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BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME DISPUTE RESOLUTION POLICY

(Appointed by the National Internet Exchange of India)

ARBITRATION AWARD

Disputed Domain Name: <ALMARAIINDIA.IN>

IN THE MATTER OF

Almarai Company

P. O. Box 8524, Riyadh 11492, Saudi Arabia

..... Complainant

-----versus-----

Zainab Rizwan

Plot no 33 Mafco APMC Yard Sector 18

Vashi, Mumbai, Maharashtra- 4000703

Email: thedairywarehouse.ecom@gmail.com

..... Respondent

Vikrant Rana

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1. **The Parties**

The Complainant in this arbitration proceeding is **Almarai Company**, a Saudi multinational dairy, beverage and food company headquartered in the Kingdom of Saudi Arabia.

The Respondent in this arbitration proceeding is **Zainab Rizwan**, of the address Plot No 33 Mafco, APMC Yard, Sector 18, Vashi 4000703, Mumbai, Maharashtra – 400010 as per WHOIS records.

2. **The Domain Name, Registrar and Registrant**

The present arbitration pertains to a dispute concerning the registration of the domain name <ALMARAIINDIA.IN> with the .IN Registry. The Registrant in the present matter is Zainab Rizwan as per the WHOIS records and the Registrar is Endurance Digital Domain Technology Private Limited.

3. **Procedural History**

The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution (INDRP), adopted by the National Internet Exchange of India (NIXI). The procedural history of the matter is tabulated below:

DATE	EVENT
March 18, 2025	NIXI sought consent of Mr. Vikrant Rana to act as the Sole Arbitrator in the matter
March 26, 2025	The Arbitrator informed of his availability and gave his consent vide email. The Arbitrator provided the Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure.




April 09, 2025	NIXI handed over the Domain Complaint and Annexures thereto to the Arbitrator
April 11, 2025	The Arbitrator directed the Complainant to furnish the duly signed / executed Complaint within seven (07) days.
April 13, 2025	The Complainant provided the copy of the executed complaint. Thereafter, the Arbitrator requested the Complainant to furnish either the copy of the duly executed domain complaint with handwritten signature or evidence of authenticity of the electronic signature affixed on the domain complaint earlier, or a copy of digitally signed domain complaint within seven (07) days.
April 15, 2025	The Complainant provided the duly executed complaint. The Arbitrator requested the Complainant to serve a full set of the domain complaint as filed along with annexures, upon the Respondent by email as well as physical mode (in case Complaint had already not done so) and provide proof of service within seven (07) days.
April 17, 2025	The Complainant informed that the domain complaint along with the annexures have been served upon the Respondent and provided proof of service.
April 18, 2025	The Arbitrator accordingly commenced arbitration proceedings in respect of the matter. Respondent was granted time of fourteen (14) days, to submit a response, i.e. by May 02, 2025.
April 23, 2025	The Complainant informed that the domain complaint and annexures could not be delivered at the Respondent's postal address as mentioned in the WHOIS records. The Arbitrator informed the Complainant that since the domain complaint and annexures have been delivered to the Respondent via email, the arbitration proceedings have been commenced and the Respondent has been provided time to file a response.
May 02, 2025	The stipulated time period for the Respondent to file response expired and therefore the Arbitrator granted the Respondent a




	final and non-extendable period of five (05) days to submit a response.
May 08, 2025	As no response was received from the Respondent within the stipulated time period, Arbitrator concluded proceedings and reserved the present award.

4. Factual Background- Complainant

- i. The Complainant claimed they are ranked as the number one FMCG brand in the Middle East and North Africa region and the market leader in the most of its categories across the GCC and since its inception in 1977, the consumers across the region have come to recognise the Complainant's brand as synonymous with quality.
- ii. The Complainant claimed that the word 'Almarai' is derived from the Complainant's company name and a simple search on google directs users to the Complainant.
- iii. That the Complainant owns several registrations for 'Almarai' trademarks in various countries around the world. In this regard, the Complainant has annexed trademark registration certificates as Annexure 4.
- iv. That the Complainant owns the registered domain names <almarai.com> since **August 16, 1997** and <Almarai.pro> since **February 05, 2019**; which are connected to websites incorporating their trademark  and reflects the Complainant's scope of business. In this regard, the complainant has annexed snapshots of the mentioned websites and WHOIS details of the same as **Annexure 5**.
- v. That the Complainant was successful in previous UAEDRP and UDRP cases by which the panel ordered the transfer of the domain names incorporating 'Almarai' trademark to the Complainant.

Almarai

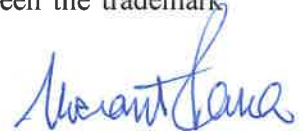
- vi. The Complainant claimed that the trademark  is notably known for the Complainant's food and beverage products and have been recognized by the public as a symbol that identifies and distinguishes the Complainant's business activities and services provided exclusively by the Complainant's company and that through long and continuous use, international recognition and extensive advertising and promotion.

5. Contentions and Legal Grounds Submitted by the Complainant






In support of the requirements under the captioned provisions of the INDRP (combined with the relevant Rules of Procedure) the Complainant has submitted that:

A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

- i. The disputed domain name <ALMARAIINDIA.IN> incorporates the name Almarai which is a dominant feature of the trademark and is clearly recognizable within the disputed domain name.
- ii. The disputed domain name <ALMARAIINDIA.IN> is confusingly similar to the Complainant's trademark/tradename 'Almarai' as it incorporates such mark and name in its entirety. The addition of the geographical location 'India' does not sufficiently distinguish the disputed domain name from the common law and registered 'Almarai' trademark/tradename and does not eliminate the confusing similarity.
- iii. The addition of a country code top-level domain ".in" does not have any impact on the overall impression of the dominant portion of the disputed domain name and is therefore irrelevant to determine the confusing similarity between the trademark and the disputed domain name.





B. The Respondent has no rights or legitimate interests in respect of the domain name that is the subject of the complaint


- i. The Complainant has never authorized nor licensed the Respondent to use its common law and registered trademark '' nor to seek the registration of any domain name incorporating the said trademark and tradename and in this regard the Complainant has placed reliance on *Sportswear Company S.P.A. v. Tang Hong* (WIPO Case No. D2014-1875).
- ii. There is no business or legal relationship between the Complainant and the Respondent. The Respondent is using the disputed domain name to offer identical goods 'Milk, Juice, Cream' to those of the Complainant and which are protected under the Complainant's ,  registered trademarks in various countries including India.
- iii. The Respondent falsely suggests in the disputed domain name that they have partnered with the Complainant when in fact it is not.
- iv. There is no evidence that Respondent owns any trademark or service mark rights or registrations that are identical, similar, or in any way related to the disputed domain name.
- v. There is no evidence or prior rights or legitimate interests for the Respondent in the disputed domain name before the date of the Complainant's usage of the brand '' , registration of the trademark '' and domain name 'almarai.com'.
- vi. The Respondent is not commonly known in the market by the disputed domain name and according to the information received from the .IN Registry, the name of the Registrant is 'Zainab Rizwan', which does not resemble the disputed domain

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name. Thus, the Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name.


- vii. The Respondent is using the disputed domain name in connection with a commercial website that copied and attempted to duplicate the Complainant's

website by featuring the marks  ,  , copying the Complainant's logo, color scheme, product images, the general aesthetic of the Complainant's website as well as the text therein and offered potentially counterfeit products

bearing the Complainant's trademark  . Thus, the Respondent is not using the disputed domain name in connection with a bonafide offering of goods or services nor making a legitimate non-commercial or fair use of the disputed domain name.

- viii. The Respondent's attempt to pass off the disputed domain name as being affiliated with the Complainant, and in fact as being the Complainant, is, in and of itself, evidence of the fact that the Respondent does not have rights and legitimate interests in the disputed domain name.

C. The domain name has been registered or is being used in bad faith

- i. It is claimed that the Complainant's  ' trademark is well known throughout the world and that it is incorporated in its entirety in the disputed domain name, which demonstrates that the Respondent must have been aware of the existence of the Complainant's trademark. It is further claimed that the Respondent's bad faith is clear from the fact that the disputed domain name is connected with a well-known trademark.
- ii. It is claimed that the Complainant has a strong online presence and has huge popularity in its trademarks worldwide. The Complainant's products and services identified by the Almarai brand have acquired great diffusion with the food and beverage sector. Thus, it is not possible to conceive of a plausible situation in which

Almarai

the Respondent would have been unaware of the Complainant's brand at the time the disputed domain name was registered.

iii. The Respondent proceeded in full knowledge that the disputed domain name would cause confusion among consumers. A cursory search if it had been performed by the Respondent on search engine Google as well as WIPO Global Brand Database for 'Almarai' would have shown that the trademarks are associated with the Complainant. In this regard, the Complainant have also attached snapshot of Google search of Almarai and the trademarks associated with the Complainant as **Annexure 12.**

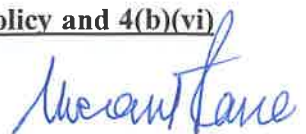
iv. The Respondent by using the disputed domain name, which is similar and identical to the Complainant's trademark 'Almarai' will attract internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

v. The Respondent is using the disputed domain name to resolve to an active website, misrepresenting itself as partnered with the Complainant, copying the Complainant's trademark and offering unauthorized or potentially counterfeited goods that are identical to the Complainant's goods bearing the Complainant's brand, the matter which demonstrates unequivocally the Respondent's intention for commercial gain, which is evidence of bad faith.

vi. The Respondent's actions creates a likelihood of confusion with Complainant and its trademark by using the entirety of the Complainant's 'Almarai', with Respondent then attempting to profit from such confusion by offering products bearing the Complainant's brand.

vii. The Respondent's use of the disputed domain name constitutes a disruption of the Complainant's business and qualifies as bad faith registration.

6. **Reliefs claimed by the Complainant (Paragraphs 11 of the .IN Policy and 4(b)(vi) of the .IN Rules)**



The Complainant has requested that the domain name <ALMARAIINDIA.IN> be transferred to them and that costs be awarded to them.

7. **Respondent's Contentions**

As already mentioned in the procedural history of the matter, despite having been duly served with a copy of the Domain Complaint as filed and thereafter having been granted adequate time to respond to the same, the Respondent had not submitted any response thereto, or in fact any communication of any kind to the Arbitrator during pendency of arbitral proceedings in the matter.


8. **Discussion and Findings**

As mentioned in Paragraph 4 of the .IN Domain Name Dispute Resolution Policy, the Complainant is required to satisfy the below three conditions in a domain complaint:

- i. *The Registrant's domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights; and*
- ii. *The Registrant has no rights and legitimate interest in respect of the domain name; and*
- iii. *The Registrant's domain name has been registered or is being used either in bad faith or for illegal/ unlawful purpose.*

i. **The Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights**

(Paragraph 4(a) of the .IN Domain Name Dispute Resolution Policy)

- In the present domain dispute, the Complainant has furnished information about their trade mark rights over the mark  and ALMARAI formative marks including registration over the said mark in India.
- The Complainant has also provided details of their domain comprising of the trademark ALMARAI.
- It is a well settled principle in domain dispute matters, that trade mark registration is recognized as prima facie evidence of rights in a mark.

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- In view of the documents and evidence placed on record by the Complainant, the Arbitrator finds that the Complainant has suitably demonstrated its rights in the mark ALMARAI. Further, the Arbitrator accepts the Complainant's submission that mere use of the ccTLD <.in> does nothing to create a meaningful distinction from the Complainant's mark.
- In this regard, it is pertinent to point out that it has been held by numerous prior INDRP panels that there exists confusing similarity wherein the disputed name incorporates the Complainant's trade mark, including but not limited to in the decisions in *Kenneth Cole Productions v. Viswas Infomedia INDRP/093*, *Indian Hotel Companies Limited v. Mr. Sanjay Jha, INDRP/148 <Gingerhotels.co.in>*, *Carrier Corporation, USA v. Prakash K.R. INDRP/238 <Carrier.net.in>*, *M/s Merck KGaA v. Zeng Wei INDRP/323 <Merckchemicals.in>*, *Colgate-Palmolive Company & Anr. v. Zhaxia INDRP/887 <Colgate.in>*, *The Singer Company Limited v. Novation In Limited INDRP/905 <singer.co.in>*, *Tata Digital Private Limited & Tata Sons Pvt Limited v. Miiraj Miiraj INDRP/1876*, *Radisson Hospitality Belgium BV/SRL v. NAJIM INDRP/1818*, etc.
- As held in the case of *OLX, Inc. v. Swan Technology, (WIPO Case No. D2011-1436)*, the addition of the geographical expression 'India' in the domain name does nothing to remove the confusing similarity – the Complainant's mark is clearly recognizable as such within the domain name, and all that has been added is the name of a country, being a common or descriptive term.
- More recently, as held by the INDRP Panel in the matter of *Tata Communications Limited v. Chandan [INDRP/1880]* on August 29, 2024 – “It is well established that the full incorporation of a complainant's trademark in a disputed domain name is sufficient for a finding of identical or confusing similarity”. In view of the aforementioned, the Arbitrator finds that the disputed domain name <ALMARAIINDIA.IN> is confusingly similar to the Complainant's rights in its trademark as well as domain names.

In view of the aforesaid, the Arbitrator accepts that the Complainant's rights in its trademarks, under Paragraph 4(a) of the INDRP has been established.

- ii. **The Registrant has no rights and legitimate interest in respect of the domain name (Paragraph 4(b) and Paragraph 6 of the INDRP)**





As per paragraph 6 of the Policy, a Registrant may show legitimate rights and interests in a domain name, by demonstrating any of the following circumstances:

(a) 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;

(b) 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

(c) the Registrant is making a legitimate non-commercial or fair use of the domain name, without the intention of commercial gain by misleadingly or diverting consumers or to tarnish the Trademark or Service Mark at issue.

In this regard, in the absence of any rebuttal from the Respondent, and in light of the below assertions of the Complainant, the Arbitrator accepts the Complainant's contentions, that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with Paragraph 4(b) of the INDRP.

- The Respondent's registration of the disputed domain name is much subsequent to the Complainant's adoption of the  and ALMARAI formative marks.
- The Complainant does not carry out any activity for, nor has any business with the Respondent.
- The Complainant has not authorized, licensed or otherwise allowed the Respondent to make any use of the mark ALMARAI, , in a domain name, website or otherwise.
- The website hosted at the disputed domain name is a look-alike website with an identical layout and content to the Complainant's website.
- The Respondent is attempting to mislead/divert consumers by creating false impression of association with the Complainant.
- The Respondent is not commonly known by the disputed domain name and does not have any trademark rights in the disputed domain name.

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In the present domain dispute, the Respondent has not joined the arbitral proceedings, despite being duly served with the domain complaint, and consequently, not coming forward with any assertion or evidence to show any bonafides has failed to satisfy the conditions enshrined in paragraph 6 of the INDR Policy. As held by numerous prior panels, including recently in Case No. INDRP/1891 for <stanleyco.in>, *“the Complainant has to make out a prima facie case that the respondent lacks rights or legitimate interests, whereafter, the burden of proof on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element”*.

The Complainant has established a prima facie case of its rights and has referred to several Panel decisions as well as WIPO decisions in favor of its contentions and arguments. Therefore, in accordance with the holding of previous panels under the INDRP, the evidentiary burden shifted to the Registrant (Respondent) to rebut the showing by providing evidence of its rights or interests in the domain name, which it has failed to do in the current proceedings.

Thus, as mentioned above, in view of the lack of assertions on part of the Respondent, coupled with the other contentions put forth by the Complainant, the Arbitrator accepts the Complainant's assertion, that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with Paragraph 4(h) of the INDRP.

iii. The Registrant's domain name has been registered or is being used in bad faith
(Paragraph 4(c) of the .IN Domain Name Dispute Resolution Policy)

The Complainant has contented the below points, with substantiating arguments, regarding the Respondent's registration and/or use of the disputed domain name in bad faith:

- The Respondent by using the disputed domain name, which is similar and identical to the Complainant's trademark 'Almarai' will attract internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.
- The Respondent is using the disputed domain name to resolve to an active website, misrepresenting itself as partnered with the Complainant, copying the Complainant's trademark and offering unauthorized or potentially counterfeited goods that are identical to the Complainant's goods bearing the Complainant's brand, the matter which demonstrates unequivocally the Respondent's intention for commercial gain.



- The impression given by the disputed domain name and its website would cause consumers to believe the Respondent is somehow associated with Complainant when, in fact, it is not. Thus, the Respondent is using the fame of the Complainant's trademark to improperly increase traffic to the website listed at the disputed domain name for Respondent's own commercial gain and such conduct constitutes bad faith.

In view of the above submissions, specifically the similarity/ identicalness in the content hosted on the website on the disputed domain name and the usage of identical trademarks, the Arbitrator finds that the Respondent's registration and use of the disputed domain name, therefore, prima facie does not appear to be bona fide and appears intended to deceive the lay public and trade off on the Complainant's reputation. It is pertinent to mention, also, that the Respondent has not submitted any reply nor rebuttal to the Complainant's contentions, or evidence in support of its bona fide registration or use of the disputed domain name.

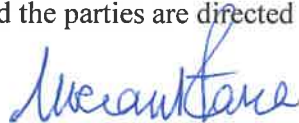
Based on the submissions and documents placed on record, it prima facie appears that the Respondent is engaged in conduct enumerated in paragraph 7(c) of the Policy, namely "*the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by 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*".

In view of the aforesaid, the Arbitrator concludes that the Complainant has satisfactorily proved the requirements of Paragraph 4(c) and Paragraph 7 of the INDRP.

9. Decision

Based upon the facts and circumstances, the Arbitrator allows the prayer of the Complainant and directs the .IN Registry to transfer the domain <ALMARAIINDIA.IN> to the Complainant.

The Award is accordingly passed and the parties are directed to bear their own costs.



Vikrant Rana, Sole Arbitrator

Date: June 12, 2025

Place: New Delhi, India.