



**INDRP ARBITRATION CASE NO.1869  
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)**

**ADMINISTRATIVE PANEL DECISION  
SOLE ARBITRATOR: AJAY GUPTA**

RELIANCE RETAIL LIMITED,

VERSUS

SHRADHDHA BAROCHIA

DISPUTED DOMAIN NAME: "CAMPA-COLA.IN"

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Disputed Domain Name: "CAMPA-COLA.IN"

RELIANCE RETAIL LIMITED,  
3<sup>rd</sup> Floor, Court House  
Lokmanya Tilak Marg,  
Kalbadevi, Mumbai-400002, Maharashtra. ...Complainant

VERSUS

SHRADHDHA BAROCHIA,  
B-704, Riviera Mahalunge  
Nande Road, Pune-411045, Maharashtra.  
(INDIA). ... Respondent

*Ajay Gupta*

## **AWARD**

### **(1) The Parties :**

- 1.1 The Complainant in this arbitration proceedings is Reliance Retail Limited, an existing company under the Companies Act, which is also one of the largest retail chain in India and its address is 3<sup>rd</sup> Floor, Court House, L.T Marg, Kalbadevi, Mumbai-400 002 (MAHARASHTRA).
- 1.2 The complainant in this proceeding is represented by its authorized representative Arjun T. Bhagat & Co., Advocates /Trade Mark & Patent Attorneys, 132, Shaheen Apartments, Mody Street, P.B. No. 1865, Fort, Mumbai – 400001.
- 1.3 The Respondent, in this arbitration proceeding, is Shradhdha Barochia, registrant of the impugned domain name [www.campa-cola.in](http://www.campa-cola.in) having its address at B704, Riviera Mahalunge, Nande Road, Pune-411045 (MAHARASHTRA)- [INDIA].

### **(2) The Domain Name and Registrar :**

- 2.1 The disputed domain name is <CAMPA-COLA.IN>. The Registrar with which the disputed domain name is registered is GoDaddy.com, LLC.

### **(3) Procedural History [Arbitration Proceedings]**

- 3.1 This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy [INDRP] and INDRP Rules of Procedure [the Rules], adopted by the National Internet Exchange of India (NIXI) in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes

according to the IN Dispute Resolution Policy and Rules framed thereunder.

3.2 The history of this proceeding is as follows :

3.2.1 The NIXI on 06.06.2024 formally notified the Respondent of the complaint, and appointed me as the Sole Arbitrator for adjudicating the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Resolution Policy and the Rules framed thereunder. On 06.06.2024, I submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by NIXI. It is pertinent to note that even before commencing the arbitration proceedings and issuance of arbitration notice by me, I received a email from the respondent on 06.06.2024 from the registrant's email "dbarochia@gmail.com" as mentioned in the WHOIS details, confirming the receipt of complaint, documents and also acknowledging the claim.

3.2.2 That however, commencing the formal arbitration proceedings an Arbitration Notice Dated 07.06.2024 was emailed to all the parties including the respondent under Rule 5(c) of INDRP Rules of Procedure with direction to the respondent to file a reply of the complaint, if any, within 10 days. The Complainant via email dated 10.06.2024 also informed this panel about the service of the copy of the complaint to the respondent via email dated 07.06.2024 and also submitted the proof of the same.

3.2.3 That no reply of the Arbitration Notice dated 07.06.2024, complaint, and email dated 07.06.2024 of

this panel was received by this panel from the respondent within the stipulated time of 10 days i.e. by 16.06.2024 ,despite the receipt of emails sent to the respondent by this panel and the complainant.

3.2.4 That despite the receipt of the arbitration notice and acknowledging the receipt of the copy of complaint, the Respondent failed to file the reply to the Arbitration notice and complaint within time limit as set in the arbitration notice dated 07.06.2024. That in view of these facts and circumstances, this panel on 17.06.2024 reserved the matter for the passing of the Award.

#### **(4) The Respondent's Default**

- 4.1 The Respondent failed to file reply to the notice regarding the complaint despite repeated opportunities. It is a 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 proof that it has some legitimate interest in the domain name to rebut this presumption. The disputed domain name in question is "campa-cola.in".
- 4.2 The INDRP Rules of Procedure require under Rule 8(b) that the arbitrator must ensure that each party is given a fair opportunity to present its case. Rule 8(b) reads as follows :
- "In all cases, the Arbitrator shall ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case."*
- 4.3 The Respondent was notified of this administrative proceeding per the Rules. The .IN Registry discharged its responsibility under Rules paragraph 2(a) to employ

reasonably available means calculated to achieve actual notice to the Respondent of the complaint.

4.4 The panel finds that the Respondent has been given a fair opportunity to present his case. The Respondent was given direction to file a reply of the Complaint if any, but the Respondent neither gave any reply to notice nor to the complaint despite sufficient time given in this regard. In these circumstances, the panel's decision is based upon the Complainant's assertions, evidence, inferences, and merits only as the Respondent has not replied despite sufficient time given for the same.

(5) **Background of the Complainant and its statutory and common law rights Adoption :**

5.1 It is submitted that the Complainant is a group company of Reliance Industries Limited (hereinafter referred to as RIL, for short). The Complainant was incorporated in the year 1999 and began its customer facing operations in the year 2006. The Complainant is the retail initiative of RIL Group and is central to the group's consumer facing businesses.

5.2 The Complainant is the largest retail chain in India and holds various intellectual properties relating for the retail segment. The said Corporate Logo along with the trade mark RELIANCE is used by all companies of the RIL Group and their combined use indicates association of the entity with the RIL Group in the minds of the public at large. The Complainant's operating model unleashes the aspirational energy of the new, resurgent India, whereas its guiding philosophy rests on the tenets of enabling inclusion, growth and building sustainable societal value for millions of Indians. In a short period, the Complainant has forged

strong and enduring bonds with millions of consumers by providing them unlimited choice, outstanding value proposition, superior quality and unmatched shopping experience across all its stores. The growth of the Complainant, over the years, has triggered a large socio-economic transformation on an extraordinary scale in India. The Complainant has been ranked amongst the fastest growing retailers in the world. It is ranked 53rd in the list of Top Global Retailers and is the only Indian Retailer to feature in the Top 100. The Complainant submits that it is the largest retailer in India with the widest reach.

- 5.3 The Complainant submits that, it has adopted a multi-prong strategy and operates a wide array of store formats that cater to planned shopping needs, as well as daily or occasional needs of the customers across major consumption baskets of Grocery, Consumer Electronics, Fashion & Lifestyle and Pharma. In the grocery consumption basket, the Complainant operates Fresh Signature, Smart Superstore, Smart Bazaar, Smart Point, Freshpik, Shree Kannan Departmental, 7-Eleven and Jayasurya stores focused on food, fresh produce, bakery, dairy products, home and personal care products, as well as general merchandise items.
- 5.4 The Complainant submits that it has 249 million registered customers buying across all its formats. It recorded more than 780 million footfalls across all its stores in FY'23, a scale unmatched by any other retailer in India. The Complainant has reported a turnover of Rs.2,60,364cr for the FY2022-23. The Complainant operated 18,040 stores across 7,000+ towns with a retail area of over 65.6 million sq.ft., as on March 31, 2023.



- 5.5 It is submitted that the Complainant's RIL Group companies believed that Indian brands not only have a rich heritage but also boast a deep-rooted connect with Indian consumers due to their unique tastes and flavour. This belief was the driving principle that led to the acquisition of the age old iconic beverage brand CAMPA by the Complainant from its predecessors i.e. Campa Beverages Private Limited vide a Deed of Assignment dated 30.08.2022. Subsequently, the products under the brand CAMPA were officially re-launched by the Complainant in and around March 2023. Complainant's predecessor i.e. Campa Beverages Private Limited, launched its own brand CAMPA COLA in and around the year 1970 and soon became the market leader in the soft drinks segment in India. The Complainant's said predecessor had two bottling plants in Mumbai and Delhi, sold the beverages under its brand CAMPA with the slogan 'The Great Indian Taste'. The brand CAMPA, was a popular Indian soft drink brand between the years 1970-1980 but was soon side tracked with the entry of the international soft drink brands viz. Coca-Cola and Pepsi, due to opening up of the economy in the year 1990. Thus, while re-launching the brand CAMPA the Complainant stated "bringing back 'The Great Indian Taste' with CAMPA". The Complainant hopes to inspire the Indian consumers to embrace this fifty year old iconic brand and be able to trigger a new excitement in the beverage segment, by re-launching CAMPA in its new avatar.
- 5.6 The Complainant submits that the re-launch of CAMPA is aimed at bringing back the nostalgia associated with the brand that will be cherished by the older members of every Indian family while the younger consumers will enjoy the crisp refreshing taste of the said beverage. The Complainant submits that with 50 years of rich heritage, the iconic brand CAMPA is set to offer the 'The Great Indian Taste' to the

Indian consumers. The re-launch of CAMPA in a new contemporized avatar is part of Complainant's bid to accelerate penetration into the nation's rapidly growing consumer goods market with its own versions of various household products. By virtue of continuous use of the trade mark CAMPA in relation to beverages since the year 1970 by the Complainant through its predecessor, enormous business has been transacted therein and unique goodwill and reputation has been generated, which is associated with the Complainant through its predecessor. The trademark CAMPA is highly distinctive of the goods sold by the Complainant. Valuable common law rights have thus come to vest in the trademark and artistic depiction of CAMPA being synonymous with the Complainant.

- 5.7 It is submitted that in relation to its aforementioned services and goods, the Complainant is the owner and proprietor of various trademarks. Amongst them is the trade mark CAMPA. The trade mark CAMPA was originally conceived, adopted and registered by the predecessor of the Complainant in the year 1977. The Complainant is now the subsequent registered proprietor of the trade mark CAMPA and of marks wherein CAMPA occupies an essential feature, being the CAMPA variants, in different classes under the provisions of the Trade Marks Act, 1999. The complainant in support has listed the details of trade mark registrations of CAMPA in various classes. The Complainant has submitted the copies of trade mark registration certificates and/or online status pages of the aforementioned registrations alongwith a copy of the request filed on Form TM-P before the Trade Marks Registry to bring on record the name of the Complainant as the subsequent registered proprietor of the said trademarks. The Complainant submits that the said request on Form TM-

P is, however, pending with the office of the Trade Marks Registry. It is submitted that on account of its use, registrations and being the subsequent registered proprietor, the Complainant thus has the exclusive right to the aforementioned trademarks.

- 5.8 The Complainant submits that enormous business has been conducted under the said trademarks through its predecessors and its goods have been extensively sold and offered throughout India. Further, the Complainant's goods have been widely advertised and published through various media of publicity over the years through its predecessor. That owing to the continuous, extensive, open use and advertisement of the trade marks CAMPA and CAMPA COLA by the Complainant through its predecessor, the said trade mark has earned an unique goodwill and reputation in the minds of the public and in the trade and markets so much so that the goods branded under the trademarks CAMPA and CAMPA COLA have become distinctive of the Complainant's goods and any use of the marks CAMPA and CAMPA COLA in the industry are exclusively identified with Complainant and its predecessor and no one else. The Complainant thus feel proud in stating that the trade marks CAMPA and CAMPA COLA are recognized by a large section of our Society, the masses, the people in the trade and the customers as a Well Known trade mark identified exclusively with the Complainant and its predecessor. The Complainant states that the news of acquisition re-launch of CAMPA by Complainant was first reported by various news and media houses on 31.08.2022.
- 5.9 The Complainant submits that the trade marks CAMPA and CAMPA are in continuous use and the same have been

widely used and extensively publicized in India first by their predecessor and now by the Complainant. The Complainant craves leave to refer to and rely upon the sales and advertisement figures pertaining to the sale and advertisement of the goods under the trade mark CAMPA, including those of CAMPA COLA, by the Complainant and its predecessor, as and when needed in these proceedings.

**5.10** It is submitted that on account of exclusive association with the Complainant and its Group companies and their wide range offerings to a strong customer base, the aforesaid trademarks have acquired a secondary meaning associated and identified with the Complainant's services and goods. Any use of the said trademarks or of marks deceptively similar thereto, without the authority and consent of the Complainant constitutes violation of their rights therein.

**6. Submission of the Complainant about the Respondent its use of Disputed Domain Name :**

6.1 The Complainant submits that in and around the first week of May 2024 while browsing through the internet, it has come to the notice of the Complainant that the Respondent No. 1 has obtained registration of the impugned website and domain name [www.campa-cola.in](http://www.campa-cola.in). The impugned domain name was registered by the Respondent No. 1 on 03.09.2022, which date is clearly subsequent to the use and registration of the Complainant's trademarks CAMPA and CAMPA COLA. The said website was registered 3 days after the public announcement of the acquisition of the brand CAMPA by Complainant. It is submitted that upon perusing through the said documents it becomes clear that the name and address of the Respondent No. 1 is "REDACTED FOR PRIVACY" and/or hidden from being shown/updated therein.

In fact, the "Registrant Email" column appearing on the said page mentions :

"Please contact the Registrar listed above".

This clearly proves that the details of the Respondent No.1, though not shared on the WHOIS page, is known to the Registrar of the disputed/impugned domain name viz. GoDaddy.com, LLC. It appears that the said Domain Registrar is looking after/managing/has access to the disputed domain name, the registrant and its name, address and email.

- 6.2 It is submitted by the complainant that only after the complainant filed a complaint with NIXI on 17.05.2024 that the Domain Registrar revealed the details of the Registrant. In view thereof the Applicant has amended the said complaint to include the name of the registrant of the impugned domain name. Further, the Domain Registrar is the address for service of the Respondent No.1 viz. GoDaddy.com, LLC, having its address at 14455, North Hayden Road, Suite 219, Scottsdale, AZ-85260, U.S.A and accordingly continues to be impleaded as the Respondent No.2.
- 6.3 The Complainant submits that it recently learn of the registration of the impugned domain name and website [www.campa-cola.in](http://www.campa-cola.in) granted in favour of the Respondent No.1 by the Domain Registrar.
- 6.4 The Complainant submits that the disputed domain name is sought to be used by the Respondent No. 1 to lure the unwary people into believing that the said Respondent is the owner and manufacturer of the products bearing the Complainant's trade mark and artwork CAMPA and CAMPA COLA. The impugned website is designed in such a way that

the visiting customers can view all the impugned products but cannot get in touch with the Respondent No.1 on social media platforms linked on the impugned website. The Complainant has Annexed the screenshots of the Respondent No.1's website using the impugned domain name www.campa-cola.in as also screenshots taken from the social media platforms viz. Youtube and Instagram, where the Respondent No.1 has created fraudulent accounts. The Respondent No.1 has designed the impugned website under the domain name to mislead innocent netizen into believing that this is the site to purchase the products of the Complainant. The Complainant also submits that the Respondent No.1 has also used images of the products of Complainant to create a virtual experience for the innocent visitor of the site to make them feel this to be an authentic website of the Complainant.

## **7. The issues involved in the dispute**

- 7.1 The complainant in its complaint has invoked paragraph 4 of the INDRP, which reads :

### **"TYPES OF DISPUTES**

*Any person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:-*

*The disputed domain name is identical or confusing similar to a trademark in which the Complainant has statutory /common law rights.*

*The Respondent has no rights or legitimate interests in respect of the disputed domain name.*

*The disputed domain name has been registered or is /are being used in bad faith.*

*The Respondent is required to submit to a mandatory Arbitration proceeding in the event that a Complainant files a complaint to the .IN Registry, in compliance with this policy and Rules thereunder."*

According to paragraph 4 of the INDRP, these are the 3 essential elements of a domain name dispute, which are being discussed hereunder in the light of the facts and circumstances of this case.

## **8. Parties' Contentions**

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

#### **Complainant**

8.2 It is submitted that the Complainant is the registered proprietor of the trade marks CAMPA and CAMPA COLA. The disputed domain name www.campa-cola.in is identical with and/or is deceptively similar to the Complainant's trademarks CAMPA and CAMPA COLA. In fact, the whole of the Complainant's trademarks are subsumed and are to be found in the impugned domain name. The Complainant has acquired valuable statutory rights in its trade marks CAMPA and CAMPA COLA through its predecessor, which rights are sought to be impinged and violated by the Respondent No. 1 who has no rights of whatsoever nature therein in the disputed domain name. The registration of the impugned almost identical/deceptively similar domain name www.campa-cola.in has been obtained by the Respondent No. 1 much subsequent to the acquisition of statutory rights in the Complainant's favour.

#### **Respondent**

8.3 The respondent has not replied to the complainant's contentions.

## **9. Panel Observations**

- 9.1 On pursuing the documents and records submitted by Complainant it is observed by this panel that Reliance Retail Limited (the "Complainant") is one of the largest retail chain in INDIA and its predecessor has trademark rights in its beverages brand "Campa" and "Campa Cola" and related trademarks since the very beginning. This panel further observe that the Complainant being the subsequent registered proprietor of the trade mark CAMPA and CAMPA COLA, and of marks wherein CAMPA occupies an essential feature, its use and applications for registrations, the Complainant has the exclusive right to the aforementioned trademarks.
- 9.2 The disputed domain name [www.campa-cola.in](http://www.campa-cola.in) is identical with and is deceptively similar to the Complainant's trademarks CAMPA and CAMPA COLA. This panel observes that the disputed domain name "campa-cola.in" will cause the user to mistakenly believe that it originates from, is associated with or is sponsored by the complainant, and further the addition of "in" is not sufficient to escape the finding that the domain is confusingly similar to complainant's trademarks.
- 9.3 Therefore, this panel is of the opinion that the disputed domain name "campa-cola.in" being identical/confusingly similar to the trademarks of the complainant will mislead the public and will cause an unfair advantage to the respondent. It has been proved by the Complainant that it has rights in the marks "campa" and "campa cola" by submitting substantial documents in support of it. The Disputed Domain incorporates the "campa and campa cola"



marks in their entirety, and the disputed domain name "campa-cola.in" is confusingly similar to the trademarks of the complainant.

- 9.4 Paragraph 3 of the INDRP states that it is the responsibility of the Respondent to find out before registration that the domain name he is going to register does not violate the rights of any proprietor/brand owner.

Paragraph 3 of the INDRP is reproduced below :

*"The Respondent's Representations:*

*By applying to register a domain name, or by asking a Registrar to maintain or renew a domain name registration, the Respondent represents and warrants that:*

- 1. the statements that the Respondent made in the Respondent's Application form for Registration of Domain Name are complete and accurate;*
- 2. to the Respondent's knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;*
- 3. the respondent is not registering the domain name for an unlawful purpose; and*
- 4. the Respondent will not knowingly use the domain name in violation of any applicable laws or regulations.*

*It is the Respondent's responsibility to determine whether the Respondent's domain name registration infringes or violates someone else's rights".*

- 9.5 The respondent has not replied to the Complainant's contentions despite the opportunity given for the same.

- 9.6 This Panel, therefore, in light of the contentions raised by the Complainant concludes that the disputed domain name is not only identical but confusingly similar to the

Complainant's marks. Accordingly, the Panel concludes that the Complainant has satisfied the first element as required by Paragraph 4(a) of the INDR Policy.

**10. The Respondent has no rights or legitimate interests in respect of the domain name**

**Complainant**

- 10.1 The Complainant submits that the Respondent No. 1 has no right or any legitimate interest in respect of the disputed domain name because the Respondent No. 1 has no trade mark or license rights or any authorization to use the Complainant's trademarks. The Respondent No. 1 has never been known by the name/s CAMPA, CAMPA COLA or by any name similar thereto. The disputed domain name was adopted and registered by the Respondent No.1 on 03.09.2022, which is much subsequent to the registration and first use of the Complainant's trademarks CAMPA and CAMPA COLA through its predecessor. Further, it is pertinent to note that the Respondent No. 1 has fraudulently registered the impugned domain name immediately and within 72 hours of the press release/news publication on the acquisition of CAMPA by the Complainant, which as reiterated herein above made headlines in the news papers on 31.08.2022. The Respondent No. 1 has designed the impugned website under the domain name to defraud innocent netizens into believing that this site is to view and purchase the products of the Complainant. These activities of the Respondent No. 1 clearly indicate that the Respondent No. 1 was very much aware of the Complainant, its reputation and its business. The Respondent No.1 does not have any legitimate interest in the impugned domain name.

- 10.2 The Respondent No.1 has not been associated with the Complainant nor with its services nor has the said Respondent been legally authorized, permitted and/or licensed by the Complainant to register or use the disputed domain name and website www.campa-cola.in. It is submitted that obviously the nefarious activities of the Respondent No.1 is aimed at practicing deception and fraud upon the unwary public who would be confused upon seeing the Respondent No.1's website and domain name and are likely to access the same under the belief that the same is the website of the Complainant or is associated with or is sponsored by the Complainant. All of this, the Respondent No.1 is unauthorizedly seeking to undertake registration of the disputed domain name in which it has no rights, title or interest. The disputed domain name is sought to be used by the Respondent No.1 to lure the unwary people into believing that they can purchase the products of the Complainant's through the impugned website of the Respondent No.1, who has no authority for the same. The Complainant has annexed the screenshots of the Respondent No.1's website offering to sell the Complainant's Products.
- 10.3 It is submitted that the Respondents are holding on to the impugned registration with the motive of playing a fraud upon the Complainant and on the gullible consumers by practicing deception. Though Respondents have no legitimate right or interest in the disputed domain name www.campa-cola.in, it is seeking to demean and tarnish the Complainant's goodwill by encashing upon the Complainant's goodwill and reputation. There is thus deception and fraud perpetrated and/or sought to be perpetrated by the Respondent. Such fraud is likely to result in personal gains and enrichment to the Respondent whilst tarnishing and demeaning the

Complainant's trade marks, its goodwill and its impeccable reputation earned through sheer dint of hard work and toil. It is submitted that surely all of this has been knowingly undertaken by the Respondents, who have otherwise no right or interest in the marks CAMPA or CAMPA COLA.

- 10.4 The Complainant submits that the Respondents are not making any legitimate or fair use of the impugned domain name but is using the same for resorting to conducting its nefarious activities as above described. The very fact that the disputed domain name is used to mislead the innocent customers by encashing on the Complainant's goodwill, name and fame is sufficient proof of the lack of any legitimate right or any interest vesting with the Respondents in the impugned domain name [www.campa-cola.in](http://www.campa-cola.in). Further the Respondents have no bonafide rights in respect of the impugned domain name but is holding on to such registration with a malafide motive of perpetrating fraud by usurping upon the Complainant's trademarks. The impugned domain name has been knowingly and fraudulently obtained by the Respondent to piggy-back and ride upon the goodwill and reputation earned by the Complainant and not because of some right or legitimate interest of its own.

#### **Respondent**

- 10.5 The respondent has not replied to the complainant's contentions.

#### **Panel Observations**

- 10.6 This Panel holds that the second element that the Complainant needs to prove and as is required by paragraph 4(b) of the INDRP is that the Respondent has no legitimate right or interests in the disputed domain name.

- 10.7 It is the submission of the Complainant, that the Respondent No.1 has no right or any legitimate interest in respect of the disputed domain name because the Respondent No.1 has no trade mark or license rights or any authorization to use the Complainant's trademarks. It is the submission of the complainant that the Respondent No.1 has never been known by the name/s CAMPA, CAMPA COLA or by any name similar thereto, and the disputed domain name was adopted and registered by the Respondent No.1 on 03.09.2022, which is much subsequent to the registration and first use of the Complainant's trademarks CAMPA and CAMPA COLA through its predecessor. It is further submitted that the Respondent No.1 has designed the impugned website under the domain name to defraud innocent netizens into believing that this site is to view and purchase the products of the Complainant. It is submitted that these activities of the Respondent No. 1 clearly indicate that the Respondent No.1 was very much aware of the Complainant, its reputation and its business.
- 10.8 It is the submission of the Complainant that the Respondent No. 1 has not been associated with the Complainant nor with its services nor has the said Respondent been legally authorized, permitted and/or licensed by the Complainant to register or use the disputed domain name and website [www.campa-cola.in](http://www.campa-cola.in). It is further submitted by the complainant that the very fact that the disputed domain name is used to mislead the innocent customers by encashing on the Complainant's goodwill, name and fame is sufficient proof of the lack of any legitimate right or any interest vesting with the Respondents in the impugned domain name [www.campa-cola.in](http://www.campa-cola.in).
- 10.9 Once the Complainant makes a prima facie case showing

that the respondent does not have any rights or legitimate interest in the domain name, the burden to give evidence shifts to the Respondent to rebut the contentions of the complainant by providing evidence of its rights or interests in the domain name. It is observed by this panel that the respondent failed to put on record any evidence to rebut any of the contentions of the complainant despite opportunity given in this regard.

10.10 It is further observed by this panel that Para 6 of the .IN Domain Name Dispute Resolution Policy (INDRP) states :

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 Clause 4 (b):

- (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 intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

10.11 This panel while evaluating all the evidence, observe that the respondent by not filing the reply and rebutting the allegations of the complainant has also failed to full fill any

of the requirements as mentioned in para 6 of INDRP Policy which demonstrates the Registrant's rights to or legitimate interests in the domain name for the purposes of Clause 4 (b).

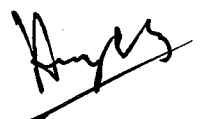
10.12 For these above-mentioned reasons, this Panel holds that the Complainant has proved that the respondent does not have any rights or legitimate interests in the disputed domain name.

**11. The Respondent has registered or is been using the disputed domain name in bad faith :**

**Complainant**

11.1 The Complainant submits that the disputed domain name has been dishonestly adopted by the Respondents. The same has been adopted by the Respondents by using the Complainant's trademarks CAMPA and CAMPA COLA in its entirety. By registering and/or using the impugned domain name, the Respondents are seeking to lure the gullible members of the public into believing that they are accessing the Complainant's website where the products of the Complainant are being offered for sale.

11.2 It is further submitted that the Respondents are likely to collect moneys from the unwary public by practicing deception, under the guise of selling the Complainant's products, leading to fraud. In the "Contact us" page on the said website, the Respondent No.1 has shared its fraudulent social media accounts. The Respondent No.1 has also been allowing advertisements on the said website thereby making undue gains.



11.3 The Complainant submits that by registering the impugned domain name www.campa-cola.in, the intention of the Respondent No.1 is to prevent the Complainant, who is its rightful owner, from using the said domain name for its personal use. Further, the impugned registration in favour of the Respondent No.1 is done with the sole motive of disrupting and usurping the Complainant's business and with a malafide motive of attracting, for commercial gains and for making illegal profits, internet users to its web site causing them to wonder and believe that the Respondent No.1 is associated with, has some means, sponsorship and/or affiliation with the Complainant when no such thing exists. It is submitted that the Complainant apprehends that the Respondents have knowingly used the impugned domain name to derive illegal gains and benefits to which it is not entitled and/or with the motive of selling, renting and transferring the impugned domain name to the Complainant for a valuable consideration.

11.4 The Complainant submits that the purpose of enactment of the Policy is to prevent the extortionate behavior or the usurping of the rights held by the actual trade mark owner, by the Respondents, which is commonly known as cybersquatting, in which parties register domain names in which major trade mark owners have a particular interest. This is done also with the intent of depriving the actual proprietor/trade mark owner from using the domain name on the internet, extort money from such actual owner and/or otherwise earn illicit profits by using the domain name. The Complainant states that the impugned domain name has been registered by the Respondents without any sufficient cause, except for personal enrichment.



11.5 The Complainant claims that the impugned domain name cannot be used by way of business, without there being a severe risk of confusion or deception. The adoption of the impugned domain name is clearly tainted and is undertaken with dishonest motives. In view of what has been stated herein above, the impugned registration of www.campa-cola.in by the Respondents has been undertaken in bad faith. The Complainant further submits that the Respondents do not deserve exercise of any discretion in their favour. Even the balance of convenience is in the favour of the Complainant and against the Respondents. Having regard to the principles of natural justice, fair play and equity, the Respondent No.1 ought not to be allowed to use the disputed domain name www.campa-cola.in and/or CAMPA COLA.IN, especially when the adoption thereof is tainted since its very inception.

### **Respondent**

11.6 The respondent has not replied to the complainant's contentions.

### **Panel Observation**

11.7 Paragraph 7 of the INDRP provides that the following circumstances are deemed to be evidence that Respondent has registered and used a domain name in bad faith :

*"(a) Circumstances indicating that the Respondent has registered or has 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 Registrar's documented out of pocket costs directly related to the domain name; or*



*(b) the Respondent has registered the domain name to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or*

*(c) by using the domain name, the Respondent has intentionally attempted to attract internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its Website or location or a product or services on its website or location."*

- 11.8 It is observed by this panel that the Complainant by providing evidence in the form of documents and records submitted along with the Complaint has been able to establish, that the Complainant acquired the very old and famous beverages business of soft drinks in India from its predecessor, with its very famous brands and marks *campa* and *campa cola*, and which had rights in these marks and using the same continuously for long time. The complainant has also submitted record proving that it has also applied for registration of marks.
- 11.9 It is alleged by the complainant that the disputed domain name has been dishonestly adopted by the Respondents. The same has been adopted by the Respondents by using the Complainant's trademarks *CAMPA* and *CAMPA COLA* in its entirety. By registering and/or using the impugned domain name, the Respondents are seeking to lure the gullible members of the public into believing that they are accessing the Complainant's website where the products of the Complainant are being offered for sale. It is alleged that the Respondents are likely to collect moneys from the unwary public by practicing deception, under the guise of selling the Complainant's products, leading to fraud. It is submitted

that in the "Contact us" page on the said website, the Respondent No.1 has shared its fraudulent social media accounts. The Respondent No.1 has also been allowing advertisements on the said website thereby making undue gains.

11.10 The Complainant alleged that by registering the impugned domain name www.campa-cola.in, the intention of the Respondent No. 1 is to prevent the Complainant, who is its rightful owner, from using the said domain name for its personal use. Further, the impugned registration in favour of the Respondent No.1 is done with the sole motive of disrupting and usurping the Complainant's business and with a malafide motive of attracting, for commercial gains and for making illegal profits, internet users to its web site causing them to wonder and believe that the Respondent No. 1 is associated with, has some means, sponsorship and/or affiliation with the Complainant when no such thing exists.

11.11 The Complainant submits that it apprehends that the Respondents have knowingly used the impugned domain name to derive illegal gains and benefits to which it is not entitled and/or with the motive of selling, renting and transferring the impugned domain name to the Complainant for a valuable consideration.

11.12 This panel observes that the respondent despite sufficient opportunity given to put his version has failed to rebut any of the allegations of the complainant. The panel is of the view that the documents/ records and evidence put before it by the Complainant have established that the Respondent has no previous connection with the disputed domain name and any use of the disputed domain name by the Respondent,

would result in confusion and deception of trade, consumers and public, who would assume a connection or association between the Complainant and the Respondent.

11.13 The complainant also by submitting the evidence on record has been able to establish that the Respondent knowingly chose to register and use the disputed domain in its attempt to earn profit from the Complainant's goodwill in the marks, thus adversely affecting the Complainant's goodwill and reputation and its right to use the disputed domain name.

11.14 It is very unlikely that Respondent before registering the domain name "campa-cola.in" had no knowledge of Complainant's rights in the trademarks campa and campa cola, which evidences bad faith. Paragraph 3 of the INDRP states that it is the responsibility of the Respondent to find out before registration that the domain name he is going to register does not violate the rights of any proprietor/brand owner.

11.15 It is also a well-settled principle that the registration of a domain name that incorporates a well-known mark by an entity that has no relationship to the mark is evidence of bad faith. [Relevant Decision : The Ritz Carlton Hotel Company LLC Vs. Nelton Brands Inc., INDRP/250, December 30, 2011]

11.16 By registering the disputed domain name with actual knowledge of the Complainant's trademarks "CAMPA" and "CAMPA COLA", the Respondent acted in bad faith because the Respondent registered a domain name that infringes upon the rights of another entity, which in the present case is the Complainant (Reliance Retail Limited)

11.17 The Respondent's registration of the domain name "campa-cola.in" thus meets the bad faith elements outlined in Para

7(c) of the INDRP. Therefore this Panel concludes that the registration by Respondent is in bad faith. Consequently, it is established that the disputed domain name was registered in bad faith or used in bad faith.

## **12. Remedies Requested**

12.1 The Complainant has requested to transfer the disputed domain name "campa-cola.in" to the Complainant and award of cost against the respondent.

## **13. Decision**

The following circumstances are material to the issue in the present case:

13.1 The complainant through its contentions based on documents /records and evidence has been able to establish that the complainant has been carrying on their business activities under the well-known trademarks CAMPA and CAMPA COLA in India. The Complainant has also been able to establish that apart from significant common law rights in these Marks, the complainant has rights in the Marks as registered by its predecessor apart from complainant's applications for the registration of the Marks. The Respondent, however, has failed to provide any evidence that it has any rights or legitimate interests in respect of the domain name or has been authorized by the Complainant in this regard, and the Respondent is related in any way to the Complainant. The Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the Disputed Domain Name.

13.2 Taking into account the nature of the disputed domain name and in particular, the ".in" extension alongside the Complainant's marks which is confusingly similar, which

would inevitably associate the disputed domain name closely with the Complainant's group of domains in the minds of consumers, all plausible actual or contemplated active use of disputed Domain Name by the Respondent is and would be illegitimate.

- 13.3 The Respondent also failed to comply with Para 3 of the INDRP, which requires that it is the responsibility of the Respondent to ensure before the registration of the impugned domain name by him that the domain name registration does not infringe or violate someone else's rights.
- 13.4 The Complainant has given sufficient evidence to prove extensive trademark rights on the disputed domain name. Whereas, the Respondent's adoption and registration of the disputed domain name are dishonest and done in bad faith.
- 13.5 This panel is of the view that it is for the Complainant to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name and the Respondent has failed to prove it. Thus it is clear that the Respondent has registered the disputed name and is using it in bad faith.
- 13.6 This panel holds that the Respondent's registration and use of the domain name [campa-cola.in] are in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name and also the domain name is identical or confusingly similar to the trademarks in which the complainant has rights.

13.7 This panel also observe that complainant has wrongly imp leaded Godaddy.com LLC, the registrar of disputed domain name as respondent No.2, because Paragraph 4(b) ix of INDRP Rules of Procedure clearly states that the dispute or dispute's resolution shall be solely against the domain name holder. In view of this the name of Respondent No.2 is deleted and there is no order or relief against the Respondent No.2.

### **RELIEF**

Given the above findings and discussions, upon having gone through the evidence and material on record filed by the Complainant, the complainant is hereby allowed the following relief:-

- (i) That the disputed domain name [campa-cola.in] be transferred from the Respondent to the Complainant, in accordance with INDRP Policy and Rules and Arbitration Act; with a request to NIXI to monitor the transfer.

This award is made and signed by me on June 25, 2024 in New Delhi.

  
**[AJAY GUPTA]**  
Sole Arbitrator