



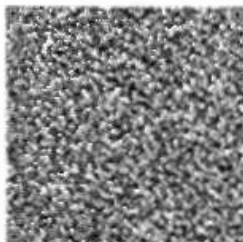
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL45271214695055P
Certificate Issued Date	: 25-Oct-2017 02:17 PM
Account Reference	: IMPACC (IV)/ dl835403/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL83540392596456309834P
Purchased by	: ANKUR RAHEJA
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: ANKUR RAHEJA
Second Party	: Not Applicable
Stamp Duty Paid By	: ANKUR RAHEJA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



.....Please write or type below this line.....

INDRP ARBITRATION
THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]

ADMINISTRATIVE PANEL DECISION
HAVELLS INDIA LIMITED V DOMAIN ADMINISTRATOR
SOLE ARBITRATOR: ANKUR RAHEJA, MCA FCS LLB

A. Rahi

Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.sholestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

In the matter of:

HAVELLS INDIA LIMITED

... Complainant

versus

DOMAIN ADMINISTRATOR

... Respondent

ARBITRATION AWARD

Dispute Domain Name: www.lloyd.in

1. The Parties:

a. Complainant: The Complainant in this arbitration proceedings is: **Havells India Limited**, 904, 9th Floor, Surya Kiran Building, K.G. Marg, Connaught Place, New Delhi – 110001, India, represented by **Mr Rodney D. Ryder** of Scriboard - Advocates & Legal Consultants, Level 2, Elegance, Mathura Road, Jasola, New Delhi, 110025.

b. Respondent: The Respondent in this arbitration proceedings is **Domain Administrator**, Akademika Kablukova St. Kiev, Kiev Oblast – 03065, Ukraine.

2. The Domain Name and the Registrar:

- a. The Disputed Domain Name is www.lloyd.in.
- b. Disputed Domain Name is registered with Netlynx Technologies Pvt Ltd.

Further, details of the Disputed Domain Name are as follows, as per the publicly available WHOIS details.

Domain Name:LLOYD.IN

Created On:17-Nov-2015 20:00:21 UTC

Expiration Date:17-Nov-2017 20:00:21 UTC

Sponsoring Registrar:Netlynx Technologies Pvt. Ltd. (R62-AFIN)

Registrant Name:Domain Administrator

Registrant Organization:n/a

Registrant Street1:Akademika Kablukova St.

Registrant City:Kiev

Registrant State/Province:Kiev Oblast

Registrant Postal Code:03065

Registrant Country:UA

Registrant Phone:+380.445917401

Registrant FAX:+380.445917401

Registrant Email:admin@lloyd.in

Name Server:NS1.ALLWEBSERVER.COM

Name Server:NS2.ALLWEBSERVER.COM

3. Procedural History [Arbitration Proceedings]

This is mandatory Arbitration proceedings 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 Arbitration and Conciliation Act, 1996. By Registering the Disputed Domain Name with the NIXI Accredited Registrar, the Respondent has agreed to the resolution of the domain disputes pursuant to the IN Dispute Resolution Policy and Rules framed thereunder.

According to the information provided by the National Internet Exchange of India ["NIXI"], the history of this proceedings is as follows:

In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint, and appointed Adv. **Ankur Raheja** as the Sole Arbitrator for adjudicating upon the disputed in accordance with the Arbitration

and Conciliation Act, 1996 and the Rules framed thereunder, INDRP Policy and Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the NIXI.

The arbitration proceeding in the said matter commenced on 19 December 2017, in terms of INDRP Rules. Relevant Dates are as follows:

Sr No	Particulars	Date
1	Date of Handover of Complaint by NIXI and service of soft copy of Complaint upon Respondent by Nixi	18 December 2017
2	Notice of Arbitration issued to the parties, also referred as date of commencement of Proceedings	19 December 2017
3	Second Notice to the Respondent	02 January 2018
4	Award Passed	24 January 2018

- In accordance with INDRP read with INDRP Rules of procedure, notice of Arbitration was sent to the Respondent on 19th December 2017, with the instructions to file his reply / response by 30th December 2017.

- That Legal officer - NIXI informed on 27 December 2017 that the Hard Copy sent to the Respondent through courier could not be delivered due to

incomplete/incorrect address and the consignment was put on hold. The Respondent was asked by the Arbitrator immediately to provide complete/correct address on the same day but no response was received. It seemed that the WHOIS information for the Domain was incorrectly provided, as the email as to proceedings was accessed in an altogether different country, located in different continent than as provided in the WHOIS details, as per the email read notify report.

- That on failure of the Respondent to file any response to the complaint, another opportunity was provided to the Respondent on 2 January 2018 but he failed to comply with the same as well.

- The communication at various stages of proceedings through emails at the ID provided in the WHOIS information of the Disputed Domain was delivered successfully. Previously, the hard Copy of the Complaint also remained undelivered, therefore in terms of INDRP Rules of procedure, another notice was re-issued to the Respondent's Email IDs on 2 January 2018, with the time till 12 January 2018 to respond. In the interim, NIXI had already delivered Soft Copy of the Complaint upon Respondent on 18 December 2018.

- In the fact and circumstance of the case, an order for ex-parte proceedings was issued on 13 January 2018, as no response was received from the

Respondent and the Domain Registrant remained unreachable. Though during the proceedings, further opportunity was granted to the Respondent to make available true contact details, which he failed to comply too and In any case, the WHOIS info was the only contact information available for the Domain name owner as per the WHOIS records and which is assumed to be provided correctly and on which various notices were otherwise served. Therefore, service of notice has deemed to have been complied with in accordance with Rule 2 of the INDRP Rules of Procedure.

- No personal hearing was requested / granted / held.

4. Factual Background

According to the documentary evidence and contentions submitted:

1. Havells India Limited [Havells] is a billion-dollar organization and one of the fastest growing Fast Moving Electrical Goods [FMEG] companies. Havells is a major power distribution equipment manufacturer with products ranging from Industrial & Domestic Circuit Protection Switchgear, Cables & Wires, Motors, Fans, Power Capacitors, CFL Lamps, Luminaires for Domestic, Commercial & Industrial applications, Modular Switches, Water Heaters and Domestic Appliances covering the entire gamut of household, commercial and industrial

electrical needs. Havells has an extensive production and distribution network across India and the world.

2. Havells clocked a total turnover of 6,585.96 Crores INR in the Financial Year 2016-2017. Havells enjoys enviable market dominance across a wide spectrum of electrical products. A complete list of products manufactured by Havells can be accessed at its website www.havells.com. Havells' network constitutes of 4500 professionals across 43 branches in India. It has an operating network in more than 60 countries having a channel network of 150 distributors with more than 1000 retailers in the international market.
3. Its 9 state-of-the-art manufacturing units in India located at various locations in India, which churn out globally acclaimed products. Havells became one of the first FMCG Company to offer door step service via its initiative 'Havells Connect'. Havells has been consecutively listed as one of the Super 50 Companies by Forbes India in the years 2015 and 2016. It was also listed 125th among 1200 of India's most trusted brands according to the Brand Trust Report 2014, a study conducted by Trust Research Advisory. Moreover, the Complainant has been consistent in brand promotion with sponsorship of Cricket events like T20 World Cup, India-Australia Series and IPL Season first, second, third and fourth.

4. In the year 2017, the Complainant acquired the Consumer Durables Business of Lloyd Electric and Engineering Limited, thereby entering into the field of sourcing, assembling, marketing and distribution of consumer durables including Air-Conditioners, LED TV's, washing machines and other household appliances. The trademark '**Lloyd**' and other formative marks, by way of a Confirmatory Deed of assignment ["Deed"], effective from May 08, 2017, were transferred to the Complainant. The Complainant by virtue of the said Deed has acquired and now has absolute and exclusive, ownership and right, title and interest to all intellectual property of the brand '**Lloyd**', its logo, trademarks, goodwill, etc.
5. The trademark '**Lloyd**' and related marks are the Complainant's flagship marks, which were adopted by its predecessors in title in the year 1956 at a time when no such mark was known or in use. The trademark '**Lloyd**' was registered by the predecessors in title claiming use since the year 1957 being used in relation to a wide range of products of electrics and electronics inter alia air conditioners, condensers, lighting, heating, household, kitchen utensils, radiators, switches, etc.
6. The predecessors in title of the well-known trademark '**Lloyd**' and its formative marks comprised of two companies namely:
 - a. Lloyd Electric and Engineering Limited [Now known as LEEL Electricals Ltd]: Lloyd Electric and Engineering Limited was incorporated in the year

1987 with a portfolio for Consumer Electronics & Home Appliances, HVAC&R Heat Exchange Coils, Engine Cooling Systems, Commercial Refrigeration Systems, Original Equipment for Window and Split AC systems, Air Handling Units and Industrial Fans and Coolers.

- b. Fedders Lloyd Corporation Limited [FLCL]: FLCL incorporated in 1957, was a strategic alliance with Fedders USA for pioneering residential Air Conditioning business in India. The company has now diversified into Defence Air Conditioning and Equipment, Steel Structural Fabrication, Heavy Machining, Power Transmission and Distribution and Overhead Electrification, with offices spread across in Middle East and Africa.

7. It is to be noted that the '**Lloyd**' brand is a household name, including but not limited, to consumer durables such as, air-conditioners, TVs, washing machines and other household appliances. Moreover, the Complainant has been selling/offering to sell its quality products at its exclusive stores 'Lloyd Exclusive Stores', wherein consumers can purchase several different '**Lloyd**' products and avail additional services as well. It is to be noted that the Complainant [and its predecessors in title] have spent a huge amount of money on the promotion and advertisement of its services and products under the trade/service name/mark '**Lloyd**' since its adoption and use.

8. Further, the Complainant's [and its predecessors in title] Sales figures for the brand '**Lloyd**' from the year 2012-13 through 2016 –17 has been in thousands of Crores. The Complainant [and its predecessors in title] considers their trade/service name/mark an important and an extremely valuable asset and thus in order to protect the same, have secured trade mark registrations for the mark '**Lloyd**' and several other related marks in India as well as in Nepal and Bhutan. The Complainant submits that it is the exclusive owner and proprietor of the said registrations[s] and the registrations are duly valid and subsisting as of this date.
9. Google Search of the term '**Lloyd**' throws up a huge number of results, many of which pertain to the Complainant and their mark '**Lloyd**'. The profile and popularity of the Complainant under the trade/service name/mark '**Lloyd**' has been continuously increasing since the date of adoption and use of the mark. At present, the Complainant's trade name/mark is identified by the purchasing public exclusively with the Complainant and has acquired an enormous goodwill not only in India but in several other countries across the globe.
10. The Complainant's brand '**Lloyd**' has a huge social media presence. The brand's Facebook Page, available at: <<https://www.facebook.com/MyLloydIndia>>, has more than One Lakh Thirty Thousand Followers. It is to be noted that the Complainant's brand '**Lloyd**' is regularly endorsed by well-known celebrities such as Amitabh Bachchan, Shruti Hassan, Karan Johar, Mohan Lal, Mahesh Babu,

etc. Many such TVCs featuring these celebrities have also been uploaded on the Complainant's YouTube channel for '**Lloyd**', who can be accessed at YouTube.com. Moreover, the brand '**Lloyd**' is also associated with the Indian Premier League [IPL] franchise Royal Challengers Bangalore as one of its main sponsors, among other famous events. The Complainant's brand '**Lloyd**' has also been a recipient of several awards and accolades.

11. It is to be noted that the well-known mark '**Lloyd**' has a presence not only in India, but in several other countries across the world as well. Its international presence can be established by existence of the following corporate entities by Complainant's predecessor in title: Lloyd Coils, L.P., [USA]; Lloyd Coils Europe s.r.o. [Czech Republic] and Fedders Lloyd Trading FZE [Dubai].

12. Moreover, products under the mark '**Lloyd**' are/were exported in several countries, including but not limited to, Sri Lanka, Nepal and Bahrain. The Complainant's brand '**Lloyd**' has/had a premier clientele and serves leading brands, organisations and Government undertakings. Further, it has been contributing to the social causes as well.

13. As the Internet has become an essential medium to conduct business, the Complainant's predecessors in title of the trademark '**Lloyd**' in order to expand their presence decided to obtain a domain name registration. They settled for

<www.mylloyd.com> as a natural extension of their corporate name and brand name for the registration of their domain name. They then spent considerable amount of money and skill to develop a website on the obtained domain name <www.mylloyd.com>. In addition to owning <www.mylloyd.com>, the Complainant [and its predecessors in title] also owns several other domain names consisting of the mark 'Lloyd', such as: <www.lloydengg.com>, <www.fedderslloyd.com>, etc. The Complainant has developed a mobile application [app] named 'MyLloyd'. The 'MyLloyd' app is hugely popular and has been installed more than one lakh times at the Google Play Store. The app enables consumers to access the wide range of products and services offered by the Complainant under the brand 'Lloyd'.

5. The Dispute

- A. The Disputed Domain Name is identical or confusingly similar to a trademark in which the Complainant has statutory/common law rights.
- B. The Respondent has no rights or legitimate interests in respect of the disputed domain name.
- C. The disputed Domain Name has been registered or is being used in Bad Faith.

6. Parties Contentions

I. Complainant contends as follows:

1. The Complainant recently learned that somebody had obtained a domain name registration for <**www.lloyd.in**>. The Complainant immediately searched the WHOIS database for the disputed domain name and found that the impugned domain name is registered in the name of Domain Administrator. The Registrar for the disputed domain name is Netlynx Technologies Private Limited. The disputed domain name registration is a duplication of the Complainant's well-known trademark/service mark and has not been obtained in good faith.
2. A mere glance at the disputed domain name gives rise to enormous confusion as to its origin, as the domain name used by the Respondent is identical to the trademark/service mark of the Complainant. The utmost mala-fide intention of the Respondent is evident from the fact that the Respondent has copied the entirety of the Complainant's registered and well-known trademark. The use by any other concern of an identical/deceptively similar mark to that of the Complainant's mark '**Lloyd**' is bound to lead to confusion and deception and amounts to passing off as well as trademark infringement. Any person or entity using the mark/name '**Lloyd**' in any manner is bound to lead customers and

users to infer that its product or service has an association or nexus with the Complainant.

3. The well-known mark '**Lloyd**' has been in extensive, continuous and uninterrupted use since the year 1957 in relation to the Complainant's [and its predecessors in title] business. The mark '**Lloyd**' has also been used in relation to advertisements and related business/commercial information disseminated in several print media such as newspapers, magazines etc. both in India as well as abroad. In each of the instances of use, the mark '**Lloyd**' is prominently displayed and has become the focus of the Complainant's entire business related to consumer electronics.
4. The mark '**Lloyd**' is one of the global brand names of the Complainant and has been used extensively over the years for its business as well as its corporate identity. It is to be noted that post acquisition of the '**Lloyd**' brand by the Complainant, a new company 'Lloyd Consumer Private Limited' has been duly registered by the Complainant under the Companies Act, 2013. It is to be noted that a mark is capable of being a trademark if it has acquired a secondary meaning in the market. The evidence is sufficient to show that Complainant's mark has acquired secondary meaning through continuous and extensive use by the Complainant. [See, Realmark Cape Harbour L.L.C. v. Lawrence S. Lewis,

D2000-1435]. In the present dispute the Complainant and/or its predecessor in title have been using the trademark / name '**Lloyd**' in an extensive and continuous manner for nearly six decades and has thus acquired secondary meaning in the mark.

5. It is to be noted that in a recent case, the Hon'ble High Court of Delhi recognized the Complainant's rights in the trademark '**Lloyd**' while granting an ex parte injunction in favour of the Plaintiff [Complainant] by restraining the Defendants from using the Complainant/s' registered and well-known trademark '**Lloyd**' or any mark deceptively similar to it.
6. In the present case, it is very natural for an internet user, who wishes to visit the website of the Complainant to type its commercial name / brand name followed by the country specific Top Level Domain <.in>. This will lead the Internet user to believe that the Complainant is associated with or owns the web site bearing the domain name <www.lloyd.in>.
7. The Complainant has shown that the disputed domain name has become a distinctive identifier associated with the Complainant or its goods and services. Relevant evidence includes length and amount of sales under the mark, the nature and extent of advertising, consumer surveys and media recognition. In the past, administrative panels have also ruled in

favour of brand owners even where the mark was not registered; cases in question are – Satyam Computer Service Limited v. Vasudeva Varma Gokharaju, D2000-0835; Express Publications [Madurai] Ltd. v. Murali Ramakrishnan, D2001-0208 and Hindustan Petroleum Corporation Limited v. Neel Punatar, D2004-0351.

8. The Respondent has no proprietary or contractual rights in any registered or common law trademark corresponding in whole or in part to the disputed domain name. The mark '**Lloyd**' is a registered trademark and it is apparent that the Respondent knew of the Complainant's 'well-known' mark and its business activities as the mark 'Lloyd' has been in use by the Complainant [and its predecessors in title] in relation to consumer electronics and appliances since the year 1957. It is thus highly improbable that the Respondent has any rights or legitimate interests in the impugned domain name.
9. The Complainant submits that the: [1] Respondent has no connection with the Complainant or any company licensed by the Complainant; [2] Respondent is not commonly known by the disputed domain name or the trademark; [3] Respondent was not and is not authorized by Complainant to register, hold or use the disputed domain name. Furthermore, the Respondent whose name is 'Domain Administrator', as per the WHOIS

records, is not commonly known by the disputed domain name, nor the Respondent actually engages in any business or commerce under the name '**Lloyd**'.

10. In light of the uniqueness of the domain name <www.lloyd.in>, which is completely identical to Complainant's trademark, it is extremely difficult to foresee any justifiable use that the Respondent may have with the disputed domain name. On the contrary, registering this domain name gives rise to the impression of an association with the Complainant, which is not based in fact. The Respondent has no active business in the name of '**Lloyd**'. The Respondent is not a licensee of the Complainant, nor has the Respondent ever been authorized by the Complainant to use the Complainant's trademarks or register the disputed domain name. The Complainant has no relationship with the Respondent.

11. The Respondent has not provided his actual name in the WHOIS contact information. Moreover, it appears that the postal address provided is incomplete and misleading as well. This clearly indicates that the Respondent does not have any legitimate rights in the disputed domain name. Moreover, by providing inaccurate and unreliable information, the Respondent has violated Section 2 of the 'Terms and Conditions for Registrants' issued by the .IN Registry.

12. The illegality in the registration of the disputed domain name arises from the fact that domain names today are a part and parcel of corporate identity. In this specific case, the Complainant is in the business of manufacturing and selling consumer electronics and their official website <www.mylloyd.com> serves as an information portal for potential buyers and customers. Moreover, a domain name acts as the address of the company on the internet and can be termed as a web address or a web mark just like a trademark or service mark. It is also the internet address of a company.

13. The Respondent thus cannot have any rights or legitimate interests in the disputed domain name because the disputed domain name incorporates the well-known mark '**Lloyd**' in its entirety, a mark in which the Complainant has the sole and exclusive right and that has become well known owing to the Complainant's [and its predecessors in title] efforts.

14. It appears that in the recent past the Respondent had a parking page [on the disputed domain name] containing advertisements / Pay Per Click [PPC] Ads in an effort to generate revenue through consumers who mistakenly visit the site. Such an act by the Respondent clearly indicates that the Respondent does not have legitimate rights or interests in the

impugned domain name. However, as of today, there is no website at the disputed Domain Name. The PPC Ads in the past, as well as the current absence of any website on the disputed domain name, both indicate that the Respondent does not have any rights or legitimate interests either in the '**Lloyd**' mark or the impugned domain name.

15. The Complainant asserts that it is inconceivable that the registration of the disputed domain name was made without full knowledge of the existence of the Complainant and its 'well-known' trademark. The Complainant's '**Lloyd**' trademark is globally 'well-known' as it has been continuously used since 1957. Further, the mark has received extensive unsolicited media attention, having been prominently featured in numerous publications with local, national and international audiences. The Complainant submits that the '**Lloyd**' brand is extremely valuable to its business.

16. As mentioned earlier, the Complainant's trade name/mark is a name to reckon with and has acquired enormous goodwill not only in India but in several other countries across the globe. The '**Lloyd**' mark due to its extensive use, advertisements, publicity and awareness throughout the world, has acquired the status of a well-known trademark under 6bis of the

Paris Convention as well as Section 2[1][zg] of the Indian Trade Marks Act, 1999.

17. At present, the domain name <www.lloyd.in> is being held by the Respondent. This is in bad faith and a clear attempt to take advantage of the Complainant's goodwill and reputation. This is an attempt to misuse the domain name by registering the word '**Lloyd**' with a country specific domain name extension variant. The mark '**Lloyd**' as well as the official website <www.mylloyd.com> having been extensively used is understood and associated by consumers in India and elsewhere as the mark of the Complainant denoting their services and business. On account of the high degree of inherent and acquired distinctiveness, which the mark '**Lloyd**' is possessed of, the use of this mark or any other identical or deceptively similar mark, by any other person would result in immense confusion and deception in the trade, leading to passing off. The name/mark '**Lloyd**' has acquired unique importance and is associated with the Complainant. A mere mention of the said name/mark establishes an identity and connection with the Complainant and none else.

18. It is the Complainant's contention that the Respondent has registered the impugned domain name in bad faith for the following reasons:

- i. The well known mark 'Lloyd', having been extensively used in relation to the business of the Complainant. Any incorporation of the said mark in a domain name is bound to be in bad faith. The Respondent clearly knew of the Complainant's prior rights when registering the domain name. This by itself constitutes "bad faith".
- ii. Customers and potential buyers would be induced to believe that the Respondent's domain name has some connection with the Complainant in terms of a direct nexus or affiliation with the Complainant.
- iii. The Respondent has also provided inaccurate WHOIS contact details. The blatant disregard and violation of the Terms & Conditions by the Respondent constitutes strong evidence of bad faith.
- iv. Moreover, the Respondent registered the domain name on November 17, 2015. It is inconceivable that the Respondent was not aware about the popularity of the mark 'Lloyd' at the time of registration of the impugned domain name, especially so because the mark is regularly featured in advertisements and news articles across all mediums - including the internet.
- v. In light of the Respondent's presumed knowledge of the Complainant's rights, it is reasonable to infer that the Respondent registered the disputed domain name without any intention of using

it for genuine business or commercial activities. The Respondent must have the intention to sell it for financial gain or misuse the disputed domain name, as it did so, by redirecting visitors to Pay Per Click ads in the past.

19. With regard to Famous Names, successive UDRP panels have found Bad faith registration where:

- i. Complainant's name was famous at the time of registration: Cho Yong Pil v. Sinwoo Yoon, D2000-0310.
- ii. Bad faith registration and use [generally]: "Registration of a well-known trademark by a party with no connection to the owner of the trademark and no authorization and no legitimate purpose to utilize the mark reveals bad faith": America Online Inc. v. Chinese ICQ Network, WIPO/D2000-0808; thecaravanclub.com, NAF/FA95314.
- iii. The very use of domain name by Respondent who had no connection whatsoever with Complainant's mark and product suggests opportunistic bad faith: America Online Inc. v. Chinese ICQ Network, WIPO/D2000-0808.

20. The Respondent has obtained registration for the disputed domain name in bad faith for either or all of the following motives:

- i. The domain name could be used by the Respondent to extract huge sums of money from the Complainant who have legitimate interest in the said domain name. This is evident as the Respondent is not running any website on the disputed domain name at present.
- ii. The Respondent desires to cash-in on the reputation of the Complainant's mark by using the domain name for advertisements or setting up a business.
- iii. The Respondent can transfer or sell the domain name to some competing interest of the Complainant who may damage the goodwill and reputation of the Complainant by inserting prejudicial material in relation to the Complainant's companies/brand. This will lead to complete tarnishment of the Complainant's image if valuable property like this domain name falls into the hands of competing interests.

II. Respondent contends as follows:

A. The Respondent was provided various opportunities to file his response to the Complaint by the Arbitrator by its notice dated 19 December 2017 and 2 January 2018 respectively.

B. However, Respondent is unreachable and/or failed and/or neglected to file any response to the Complaint filed by the Complainant despite being given an adequate notification and several opportunities by the Arbitrator.

C. The Arbitrator, therefore, has no other option but to proceed with the matter and to decide the complaint on the basis of the material on record and in accordance with the .IN Dispute Resolution Policy and the Rules framed thereunder.

7. Discussion and Findings:

I. Procedural Aspects

A. The Complainant, while filing the Complaint, submitted to Arbitration proceedings in accordance with the .IN Dispute Resolution Policy and the Rules framed thereunder. The Respondent also submitted to the mandatory arbitration proceedings in terms of paragraph 4 of the INDRP Policy, while seeking registration of the disputed domain name.

B. The .IN Dispute Resolution Policy requires the Complainant, to establish the following three elements:

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

C. Undoubtedly, the Complainant has exclusive ownership and right, title and interest to the mark '**LLOYD**' by way of Confirmatory Deed of Assignment. The same have been protected by registration as Trademark in different countries, including India, claiming its use since 1956 by its predecessors. Otherwise also, the Complainant's mark is a well known mark and acquired a secondary meaning, which is quite evident through it's continuous and extensive use.

D. Further, prima-facie the Respondent does not have any relationship with the business of the Complainants or any legitimate interest in the trademarks or trade name. Moreover, the Complainant has neither given any licence nor authorized the Respondent to use the Complainant's mark. The Respondent has never been commonly known by the domain name in question, of late, registered the Domain Name on 17 November

2015 and no legitimate use of the Domain has been made. Rather the Domain was parked in the recent past and the resulting webpage at the disputed Domain Name displayed PPC (pay per click) links, which was misleading the general public.

II. Respondent's Default

Several UDRP decisions have established that once a complainant has made a prima facie case that a Respondent lacks legitimate interest or right, the burden shifts to the Respondent to prove its right or legitimate interest in the domain name (F. Hoffman-La Roche AG v. Steven Pratt, WIPO Case No. D2009-0589 and Canadian Tire Corporation Limited v. Swallowlane Holdings Ltd., WIPO Case No. D2009-0828). That is, it is well established principle that once a Complainant makes a prima facie case showing that a Respondent lacks rights to the domain name at issue; the Respondent must come forward with the proof that it has some legitimate interest in the Domain Name to rebut this presumption. But the Respondent has failed to come forward with a Response and moreover has provided false WHOIS for the domain name in violation of terms and conditions of registration of Domain Names. Therefore, in light of Complainant's unrebutted assertion that Respondent has no rights or legitimate interests in the disputed domain name, the Arbitrator may presume that no such

rights or interests exist. [Pavillion Agency, Inc. v. Greenhouse Agency Ltd., WIPO Case No D2000-1221].

The INDRP Rules of Procedure requires under Rule 8(b) that the Arbitrator must ensure that each party is given a fair opportunity to represent its case. Further, Rule 11 (a) empowers the arbitrator to proceed with an ex-parte decision in case any party does not comply with the time limits. The Respondent was given notice of this administrative proceeding in accordance with the Rules. The .IN Registry discharged its responsibility under Rule 2(a) of the INDRP Rules of Procedure to employ reasonably available means calculated to achieve actual notice to the Respondent of the Complaint.

The Respondent has not filed its reply or any documentary evidence thereof and has not sought to answer the complainant's assertions, evidence or contentions in any manner. The averments made in the complaint remain unrebutted and unchallenged. There is no dispute raised to the documents relied upon by the Complainant.

In the matter of Taco Bell Corporation V. Webmasters Casinos Ltd [INDRP/067], it was held that the Respondent registered the disputed domain name maliciously and he shows his depraved intention, in the arbitration proceedings by his act because three notices were sent by the arbitrator but he has submitted no reply

of anyone. [INDRP/067 - tacobell.co.in - May 29, 2008]. Also in the matter of Talk City, Inc. v. Robertson, WIPO Case No D2000-0009, it has been held that because Respondent failed to submit a Response, the Panel may accept all of Complainant's reasonable assertions as true.

The Arbitrator finds that the Respondent has been given a fair opportunity to present his case. The paragraph 12(a) of INDRP Rules of Procedure provides that the Arbitrator shall decide the Complaint on the basis of the statements and documents submitted in accordance with the INDRP and any law that the Arbitrator deems fit to be applicable. In accordance with Rules paragraph 12, the Arbitrator may draw such inferences as are appropriate from the Respondent's failure to reply to Complainant's assertions and evidence or to otherwise contest the Complaint. In the circumstances, the arbitrator's decision is based upon the Complainant's assertions, evidence and inferences drawn from the Respondent's failure to reply.

III. Requirements of Paragraph 4 of the INDRP Policy, i.e. Issues Involved in the Dispute:

The INDRP policy lists the following three elements that the Complainant must prove to merit the finding that the domain name of the Respondent be transferred

to the Complainant or whether any other remedy in terms of the paragraph 10 of the INDRP Policy will be available or not:

(i) Identical or confusingly similar with the Trade Mark, etc [Para 4(i) of INDRP Policy]

The Complainant has shown that it has rights in the Trade Mark 'LLOYD'. The Trademark was adopted in 1956 by predecessors, when no such mark was known or in use. Complainant (and previously in relation to its predecessors in title's business) had secured the registration of Trademark in countries such as India, Nepal and Bhutan, has presence in countries such as USA, Czech Republic and Dubai and also has been exporting its products to various other countries. Further, the Complainant's mark 'Lloyd' has a huge social media presence, its products are regularly endorsed by well-known celebrities and has also been a recipient of several awards and accolades.

Complainant's contention/submission that the said mark/name qualifies all tests for the well-known status of a mark under the Trademarks Act is upheld. This include considerations like knowledge or recognition among relevant section of public, duration, extent and geographical area of use, promotion and publicity of mark, etc. [Yahoo! Inc. v. Jorge O. Kirovsky, D2000-0428; Kabushiki Kaisha Toshiba v Shan Computers, D2000-0325; Parfums Christian Dior v. Javier

Garcia Quintas and Christiandior.net, D2000-0226; Nike, Inc. v. B. B. de Boer, D2000-1397].

Indeed, complainant's mark '**LLOYD**' has acquired tremendous reputation and as a result secondary meaning. The consumers and the business worldwide associate the expression '**LLOYD**' with quality products originating from the Complainant only. It was held in the matter of Perfetti Van Melle Benelux BV v. Lopuhin Ivan, IPHOSTER [WIPO Case No. D2010-0858] that trademark registration constitutes prima facie evidence of the validity of trademark rights. [See: Backstreet Productions, Inc. v. John Zuccarini, CupcakeParty, Cupcake Real Video, Cupcake-Show and Cupcakes-First Patrol, WIPO Case No: D2001-0654.]

While the disputed Domain Name <lloyd.in> incorporates the said Trademark in it's entirely. The paragraph 3 of the INDRP policy clearly states that it is the responsibility of the Respondent to find out before registration that the domain name that the registration of the domain name will not infringe upon or otherwise violate the rights of any third party.

The complainant asserts that Respondent has registered the Disputed Domain Name Lloyd.in on 17 November 2015, it entirely comprised of Complainant's mark. In fact, the WIPO Arbitration & Mediation Centre in cases such as Reuters

Ltd. v. Global Net 2000 Inc., D2000-0441; Altavista Company v. Grandtotal Finances Ltd., D2000-0848; Playboy Enterprises v. Movie Name Company, D2001-1201 has held that the mere omission of one letter of a trade mark has no effect on the determination of confusing similarity between a trademark and a domain name. The present case is on an even higher footing as the Respondent has picked up the registered trademark of the Complainant verbatim without even changing a single letter and moreover it's parking page displaying the product of the complainant only. Thus, the use of the disputed domain name by the Respondent is a prima facie case of trade mark/brand infringement.

Complainant has further submitted that the 'Lloyd' mark due to its extensive use, advertisements, publicity and awareness throughout the world, has acquired the status of a well-known trademark under 6bis of the Paris Convention as well as Section 2[1][zg] of the Indian Trade Marks Act, 1999. Indeed, numerous courts and UDRP panels have recognized that "if a well-known trademark is incorporated in its entirety, it may be sufficient to establish that a domain name is identical or confusingly similar to Complainant's registered mark." [ITC Limited V Travel India (INDRP Case No. 065); Boehringer Ingelheim Pharma GmbH & Co. KG v Philana Dhimkana (WIPO Case No. D2006-1594); Allied DOMEQ Spirits and Wine Limited v Roberto Ferrari, (INDRP Case No. 071); Philip Morris USA Inc. v Doug Nedwin/SRSPlus Private Registration (WIPO Case No. D2014-0339)]. Further, it has been held in the matter of Disney Enterprises, Inc.

v. John Zuccarini, Cupcake City and Cupcake Patrol [WIPO Case No. D2001-0489] that “domain names that incorporate well-known trademarks can be readily confused with those marks”.

Therefore, based on Complainant's clear rights in the Marks, along with the widespread popularity of Complainant's mark '**LLOYD**', it is quite obviously as an Internet User would likely mistakenly believe that a website accessible by the URL: www.LLOYD.in is managed or endorsed by Complainant, or enjoys the benefit of Complainant's news and information resources. And no doubt, Respondent's Infringing Domain Names are confusingly similar to Complainant's Marks. Moreover, in *Living Media, Limited v. India Services*, D2000-0973, it has been held that “trademark registration is itself prima-facie evidence that the mark is distinctive”. Similarly, in *eAuto, LLC v. Triple S Auto Parts*, D2000-0047, the Panel decided that when a domain name wholly incorporates a Complainant's registered mark, that is sufficient to establish identity or confusing similarity for purposes of the Policy.

Besides it is also well-established that the extensions such as '**.IN**' in a disputed domain name do not affect a finding of similarity. In the INDRP matter of *The Hershey Company V. Rimi Sen*, it has been held that the addition of the country top level domain “.co.in” in the disputed domain does not avoid a determination that the domain name is identical or confusingly similar to the Complainant's

mark [INDRP/289 - Hersheys.co.in]. Also in UDRP matters, it has been held that it is technically required for the operation of a domain name, and thus it is without legal significance in an inquiry of similarity. [Tumblr, Inc. v. Above.com Domain Privacy/Transure Enterprise Ltd., Host Master, WIPO Case No D2013-0213]. Also in the matter of Compagnie Générale des Etablissements Michelin Michelin Recherche et Technique S.A. V Artemio Garza Hernandez [WIPO Case No D2015-0257], the Panel observes that the extension ".com" is typically not taken into consideration when examining the identity or similarity between a complainant's trademarks and a disputed domain name.

Thus, the Complainant has satisfied the requirement of paragraph 4(i) of the INDRP Policy.

(ii) Rights or Legitimate Interests in the Domain Name [Para 4(ii) of INDRP Policy]

The circumstances has been elaborated under Paragraph 7 of the INDRP policy as under and the Respondent need to fit in at least one circumstance under this clause in order to prove legitimate interest:

Para 7 of the INDRP Policy: Registrant's Rights to and Legitimate Interests in the Domain Name

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 the purposes of Paragraph 4 (ii):

- (i) 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; or*
- (ii) 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*
- (iii) 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.*

The trademark '**LLOYD**' was first put to use by Complainant's predecessor in 1956, when no such mark was in use and there is no indication that Respondent is commonly known by a name or carrying on business under a name, corresponding to the disputed domain name. Further, Complainant denies of having assigned, granted, licenced, sold, transferred or in any way authorized the Respondent to use the distinctive mark '**LLOYD**' or to register the disputed domain name. [Relevant Decisions: Charles Jourdan Holding AG v. AAIM,

D2000-0403 (WIPO, June 27, 2000); ITC Limited vs. Mr. Mark Segal, INDRP/079 (February 10, 2009); Wells Fargo & Co. and Anr. v. Krishna Reddy, INDRP/581 (May 15, 2014); Aon PLC and Ors. v. Gangadhar Mahesh, INDRP/632 (October 31, 2014); Aon PLC and Ors. v. Guanrui, INDRP/633 (October 28, 2014)]. Complainant submits it is thus highly improbable that the Respondent has any rights or legitimate interests in the impugned domain name. [Relevant Decision: Telstra Corporation Limited v. Nuclear Marshmallows, D2000-0003; Kelemata S.p.A. v. Mr. Bassarab Dungaciu, D2003-0849].

It is well established that the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name, and then the burden shifts to the Respondent to come forward with concrete evidence of such rights or legitimate interests. The Arbitrator finds that the Complainant has made such showing in this case but no information has been submitted by the Respondent on what rights or legitimate interests he may have in the disputed domain name. [Document Technologies, Inc. v. International Electronic Communications Inc., WIPO Case No. D2000-0270]. Also Respondents' failure to respond can be construed as an admission that they have no legitimate interest in the domain names [Pavillion Agency, Inc. v. Greenhouse Agency Ltd., WIPO Case No D2000-1221].

There is no showing that 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. Rather, the website associated with the disputed domain name is not being used for any bonafide / legitimate purposes, but previously lead to a parking page displaying PPC (pay per click) advertising links. It has been held that merely registering the domain name is not sufficient to establish right or legitimate interests. [Vestel Elecktronik Sanayi ve Ticaret AS v. Mehmet Kahveci, WIPO Case No. D2000-1244].

In the WIPO matter of American Home Products Corporation vs. Ben Malgioglio, [WIPO Case No. D2000-1602], it was held that the Respondent's website is not operational and the Panel infers that it never has been. The Panel simply does not see such passive use to constitute a legitimate non-commercial or fair use without any intent to misleadingly divert consumers or tarnish the trademark or service mark at issue. Further in the WIPO matter of Paris Hilton v. Deepak Kumar [WIPO Case No. D2010-1364], if the owner of the domain name is using it in order "...to unfairly capitalise upon or otherwise take advantage of a similarity with another's mark then such use would not provide the registrant with a right or legitimate interest in the domain name. The Respondent's choice of the Domain Name here seems to be a clear attempt to unfairly capitalise on or otherwise take advantage of the Complainants' trademarks and resulting goodwill."

The disputed domain name, as per evidence submitted by the Complainant, very recently used to direct towards a parking page displaying sponsored links related complainant's products, which does not constitute a bona fide offering of goods but rather mislead the visitors as to the source/origin of the information. Therefore, it is an indication that Respondent lacks rights or legitimate interests (National Bedding Company L.L.C. v. Back To Bed, Inc., WIPO Case No. D2010-0106 and LEGO Juris A/S v. J.h.Ryu, WIPO Case No. D2010-1156).

Further, there is no evidence that the Respondent is commonly known by the disputed domain name or a corresponding name or uses a corresponding name in a business. Further, the Respondent whose name is 'Domain Administrator', as per the WHOIS records, is not commonly known by the disputed Domain name, nor the Respondent actually engages in any business or commerce under the name '**LLOYD**'. [Relevant Decision: Etro S.p.A v. M/S Keep Guessing, INDRP/024 (June 27, 2007); Tata Sons Limited v. Jacob W., Case No. D2016-1264]. Obviously, the WHOIS does not indicate that Respondent has ever been or is commonly known by the '**LLOYD**' trademark.

Furthermore, the Respondent has not provided his actual name in the WHOIS contact information. Moreover, it appears that the postal address provided is incomplete and misleading as well, for the same reason, the hard copy of

Complaint could not be served upon the Respondent. This clearly indicates that the Respondent does not have any legitimate rights in the disputed domain name. Moreover, by providing inaccurate and unreliable information, as Complainant rightly contends, the Respondent has violated Section 2 of the 'Terms and Conditions for Registrants' issued by the .IN Registry.

In the matter of Tercent Inc. v. Lee Yi, FA 139720 (Nat. Arb. Forum February 10, 2003) it was held: "nothing in Respondent's WHOIS information implies that Respondent is 'commonly known by' the disputed domain name" as one factor in determining that Policy paragraph 4(c)(ii) does not apply. Also in the matter of Gallup Inc. v. Amish Country Store, FA 96209 (Nat. Arb. Forum Jan. 23, 2001) "finding that the respondent does not have rights in a domain name when the respondent is not known by the mark. Therefore, the Arbitrator finds that Respondent is not commonly known by the disputed domain name under Policy paragraph".

Complainant also submits that in the light of the uniqueness of the domain name <www.lloyd.in>, which is completely identical to Complainant's trademark, it is extremely difficult to foresee any justifiable use that the Respondent may have with the disputed domain name. On the contrary, registering this domain name gives rise to the impression of an association with the Complainant, which is not based in fact. [Relevant Decisions: Telstra Corporation Limited v. Nuclear

Marshmallows Case No. D2000-0003; Daniel C. Marino, Jr. v. Video Images Productions, et al. Case No. D2000-0598]

Further, it is quite evident from the unresolved webpage at the disputed domain name as on date and it's previously parked page that neither any legitimate, non-commercial or fair use of the disputed domain name being made, but the Respondent seems to have intentionally registered the disputed domain name, which reproduces Complainant's well-known trademark 'LLOYD', in order to capitalize / profit from the goodwill associated with the famous mark. Such an act by the Respondent clearly indicates that the Respondent does not have legitimate rights or interests in the impugned domain name.

Given the long and widespread reputation of the Complainant's trademarks, the compelling conclusion is that the Respondent, by choosing to register and use a domain name which is not only confusingly similar to the Complainant's widely known and distinctive trade mark but identical, intended to ride on the goodwill of the Complainant's trademark in an attempt to exploit, for commercial gain, Internet traffic destined for the Complainant. Potential partners and end users are led to believe that the website is either the Complainant's site, or the site of official authorized partners of the Complainant, while in fact it is neither of these [Viacom International Inc., and MTV Networks Europe v. Web Master, WIPO Case No. D2005-0321 – mtvbase.com].

The Complainant has adopted and used the **LLOYD** trademark for several decades prior to the registration of the disputed domain name and it has invested substantial amounts for publicizing its mark. Further no use of the disputed domain name as on date and PPC ADs in the past, both indicate that the Respondent does not have any rights or legitimate interests either in the 'Lloyd' mark or the impugned domain name. Under the facts and circumstance of the case, it can be inferred that the similarity of the disputed domain name to the Complainant's trademark LLOYD is not a coincidence. The Respondent has intentionally acquired the disputed domain name for exploiting its value as a phonetically similar variant and as a misspelling of the Complainant's trademark. [Perfetti Van Melle Benelux BV v. Lopuhin Ivan, IPHOSTER, WIPO Case No. D2010-0858]. Such an act by the Respondent clearly indicates that the Respondent does not have legitimate rights or interests in the impugned domain name. A copy of the Home Page of the disputed Domain Name displaying such PPC Ads as enclosed by respondent is quite relevant to the facts of the matter and indicates no legitimate interests but rather Bad Faith on the part of Domain Registrant. [Relevant Decisions: Paris Hilton v. Deepak Kumar, D2010-1364; Express Scripts, Inc. v. Windgather Investments Ltd. / Mr. Cartwright, D2007-0267; Compart AG v. Compart.com / Vertical Axis, Inc., D2009-0462; Pardes Institute of Jewish Studies v. Hans Schultz LLC, D2008-0648]

In the circumstances, the Arbitrator concludes that the Complainant has established the requirement of paragraph 4 (ii) of the Policy.

(iii) Registered and Used in Bad Faith [Para 4(iii) of INDRP Policy]

The circumstances have been elaborated under Paragraph 6 of the INDRP policy as under and even single instance proved against Respondent is enough to conclude Bad Faith:

Paragraph 6 of the INDRP policy: Evidence of Registration and use of Domain Name in Bad Faith:

For the purposes of Paragraph 4(iii), 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:

(i) 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

(ii) 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

(iii) 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 disputed domain name was registered by Respondent on November 17, 2015, while the Trade Mark has been in extensive, continuous and uninterrupted use since the year 1956 in relation to the Complainant's and previously in relation to its predecessors in title's business. Complainant submits it is inconceivable that the Respondent was not aware about the popularity of the mark 'Lloyd' at the time of registration of the impugned domain name. Registration of Domain Name that is identical to a trademark, with actual knowledge of the trademark holder's rights, is strong evidence that the domain name was registered in bad faith [ITC Limited v Travel India, INDRP Case No 065; American International Group, Inc. v Walter Busby d/b/a AIG Mergers and Acquisitions, NAF Claim No FA030400156251]

In the matter of PepsiCo, Inc. v. "null", aka Alexander Zhavoronkov, WIPO Case No. D2002-0562, it has been held that registration of a well-known trademark as a domain name may be an indication of bad faith in itself, even without considering other elements of the Policy.

Under the Policy, it is evidence of bad faith registration and use that by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement or your web site or location of a product or service on your web-site or location. Mainly when the website recently displayed products that of Complainant, as per the evidence adduced by the Complainant.

It was held in the matter of L'Oréal, Biotherm, Lancôme Parfums et Beauté & Cie v. Unasi, Inc, [WIPO Case No. D2005-0623], exploitation of the reputation of trademarks to obtain click-through commissions from the diversion of internet users is a common example of use in bad faith as referred to in paragraph 4(b)(iv) of the Policy and identified in many previous decisions: see e.g Future Brands LLC v. Mario Dolzer, WIPO Case No. D2004-0718; ACCOR v. Mr. Young Gyoon Nah, WIPO Case No. D2004-0681 and Deloitte Touche Tohmatsu v. Henry Chan, WIPO Case No. D2003-0584.

In the matter of Educational Testing Service v. Atak Teknoloji Ltd. Sti. [WIPO Case No. D2010-0479] it was held "the Respondent must have known of the Complainant's trademark TOEFL when registering the disputed domain names. This is particularly likely as an English language education service was offered under the disputed domain names. It appears that the Respondent has registered the disputed domain names solely for the purpose of creating an association with the Complainant's well known TOEFL tests. The Panel believes that the Respondent has intentionally registered the disputed domain names for use with educational English language services in order to mislead users who may search for official TOEFL test related information provided by the Complainant. The Panel is convinced that the Respondent was aware that a legitimate use of the domain names would not have been possible without infringing the Complainant's trademark rights, Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003. This assessment is supported by the fact that the Respondent must have known the Complainant's TOEFL trademarks at the time of registration of the disputed domain names, in particular as both disputed domain names have been registered well after the Complainant's TOEFL trademark has become widely known in the world."

Respondent registered the disputed domain name on 17 November 2015, long after Complainant's Marks became well known, and long after Complainant registered its marks in India as well. And it is impossible that the Respondent

was not aware of the Complainant's rights to the trademarks as the Complainant's trademarks are famous and registered globally further they have active and official websites on various other extensions including MYLLOYD.COM, which was registered in 2010. Respondent seems to have intentionally registered the disputed domain name, which reproduces Complainant's well-known trademark '**LLOYD**', in order to capitalize / profit from the goodwill associated with the famous mark. Only a person who is familiar with Complainant's mark could have registered a domain name that is confusingly similar [Barney's Inc. v B N Y Bulletin Board: WIPO Case No D2000-0059].

Given the distinctiveness of the Complainant's mark it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's marks and uses it for the purpose of misleading and diverting Internet traffic. Where a domain name is found to have been registered with an intention to attract Internet users by exploiting the fame of a well-known trademark, it constitutes bad faith registration. [LEGO Juris AS V. Robert Martin - INDRP/125 - 14 February 2010]

In the matter of HSBC Holdings plc v Hooman Esmail Zadeh, [INDRP Case No 032], it was held that non-use and passive holding are evidence of bad-faith registration. The evidence furnished by the Respondent does not give a plausible explanation as to why there was no use of the domain name for more than two

years. [Bayer Aktiengesellschaft v. Henrik Monssen, Wipo Case No D2003-0275 and Telstra Corporation Limited v. Nuclear Marshmallows WIPO Case No D2000-0003]

Also in terms of INDRP Rules of procedure, the Registrant represents that the registration of the Domain Name will not infringe upon or otherwise violates the rights of any third party. And given the above facts, Respondent is thus guilty of willful misrepresentation and providing inaccurate / incorrect information to the Registry as well. The Complainant has a long and well-established reputation in the Complainant's mark through its exclusive use in the electronics industry. By registering the disputed domain name with actual knowledge of the Complainant's trademark, the Respondent has acted in bad faith by breaching its service agreement with the Registrar because the Respondent registered a domain name that infringes upon the Intellectual Property rights of another entity, which in the present scenario is the Complainant. [Relevant Decisions: Ray Marks Co. LLC v. Rachel Ray Techniques Pvt. Ltd., INDRP/215 (July 9th 2011); Kenneth Cole Production Inc. v. Viswas Infomedia, INDRP/93 (April 10, 2009)].

In the UDRP matter of Giorgio Armani S.p.A. Milan Swiss Branch Mendrisio v. Lizhen Ye [WIPO Case No. D2013-0808] the Panel found that there is beyond all doubt that the Respondent has registered the disputed domain names in order to prevent the owner of the trademark from reflecting the mark in a corresponding

domain names and that the Respondent may have engaged in a pattern of such conduct. The Panel accepts the Complainant's arguments that the worldwide fame of the trademarks leaves no question of the Respondent's awareness of those at the time of the registration of the disputed domain names which wholly incorporate the Complainant's trademarks, as even recognized by numerous previous UDRP panels (Ga Modefine, Giorgio Armani S.p.A. v. Kim Hontage, WIPO Case No. D2007-0851, etc).

On account of inherent and acquired distinctiveness which the well-known mark '**Lloyd**' is possessed of, the use of this mark or any other phonetically, visually or deceptively similar mark, by any other person malafide would result in immense confusion and deception in the trade. That any use of the impugned domain name by the Respondent would necessarily be in bad faith. [See Xpedia Travel.com, D2000-0137 and Goodfoodguide.net, D2000-0019 wherein it was held that owing to a wide public knowledge of the Complainant's mark, the Respondent cannot be said to have a legitimate interest in the concerned mark since he ought to have known of the Complainant's mark.]

In cases such as Guerlain S.A. v. Peikang, D2000-0055 and Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co., D2000-0163 it has been held that bad faith is found where a domain name "is so obviously

connected with such a well-known product that its very use by someone with no connection with the product suggests opportunistic bad faith”.

Furthermore, it would be extremely difficult, if not impossible, for the Respondent to use the disputed domain name as the name of any business, product or service for which it would be commercially useful without violating the Complainant’s rights. Thus, the disputed domain name was registered in bad faith. [Relevant Decision: The Ritz Carlton Hotel Company LLC v. Nelton! Brands Inc., INDRP/250 (December 30, 2011)]

In the circumstances, the Arbitrator concludes that the Complainant has established the final requirement of paragraph 4 (iii) of the Policy also as to both registration and use of the Domain Name in bad faith.

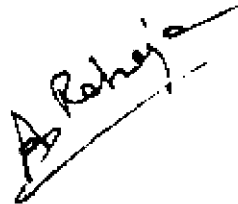
8. Decision:

In the lights of the circumstances and facts discussed above, Arbitrator decides, “The disputed domain name is identical and confusingly similar to the registered trademark ‘**LLOYD**’ and also the trade name of the Complainant in which Complainant has rights and the Respondent has no right or legitimate interests in respect of the Domain Name and the Respondent’s Domain Name has been registered and is being used in Bad Faith”.

Consequently the Arbitrator orders that **the Domain Name <"lloyd.in"> be transferred from the Respondent to the Complainant** with the following order as to costs.

Costs:

In the facts and circumstances as discussed above, the Respondent is also ordered to pay to the Complainant, the costs of Rs 50,000 (*fifty Thousand only*).



Ankur Raheja, MCA FCS LLB

Sole Arbitrator, NIXI, India

Date: 24th January 2018

Place: New Delhi