it is ordered that the disputed domain name <linked.in> be transferred to the Complainant.

The Respondent's request for reverse domain name hijacking is denied. As Complainant the owner of the mark LINKEDIN has filed the complaint to protect its mark against abusive domain name registration and there is no bad faith on the part of the Complainant in making this Complaint.

Parties are to bear their own costs.

*Haviv Narayany*

*Harini Narayanswamy*

**Harini Narayanswamy (Arbitrator)**

**Date: May 22, 2013**