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BEFORE THE SOLE ARBITRATOR UNDER THE .IN

DISPUTES RESOLUTION POLICY

IN THE MATTER OF:

Morgan Stanely
1585 Broadway
New York, USA
C/o M/S Anand & Anand
Attn: Ms Binny Anand
At B-41, Nizamudddin
East, New Delhi - 110033
E.mail binny@anandandanand.com ...Complainant

VERSUS

M/s Keep Guessing
C/o M/s Keep Guessing
Keep Guessing.00000India
77, Netaji Subhash Road
4th Floor, Room No 405,
Kolkotta City - 1
West Bengal
E.mail valueelectronicslimited@yahoo.co.in
...Respondent

ARBITRATION AWARD

1. That I was appointed as Arbitrator by .IN Registry, to adjudicate upon the complaint of complainant, regarding dispute between his Trademark, MORGAN STANLEY and respondent's domain name MORGAN STANLEY.IN.

2. That .IN Registry had supplied the copy of complaint and Annexures to me. The same were also sent to the Respondent by .IN Registry through email.

3. That on receipt of the copy of complaint and Annexures, I sent a letter to respondent on 4/12/06 through email. The respondent was called upon to send his counter, with supporting documents/evidence, within



10 days of receipt thereof. But no response was received from the respondent. As such again a reminder letter dated 03/02/2007 was sent on 08.12.07 to respondent through email, but again no response was received from the respondent. Ultimately a last and final notice was sent to respondent through email on 05/05/2007, whereby he was called upon to send his counter with supporting documents within 7 days. Again no response was received from the respondent and as such he has been proceeded ex-parte and arbitration proceedings have been conducted in his absence.



4. That I have purused the record and Annexures / documents.

5. That complainant has stated in his complaint that Morgan Stanley was founded in year 1935 and its an international leader in investment banking and is an innovator in the field of financial services and products. Its also stated that it has 600 offices in 28 countries and it offers global service to financial markets.

6. That the complainant has also stated in his complaint that it is listed at number 30 in the list of fortune 500 companies and has annual revenue of an outstanding US\$52,498 million. The complainant has supported this submission by a news report - Annexure

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7. The complainant has further stated in his complaint that he is owner of the MORGAN STANLEY family of marks, which represents some of the most famous marks in the financial world. It is also stated by the complainant he and his predecessors have used such marks at least since 1935. It is also stated by complainant that in the year 1994 he launched the Morgan Stanley growth fund in India, and in 1997 he entered into a joint venture with J & M Financial groups to provide services in the fields of investment banking, retail distribution etc.

8. That it's also stated by the complainant in his complaint that complainant and his predecessors have received wide publicity in leading newspapers in India. Complainant has

relied upon articles in various news papers as Annexure B.

9. That complainant has further stated in the complaint that he is owner of top-level domain names that incorporate MORGAN STANLEY family of MARKS. He has relied upon printouts of web sites and WHOIS results as Annexure C and D respectively.

10. That complainant has further stated in his complaint that he is registrant of various trademarks incorporating its famous and well-known mark MORGAN STANLEY in various countries like USA, UK, Singapore etc. He has relied upon Annexure K in respect thereof. The complainant has further stated that he has also got registered its trademark MORGAN STANLEY in India in 1993 and in

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respect thereof he has relied upon Annexure G.

11. That the respondent has not rebutted the submissions put forth by the complainant, and the evidence filed by him. As such the submissions and evidence of complainant are deemed as admitted by respondent and this establishes complainant's statutory and common law rights in the trademark MORGAN STANLEY.

12. That it's proved by the complainant that it was established in 1935, and since long time he is using the mark MORGAN STANLEY in his commercial activities. He is also doing substantial business in India and in other various countries for very long time. It is also proved by the



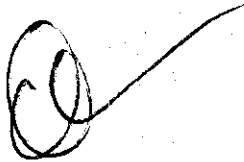
complainant that he has various prior registered trademarks and domain names in India and in other countries, which incorporate the above mark MORGAN STANLEY. Thus the complainant has even otherwise proved that he has statutory and common law rights in the mark MORGAN STANLEY.

13. That the complainant has further stated in his complaint that domain name of respondent i.e. MORGANSTANLEY.IN is confusingly similar and identical to his trademark MORGAN STANLEY. It is also stated by complainant in his complaint that his mark is very well-known and he has statutory and common law rights in it. He has relied upon judgements, Annexure H and I. The above submissions of the complainant have

not been rebutted by respondent, as such they are deemed as admitted by him. Even otherwise the above facts and Annexures establish that domain name of respondent is confusing similar and identical to the mark of the complainant.


14. That complainant has also stated in his complaint that the respondent do not have right or legitimate interest in the domain name. It is also stated by him that respondent has got his domain name registered to misappropriate the reputation associated with complainant's mark. It is also stated in the complaint that mark MORGAN STANLEY is not the respondent's personal name. It is also stated in complaint that respondent is not known by the domain

name. In support of his submission the complainant has relied upon decision Annexure J. The respondent has not rebutted the above submissions as such they are deemed as admitted by him. Even otherwise the complainant has been using the mark in his commercial activities for a very long time, to such an extent and in such a manner, that he is very well known by it. Most important fact is that he has prior registrations of marks and similar domain names. The complainant has also relied upon judgement * Annexure K'. Thus the complainant has proved that he has legitimate right and interest in his trademark,, The respondent has not shown that he has any right or legitimate interest in his domain name.

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his identity. The complainant has relied upon Annexure M in respect thereof. The above facts establish that respondent has got registered and used the domain name in bad faith.

In view of the above facts and circumstances, it is clear that the complainant has succeeded in his complaint and therefore the .IN Registry of NIXI is hereby directed to transfer the domain name of respondent i.e. STANLEY MORGAN.IN to complainant. In the facts and circumstances of the case no cost or penalty is imposed upon the respondent.

 The Award is accordingly passed on this 27th day of June 2007. Considerable time has been consumed in Arbitration proceeding as proper

15. That the complainant has further stated in his complaint that domain name of the respondent should be considered, as having being registered and used in bad faith. This allegation of complainant is again not rebutted by respondent. Complainant also issued a legal notice Annexure N to the respondent. This was also not responded by the respondent. The complainant very well known and has been using his mark for very long period, in his commercial /business activities. He had also got the same registered in India in 1993. The respondent must have know about complainant's mark at the time of registration of his domain name and in spite of it he got his domain name registered. Further the respondent has not given complete information about



opportunity was given to respondent to
present his case.



(Rajiv Singh Chauhan)
Sole Arbitrator

Email:rschauhan.advocate@gmail.com

Copies to:

1. NIXI .IN Registry (original)
paralegal.tapan@nixi.in
2. Complainant
3. Respondent