



मध्य प्रदेश MADHYA PRADESH

CS 354975

BEFORE THE ARBITRATOR RAJESH BISARIA

UNDER THE

.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

[NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)]

**ARBITRAL AWARD**

**Date-10.03.2025**

**Disputed Domain Name: WWW.ELICYON.IN**

**INDRP Case no -1901**

**THE PARTIES**

(1)

The Complainant is Elicyon, First Floor, Avon House, Avonmore Road, Kensington Oval London W14 8TS United Kingdom.

The Respondent is (a) Elicyon Designer Studio, 733, 2<sup>nd</sup> Floor, 11<sup>th</sup> Main, 9<sup>th</sup> Cross Road, HAL 2<sup>nd</sup> Stage, Indiranagar, Bengaluru, Karnataka 560008 India; (b) Vinka Garg Mangal, Elicyon Designer Studio, 733, 2<sup>nd</sup> Floor, 11<sup>th</sup> Main, 9<sup>th</sup> Cross Road, HAL 2<sup>nd</sup> Stage, Indiranagar, Bengaluru, Karnataka 560008 India

**THE DOMAIN NAME AND REGISTRAR****(2)**(a) This dispute concerns the domain name : **WWW.ELICYON.IN**(b) The disputed domain name: **WWW.ELICYON.IN**

is registered with Registrar of the Disputed Domain Name is GoDaddy.com, LLC, is duly accredited with the .IN Registry and is listed on the website of the .IN Registry. The website of the Sponsoring Registrar is www.godaddy.com with address: Corporate Headquarters 14452 IN Hayden Road, Scottsdale AZ 85260 USA. Their Telephone number is +1 4805058877 and E mail ID: UDRPdisputes@godaddy.com. This was registered on 20.05.2022.

**PROCEDURAL HISTORY****(3)**

The NIXI appointed RAJESH BISARIA as Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of procedure	14.01.2025
Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per paragraph 4(c) of INDRP Rules of Procedure, marking a copy of the same to Complainant's authorized representative and NIXI.	14.01.2025
Due date of submission of Statement of Claim by Complainant (instructed by mail dated 14.01.2025)	25.01.2025
Complainant 's response by submitting their Statement of Claim to AT-	
Soft copy	17.01.2025
Hard copy	20.01.2025
Complainant 's response by submitting their Statement of Claim to Respondent-	
Soft copy - The Complainant vide their email dated 20.01.2025, intimated that the soft copy of the complaint along	

with annexures were sent to respondents on email address vinka@elicyon.in and they informed that it does not exist. Hence AT vide email dated 11.02.2025 directed the complainant to send the email on postmaster@elicyon.in , which the Complainant did.	11.02.2025
Hard copy - The Complainant vide their email dated 20.01.2025 intimated that the hard copy of the complaint along with annexures were sent to respondents on postal address, by DTDC courier service, having document number C4419957. Thereafter by their mail dated 24.01.2025 and 07.02.2025 Complainant attached the courier slip along with tracking report of the documents, showcasing "return deliver".	Returned
Due date of submission of Statement of Defense by Respondent as instructed by AT mail dated 14.01.2025 and as instructed by AT mail dated 11.02.2025	04.02.2025 24.02.2025
Respondent's response by submitting their Statement of Defense against the due date of submission as 04.02.2025 and thereafter 24.02.2025	Not submitted
Complainant's response by submitting their Rejoinder	Not required
The language of the proceedings	English

### **FACTUAL BACKGROUND (COMPLAINT BY COMPLAINANT)**

#### **(4) The Complainant:**

The Complainant is Elicyon, First Floor, Avon House, Avonmore Road Kensington Oval London W14 8TS United Kingdom.

**The Complainant's authorized representative in this administrative proceeding is:**

Ms. Malavika T Vikram of M/s. DePenning & DePenning (Patents, Trade Marks, Designs, Copyright) 120 Velachery Main Road, Guindy, Chennai - 600

032 INDIA. Phone: +91 44 4221 3444 Fax: +91 44 4221 3402 Email: domain@depenning.com.

**The Complainant's preferred method of communication directed to the Complainant in this administrative proceeding is:**

Both material & electronic methods

**(5) The Respondent:**

The Respondent is (a) Elicyon Designer Studio, 733, 2nd Floor, 11th Main, 9th Cross Road, HAL 2nd Stage, Indiranagar, Bengaluru, Karnataka 560008 India; (b) Vinka Garg Mangal, Elicyon Designer Studio, 733, 2nd Floor, 11th Main, 9th Cross Road, HAL 2nd Stage, Indiranagar, Bengaluru, Karnataka 560008 India E-mail: vinka@elicyon.in

**(6) Complainant's Activities:**

(a) CHARU GANDHI POMINKIEWICZ, a British national trading under the business name Elicyon (hereinafter referred to as "complainant"). The complainant, based out of Kensington, London, is known for creating highly personalized, thoughtful and visionary interiors for her global clientele, with an unrivalled dedication to material, minutiae and modernity. The complainant's project management team ensures faultless execution and on-time delivery by supervising every element from the beginning to the end. Along with providing art curation and consultancy to add depth and character to a space, the complainant also specializes in making custom furniture and fittings to give interiors a distinctive flair.

(b) That the disputed domain name is identical to the trademark in which the Complainant has statutory and common law right in India. The Complainant's trademark ELICYON is an original invention, in active commercial use since the year 2014. The Complainant's brand ELICYON distinguishes her services from the other service providers in the market. Information about the Complainant can be accessed at [www.elicyon.com](http://www.elicyon.com), a brief profile of the Complainant was submitted as Annexure D.

(c) The Complainant manages a team of over 30 designers and architects on a range of large developments to smaller bespoke projects. The Complainant's ELICYON has been recognized as one of the UK's top 50 interior designers in 2023/24 by Country & Town House, a leading independent lifestyle publication. The Complainant has incorporated a company in the United Kingdom Elicyon Limited, which is an accredited member of the British Institute for Interior Design. The said company is UK's only institute for interior designers. Membership to the Institute involves rigorous entry requirements which assess and require members to continue professional development to ensure their continued expertise in design process, practice and regulatory matters.

(d) The Complainant and her business Elicyon Limited have received significant recognition in interior design and architectural publications, and other general publications including: Architectural Digest US, Architectural Digest India, Architectural Digest Middle East, Financial Times, Homes & Gardens, Elle Decoration, Living Etc, The Luxury Channel, The Insider, Tatler Asia, The Independent, Interior Design Yearbook, Lux Deco, Boca Do Lobo and The English Home.

(e) The Applicant has been commissioned to design a number of high-profile projects. Most recently, the Applicant designed a show apartment within The OWO Residences by Raffles, which are a collection of 85 private residences within one of London's most iconic landmarks on Whitehall, the Old War Office. The Applicant has also provided her design services to the first ever show apartment at the notable Chelsea Barracks development by Savills, private homes in the iconic Clarridges hotel, Beaufort Gardens in Kensington, and the Mayfair Park Residences.

**(7) Complainant's Trade Marks and Domain Names:**

The Complainant has secured statutory protection for the trademark ELICYON in several jurisdictions. The details of a few such registrations are listed below. In India, the Complainant's application is pending and the Registrant of the impugned domain name has filed a groundless

opposition , which is being strongly contested, based on the Complainant's prior adoption of the trademark ELICYON.

No	Number	Trademark	Classes	Status	Country
1	UK00003124406	ELICYON, TAILORED ENVIRONMENTS	11, 20, 21, 24, 27, 35, 37, 42	Registered	United Kingdom
2	UK00915134703	ELICYON, TAILORED ENVIRONMENTS	20, 35, 37, 42	Registered	United Kingdom
3	015134703	ELICYON, TAILORED ENVIRONMENTS	20, 35, 37, 42	Registered	European Kingdom
4	5505750	ELICYON, TAILORED ENVIRONMENTS	20, 35, 37, 42	Registered	United States
5	UK00003956039	ELICYON	35, 37, 42, 44	Registered	United Kingdom
6	6227068	ELICYON	35, 37, 42, 44	Published	India

The submitted Annexure-E are the registration abstract /certificate for the registrations. The Complainant has devoted enormous amount of time, effort, and energy in promoting and advertising the mark ELICYON and the said mark is consequently identified solely with the Complainant. The Complainant has a significant online presence. A snapshot of Google search results was submitted as Annexure-F

The Complainant also has active websites linked to the domain names www.elicyon.com and www.elicyon.co.uk registered in her name, which can be accessed globally, including in India.

S.No.	Domain Name	TLD	Country	Date of Registration	Expiry Date
1	Elicyon	.com	Global	7 <sup>th</sup> June 2014	7 <sup>th</sup> June 2025
2	Elicyon	.co.uk	United Kingdom	7 <sup>th</sup> June 2014	7 <sup>th</sup> June 2027

Whois records of the said domain names was submitted as Annexure-G

**(8) Respondent's Identity and activities:**

Respondent failed to submit required documents, so his identity and activities are not clear.

**(10) Rejoinder by Complainant:**

Since the Respondent failed to submit their reply to the Complaint of Complainant, so Rejoinder was not required to be submitted by Complainant.

**(11) Submissions of Documents by Complainant:**

Complainant submitted Domain name complaint with pages 1 to 15 (words 2810) and annexure from A to J with pages 1 to 104.

As per the INDRP Rules of Procedure, Clause 4(a) –

*The (maximum) word limit shall be 5000 words for all pleadings individually (excluding annexure). Annexure shall not be more than 100 pages in total. Parties shall observe this rule strictly subject to Arbitrator's discretion.*

The Complainant submitted pleadings of around 2810 words and annexures of 104 pages. The pleading is as per the above norms of the INDRP Rules of Procedure but the annexures are marginally above the threshold limit of 100 pages, which is acceptable in the interest of justice.

**OTHER LEGAL PROCEEDINGS:**

**(12) Submission of Complainant**

As required under paragraph 4(b) (viii) of the Rules, the Complainant submits that other than the filing of this Complaint, no legal proceedings have been brought in connection with the Disputed Domain Name.

**REMEDY SOUGHT:**

**(13) Submission of Complainant**

Following paragraph 4 (i) of the Policy, for the reasons described in Section VI above, the Complainant requests the Administrative Panel appointed in this administrative proceeding to issue a decision that the ownership in www.elicyon.in be rightfully transferred to the Complainant herein and pass any other appropriate favorable orders deemed fit.

**THE CONTENTIONS OF THE COMPLAINANT**

**(14) The domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights:**

**Submission by Complainant**

- (i) The Respondent's domain name www.elicyon.in is identical to the Complainant's trademark ELICYON. The Complainant has overwhelming common law and statutory rights in its trademark around the world.



- (ii) Respondent's registration and use of the domain www.elicyon.in is bound to induce members of the public and trade to believe that the Respondent has trade connection, association, relationship, or approval of the Complainant when it is not so.
- (iii) It is evident that the disputed domain name incorporates the famous trademark ELICYON of the Complainant in its entirety. Such adoption and use of the disputed domain name is considered evidence of bad faith registration and use under the INDRP. In this regard, the Complainant relies on the decisions of this Hon'ble Arbitration and Mediation Centre, NIXI passed in the case of INDRP/642 MOZILLA FOUNDATION Vs Mr. CHANDAN www.mozilla.in was submitted as Annexure-H.
- (iv) Being aggrieved by the Respondent's malafide act, the Complainant issued a cease-and-desist notice through their Counsel demanding the Respondent to transfer the domain name www.elicyon.in. The Respondent replied through their Counsel requesting for a discussion, appeared for two meetings, requested time to re-brand, however thereafter proceeded to initiate opposition on malafide grounds against the Complainant's trademark application in India.

**(15) The Respondent has no rights or legitimate interests in respect of the domain name:**

**Submission by Complainant**

- (i) The Complainant is the sole legitimate owner of the trademark ELICYON. The Complainant has not licensed or otherwise permitted the Respondent to use the trademark ELICYON or to apply for any domain name incorporating the said trademark.
- (ii) The Respondent has not made any legitimate use of the domain name www.elicyon.in since the date of its registration and is prejudicially blocking the domain register. It is pertinent to note

that the impugned domain name is an identical copy of the Complainant's trademark ELICYON. The Respondent has no plausible reason to adopt the domain www.elicyon.in other than to exploit the commercial goodwill and reputation of the Complainant's trademark ELICYON. The malafide intent of the Respondent to infringe the Complainant's trademark rights is apparent. Further, on account of the popularity and the well-known status of the Complainant's trademark ELICYON, the disputed domain name www.elicyon.in is bound to induce members of the public and trade to believe that the Respondent has trade connection, association, relationship, or approval of the Complainant, when it is not so.

- (iii) Considering the blatant infringement of the Complainant's trademark rights, it is obvious that the sole purpose of the Respondent in registering and maintaining the disputed domain www.elicyon.in is to misappropriate and usurp the reputation and goodwill of the Complainant's trademark ELICYON.

**(16) The domain name was registered and is being used in bad faith:**

**Submission by Complainant-**

- (i) Going by the identical imitation of the Complainant's mark, it is obvious that the intention of the Respondent is to attract the Complainant's customers and potential customers to the infringing website by misrepresenting an association. Considering the incessant use, reputation, and well-known status of the Complainant's mark in India, the illegitimate adoption and use of the impugned domain name will result in brand dilution which cannot be compensated monetarily.
- (ii) It is furthermore stated in various precedents that the domain names are fast-emerging corporate assets and have evolved as a fulcrum of a company's visibility and marketing operations.

Business transactions are primarily being carried out only through internet addresses rather than street addresses, post boxes, or even faxes. Hence, it becomes critical that unscrupulous individuals are not allowed to usurp renowned trademarks and domain names to unfairly benefit from such acts.

- (iii) The very use of a domain name by someone with no connection with the complainant suggests opportunistic bad faith, as stated in the case of MOZILLA FOUNDATION and MOZILLA CORPORATION Vs Lina Double Fist Limited INDRP Case Number, 934 <mozilla.co.in>. A copy of the said order was submitted as Annexure -I.
- (iv) The complainant caused a cease-and-desist notice inter alia asking the Respondent to immediately discontinue the use of the domain name elicyon.in and to transfer the same to the complainant immediately, failing which the complaint can be moved to NIXI. A copy of the Cease-and-Desist Notice was submitted as Annexure J.

### **DISCUSSION AND FINDINGS**

- (17) After going through the correspondence, this AT comes to the conclusion that the Arbitral Tribunal was properly constituted and appointed as per Clause 5 of the INDRP Rules of Procedure and Respondent has been notified of the complaint of the Complainant.
- (18) Respondent was given enough opportunity to submit Reply of Complaint (Statement of Defense) by 04.02.2025 and thereafter by 24.02.2025. But Respondent failed to submit the same within said time limit; therefore, the Respondent had lost their right to entertain it. The proceeding of this case was kept closed for award on 27.02.2025 and the matter is to be decided ex-parte on the basis of the document on record with this tribunal as per INDRP policy.
- (19) Under Clause 4, of the .IN Domain Name Dispute Resolutions policy (INDRP), the Complainant has filed a complaint to .IN Registry on the following premises:

- (a) the Registrant's domain name is identical or confusingly similar to a Name, Trademark or Service Mark in which the Complainant has rights; and
- (b) the Registrant's has no rights or legitimate interest in respect of the domain name; and
- (c) The Registrant's domain name has been registered or is being used either in bad faith or for illegal/unlawful purpose.

**(20) The Registrant's domain name is identical or confusingly similar to a Name, Trademark or Service Mark in which the Complainant has rights:**

**Facts & Findings**

On the basis of the referred Awards of NIXI cases & others, above mentioned facts by Complainant, and due to non-submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established 4(a) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

**(21) The Registrant's has no rights or legitimate interest in respect of the domain name:**

**Facts & Findings**

On the basis of the referred Award of NIXI cases & others, above mentioned facts by Complainant and due to non-submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(b) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

**(22) The Registrant's domain name has been registered or is being used either in bad faith or for illegal/unlawful purpose:**

**Facts & Findings**

On the basis of referred Awards of NIXI & others, above mentioned facts by Complainant and due to non-submission of Statement of Defense by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(c) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

**(23) ARBITRAL AWARD**

I, **Rajesh Bisaria**, Arbitrator, after examining and considering the pleadings and documentary evidence produced before and having applied mind and considering the facts, documents and other evidence with care, do hereby publish award in accordance with Clause 5, 17 and 18 of the INDRP Rules of Procedure and Clause 11 of .IN Domain Name Dispute Resolution Policy (INDRP), as follows:

***Arbitral Tribunal orders that the disputed domain name "www.elicyon.in"***

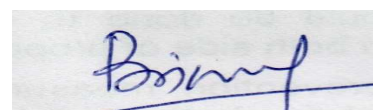
***be forthwith TRANSFERRED from Respondent to Complainant.***

***Further AT takes an adverse view on the bad faith registration of impugned domain by the Respondent and to restrict the act for future misuse, fine of Rs 10000/- (Rs Ten thousand only) is being imposed on the Respondent, as per the provision in clause 11 of .IN Domain Name Dispute Resolution Policy (INDRP) to be paid to .IN Registry for putting the administration unnecessary work.***

AT has made and signed this Award at Bhopal (India) on 10.03.2025 (Tenth Day of March, Two Thousand Twenty-Five).

Place: Bhopal (India)

Date: 10.03.2025



**(RAJESH BISARIA)**

**Arbitrator**