



सत्यमेव जयते

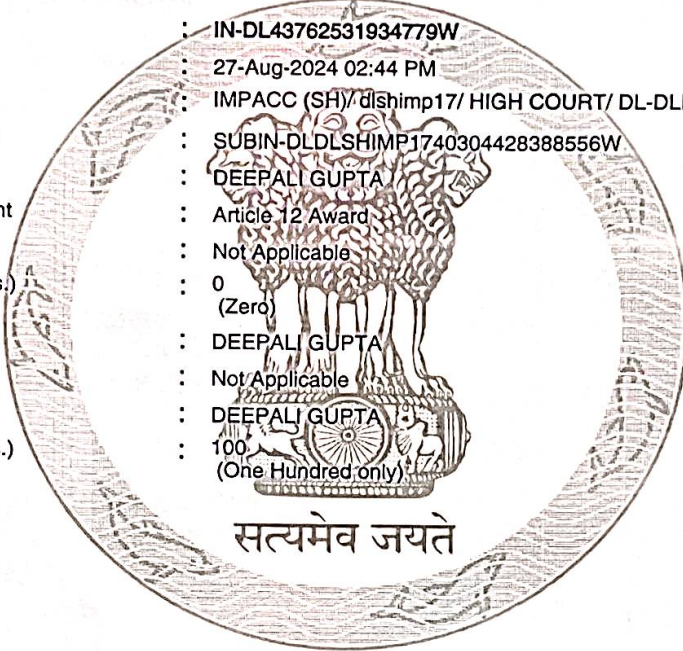
INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

₹100

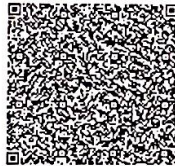
e-Stamp

Certificate No.	: IN-DL43762531934779W
Certificate Issued Date	: 27-Aug-2024 02:44 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1740304428388556W
Purchased by	: DEEPALI GUPTA
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: DEEPALI GUPTA
Second Party	: Not Applicable
Stamp Duty Paid By	: DEEPALI GUPTA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



₹100 ₹100 ₹100 ₹100

₹100



Please write or type below this line IN-DL43762531934779W

DEEPALI GUPTA
SOLE ARBITRATOR
.IN Registry - National Internet Exchange of India
INDRP Case No: 1891

In the matter of Arbitration Between:

Pacific Market International, LLC.

.....Complainant

Versus

Arne Arnesen

.....Respondent

Disputed Domain Name : < stanleyco.in

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

**DEEPALI GUPTA
SOLE ARBITRATOR
.IN Registry - National Internet Exchange of India
INDRP Case No: 1891**

In the matter of:

Pacific Market International, LLC.

LLC 4th Floor

2401 Elliott Avenue

Seattle, Washington

United States 98121

Through its Authorised Representative

Remfry & Sagar

Remfry House at the Millennium Plaza,

Sector-27, Gurugram -122009

Email: remfrylitigations@remfry.com

Fax: 0124-2806101; 2572123

Phone: 0124-2806100; 4656100

.....Complainant

Versus

Arne Arnesen

Gjesasen, Saggutua, Asnes – 2280

Email: arnearnesen99@gmail.com

Tel: (+47)95913996

(Registrant)

.....Respondent

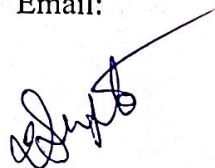
Disputed Domain Name : < stanleyco.in >

ARBITRATION AWARD

DATED AUGUST 28, 2024.

1) The Parties:

The Complainant in the present arbitration proceedings is Pacific Market International, LLC., 4th Floor, 2401 Elliott Avenue Seattle, Washington United States 98121. The Complainant is represented by its Authorized Representative Remfry & Sagar, Remfry House at the Millennium Plaza, Sector-27, Gurugram -122009, Email: remfrylitigations@remfry.com



The Respondent in the present case is Arne Arnesen, Gjesasen, Saggutua, Asnes – 2280 Email: arnearnesen99@gmail.com as per the details available in the 'WHOIS' database by National Internet Exchange of India (NIXI).

2) The Domain Name, Registrar and Registrant:

The disputed domain name is <STANLEYCO.IN>

The Registrar is **GoDaddy.com, LLC**

The Registrant is Name- Arne Arnesen, Gjesasen, Saggutua, Asnes –
2280 Email: arnearnesen99@gmail.com

3) Procedural History:

This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP) adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28th June 2005 in accordance with 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 pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

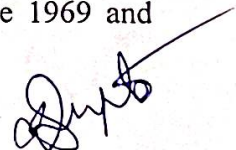
In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed Ms. Deepali Gupta as the Sole Arbitrator to arbitrate the dispute between parties in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.



- The Complaint was produced before the Arbitrator on 7th August, 2024.
- Thereafter Notice was issued to the Respondent on 12th August 2024, at his e.mail address 'arnearnesen99@gmail.com', communicating the appointment of the Arbitrator in the case and outlining that the Complainant had prayed for transfer of the disputed Domain name <STANLEYCO.IN> in its favour. The Respondent was called upon to submit their response within seven (7) days of the receipt of the Arbitrators email.
- The Arbitrator received no response from the respondent within the said timeline and even thereafter. Further the Arbitrator did not receive any delivery failure notification from the Respondents email id, therefore the respondent is deemed to be served with the complaint. In view of no response / acknowledgement / communication from the Respondent, the Complaint is being decided ex-parte and solely based on the materials and evidence submitted by the Complainant and contentions put forth by them.

4) FACTUAL BACKGROUND:

The Complainant, Pacific Market International, LLC., is a Limited Liability Company incorporated in Washington, United States, with its registered office at 2401 Elliott Avenue, 4th Floor, Seattle, Washington, United States 98121-3300. The Complainant purchased the Stanley brand in 2002. Established in 1913 by William Stanley, the Stanley brand introduced the first all-steel vacuum bottle, revolutionizing the way people could enjoy beverages on the go. The Stanley brand represents one of the Complainant's most well-known brands, with a heritage extending over a century and global distribution. The same reflects the extensive usage and reputation of the Complainant. That their history dates back to the year 1913, along with use of the mark STANLEY in India since 1969 and



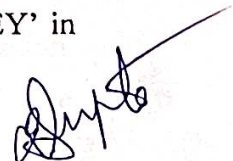
worldwide since 1923. The Complainant also has trade mark registrations in India since 2005 coupled with numerous trade mark registrations in other countries. That the Complainant's products have gained an impressive amount of goodwill from the members of trade and public and have come to be exclusively associated with the Complainant. The Complainant's STANLEY QUENCHER product was introduced in 2016 and since that time has enjoyed viral popularity and consumer acclaim. By virtue of this popularity, consumers have come to exclusively associate Complainant's STANLEY QUENCHER product's shape and configuration exclusively with Complainant alone and any unauthorized use of any of the said features is sufficient to cause confusion in the minds of the public.

5) Parties contentions:

A. Complainant

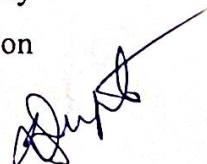
The Complainant has contended that each of the element in the .IN Domain Name Dispute Resolution Policy are applicable to the present dispute. It has thus been contended that the Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; that the Registrant's has no rights or legitimate interests in respect of the domain name that is the subject of complaint; and the Registrant's domain name has been registered or is being used in bad faith. The Complainant has in support of its case has made the following submissions:

- a) The Complainant submits that the Complainant Pacific Market International, LLC is a Limited Liability Company incorporated in Washington, United States. That Pacific Market International, LLC is the registered proprietor of the marks 'STANLEY' in



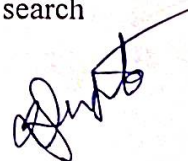
India and worldwide. Its affiliate, PMI WW Brands, LLC, is a Limited Liability Company incorporated in Washington, United States, and has its registered office at the same address. PMI WW Brands, LLC is a multinational enterprise engaged in manufacture and sale of a wide variety of durable food and beverage gear such as vacuum bottles, mugs and jars for food or beverage; insulated and non-insulated food jars; flasks; mugs; cups; water bottles sold empty; cookware; portable household containers for storing and transporting food or beverages; carrying cases specially adapted for transporting flasks, mugs, cups, and water bottles, among several others. It has been submitted that Pacific Market International, LLC is an affiliate of PMI WW Brands, LLC, and holds the trade mark rights for the business. It has been submitted that for the purpose of the extant complaint, Pacific Market International, LLC is identified as the Complainant, since it holds the relevant trade mark rights. That however, Pacific Market International, LLC and PMI WW Brands, LLC are referred to collectively as 'Complainant' and that the term 'Complainant' also includes all predecessors in rights, title and interest, successors, licensees and group companies. The Complainant submitted that it is doing business as "Stanley" and maintains the website <https://www.stanley1913.com/> (registered on September 11, 2019), as well as a number of other websites globally, which have contributed immensely to the popularity and well-known character of the Complainant as well as its STANLEY branded products both internationally and nationally.

- b) The Complainant submits that the Complainant has roots back to 1913, through the inventor William Stanley Jr., resulting in generations of development and a singular vision to make quality and sustainable products for the everyday, sports, and recreation



markets. Although, in the initial years, the Complainant created and stylized items for the sports, outdoor, and recreation markets in addition to importing a variety of goods, it soon expanded into the food and beverage containers. From creating one of the first lines of stainless-steel insulated mugs in 1994 to an exclusive partnership with the reputed Starbucks Corporation, to owning one of the leading brands in its category, the Complainant has shown remarkable commitment towards growth and achievements of success. The history of the Complainant can be accessed at <https://pmiworldwide.com/our-story/> and <https://www.stanley1913.com/pages/about-stanley>.

- c) It is further submitted that the Complainant has presence in the Americas, Asia-Pacific, Latin America, and Europe, including USA, Canada, Brazil, Japan, United Kingdom, Netherlands, France, and Germany, among others. Headquartered in Seattle, the Complainant also has offices in other locations, including Shanghai, Amsterdam, Manila, Shenzhen, and Rio de Janeiro. Today, the Complainant is a leading global manufacturer of sustainable food and beverage container solutions.
- d) The Complainant has submitted that the Complainant purchased the Stanley brand in 2002. Established in 1913 by William Stanley, the Stanley brand introduced the first all-steel vacuum bottle, revolutionizing the way people could enjoy beverages on the go. The Stanley brand represents one of the Complainant's most well-known brands, with a heritage extending over a century and global distribution. The same reflects the extensive usage and reputation of the Complainant. Additionally, information pertaining to the Complainant and its products under the mark 'STANLEY' are also readily available and frequently accessed through numerous search



engines and Complainant also has substantial presence on social media platforms. which allows it to have a global reach to existing and new consumers of its products under the marks 'STANLEY'



and its associated logo/device mark . It is submitted that the internet is a ready medium of exposure to potential consumers and members of trade to widespread information about the Complainant and its products under the marks 'STANLEY'. The Complainant relies on ANNEXURE-A


- e) Complainant is the registered proprietor of the marks 'STANLEY' and its logo in India and worldwide. In connection with its worldwide business, the Complainant owns and uses several trademarks containing or comprising the word 'STANLEY'. The brand STANLEY has been delivering superior food and beverage gear for rugged, active lifestyles and remains dedicated to this simple promise: "*buy STANLEY products, get quality gear Built for Life*". It offers products across the categories of bottles, tumblers, and flasks including its signature 'QUENCHER' brand tumbler and related accessories including straws, lids, stoppers, etc. The brand also offers customizable products, which has also added to its popularity.
- f) The Complainant submits that the Complainant has been selling its products under the marks 'STANLEY' extensively worldwide including in India. As a result, the Complainant's products have gained an impressive amount of goodwill from the members of trade and public and have come to be exclusively associated with the Complainant. The Complainant's STANLEY QUENCHER product was introduced in 2016 and since that time has enjoyed viral

A handwritten signature in black ink, appearing to be "Ajay S.", written in a cursive style.

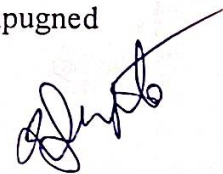
popularity and consumer acclaim. By virtue of this popularity, consumers have come to exclusively associate Complainant's STANLEY QUENCHER product's shape and configuration exclusively with Complainant alone, and any unauthorized use of any of the said features is sufficient to cause confusion in the minds of the public. The Complainant relies on ANNEXURE-B.

- g) The Complainant has further submitted that in order to safeguard its right in its trade marks 'STANLEY' the Complainant has secured several trade mark registrations and filed applications worldwide including in India. The Complainant has been using the mark 'STANLEY' since September 8, 1969 in India and worldwide since at least as early as March 20, 1923. The Complainant has superior national and international statutory rights in the mark 'STANLEY'. There is sufficient expertise of brand management and preservation of brands prestige and global & national presence within the Complainant, and in view thereof, Complainant has its marks 'STANLEY' duly registered in India under the Trade Marks Act, 1999. The Complainant has submitted that the registrations of the mark evidence the recognition of distinctiveness of the Complainant's trade mark and the exclusive statutory and proprietorship rights of the Complainant in India with respect to the said class of goods. The Mark 'STANLEY' has acquired global reputation and goodwill on account of high quality of products and services offered by the Complainant. That the Mark 'STANLEY' is registered as per the following particulars mentioned in the table below:



Trade Mark	Registration No. / Application No.	Class	Application Date / Claim of User	Status
STANLEY (Word Mark)	1387636	21	September 27, 2005 / September 08, 1969	Registered and valid up to September 27, 2025
	4009974	21	October 23, 2018 / Proposed to be used	Protection granted

- h) The Complainant has submitted that the vast sales of the Complainant reflect the efforts, money and time spent into building the reputation and goodwill that it currently enjoys and thus has the exclusive right over its trademark 'STANLEY'. It has been submitted that the Complainant's numerous honours and awards evidences its widespread recognition. That the Complainant is unique due to its experience, expertise, the spirit of innovation and the drive for excellence and commitment to its core values.
- i) It has been submitted by the Complainant that the Respondent's domain name is identical to the registered trade mark of the Complainant.
- j) The Complainant has submitted that the disputed domain name 'stanleyco.in' is identical or confusingly similar to and contains in its entirety the Complainant's registered trade mark 'STANLEY'. It is submitted that the Respondent has registered the impugned



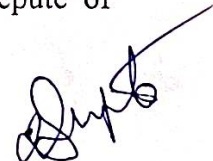
domain name 'stanleyco.in' with the *mala fide* intent to gain undue advantage from the existing reputation of the Complainant. It has further been submitted that the disputed domain name, registered by the Respondent, has no meaning or significance other than in relation to Complainant and its 'STANLEY' brand. It has been submitted that the well-known nature of the Complainant's trade mark 'STANLEY' and the Respondent's use of the same clearly establishes that the Respondent registered the impugned domain name with full knowledge of the Complainant, its business activities and intellectual property rights. The Respondent's adoption of the impugned domain name, the display of an identical/similar mark as that of the 'STANLEY since 1913/' mark blatantly reflects the dishonest intention of the Respondent, and is an attempt to mislead the members of trade and public.

- k) It has further been submitted that as per the WHOIS record, the impugned domain name 'stanleyco.in' was registered on January 13, 2024, whereas the Complainant's domain 'stanley1913.com' was created/registered years before the disputed domain name, on September 11, 2019. Moreover, the Complainant has had the trade mark 'STANLEY' registered in India since September 27, 2005, and more importantly has been using the same way prior to the disputed domain name of the Respondent. Thus, the Complainant's adoption and use of the 'STANLEY' trade marks/ domain name is long prior to the Respondent's registration of the impugned domain name 'stanleyco.in'. That hence in view of the same, it is apparent that the Complainant has prior rights in the 'STANLEY' trade mark/domain name vis-à-vis the Respondent.



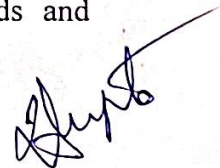
l) The Complainant has further submitted that the Respondent has no legitimate interest in the impugned domain name.

m) It is submitted by the Complainant that the Respondent's registration and use of a dishonestly adopted and confusingly similar domain name does not amount to a 'bona fide' offering of goods and services. The Respondent's adoption of the Complainant's mark for the impugned domain name is not 'bona fide' given the mark's well-known status, extensive use, and reputation in India and worldwide and Respondent's leveraging of same to promote Respondent's crypto token under an identical or confusingly similar name for Respondent's own commercial gain. The social media accounts of the Respondent, which can be accessed through the website at the impugned domain name (<https://www.stanleyco.in/> ; <https://t.me/St StanleyCupCoin> ; <https://x.com/St StanleyCupCoin> and <https://birdeye.so/token/CQSzJzwW5H1oyWrp6QhfUKYYwyovbSiVdKnAxNfb1tJC?chain=solana>) , are also being used to promote this crypto token and feature the Complainant's Stanley Quencher tumbler as a character engaging in illegal and explicit activity—including violence, sexual activity, and drug use, which is very concerning for the Complainant. This clearly reflects that the Respondent was aware of the existence and widespread reputation of the Complainant. There can be no plausible explanation for the Respondent's adoption of the impugned domain name other than to ride on the established goodwill and reputation of the Complainant. It is trite law in domain name proceedings that use which dishonestly and intentionally rides on the repute of



another mark cannot constitute a '*bona fide*' offering of goods and services. It is submitted that the Respondent is not commonly known by the domain name 'stanleyco.in'. In fact, the Respondent is not authorized or licensed by the Complainant to use its mark/name STANLEY. Further, the Complainant has used the mark STANLEY in India since the year 1969 and worldwide since the year 1923. The trademark comprising STANLEY stands registered since the year 2005 in India, and much earlier in many other jurisdictions worldwide. Due to the extensive and continuous use of the STANLEY marks, the same have become well-known and come to be exclusively associated with the Complainant and no one else.

- n) The Complainant submits that the Respondent is not making any legitimate non-commercial or legitimate fair use of the domain name. Registration of the impugned domain is aimed at gaining undue benefit from the immense goodwill and reputation of the Complainant's trade mark 'STANLEY', divert visitors/customers by creating confusion/deception and thereby commercially profit from use of the Complainant's trade mark 'STANLEY'. The Respondent is promoting a crypto token under the name "Stanley Cup Coin" (trading symbol "\$STAN"). The Respondent, therefore, cannot demonstrate any legitimate interest in the domain name 'stanleyco.in'.
- o) It is submitted that the adoption and use of the impugned domain name 'stanleyco.in' constitutes an act of bad faith. The Respondent's actions clearly demonstrate their *mala fide* attempt to misdirect consumers seeking Complainant and its goods and



services to Respondent's website at the impugned domain name by exploiting the Complainant's mark, which has resulted in likelihood of confusion regarding the origin, sponsorship, or association of the Respondent's domain name and website, and the commercial crypto token being promoted thereon. That the deliberate use of the impugned domain name and copious other uses of Complainant's trade marks and trade dress, evidences the 'intentional' aspect. Respondent is not only blatantly attempting to fraudulently claim the benefits of the Complainant's efforts, money, and time, but is also attempting to tarnish the image/reputation of the Complainant by use of the Complainant's viral Stanley Quencher product, trade marks and trade dress, in the portrayal/display of obscene/objectionable content on its website and social media accounts. The same is likely to damage or harm the Complainant's goodwill and reputation in its marks/domains/business and disrupt the same.

- p) In view of the aforesaid facts, the Complainant contends that the Respondent has registered the disputed domain name and is using it in bad faith.

6) RELIEF SOUGHT:

The Complainant has prayed that the disputed domain name stanleyco.in. be transferred to the Complainant.

7) RESPONDENT:

The Respondent did not respond in these proceedings although notice was sent to the Respondent under the INDRP Rules.

A handwritten signature in black ink, appearing to be 'D. Gupta', is located in the lower right quadrant of the page.

8) DISCUSSION AND FINDINGS

Under the INDRP Policy the following three elements are required to be established by the Complainant in order to obtain the relief of transfer of the disputed domain name:

- (i) The disputed domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights and
- (ii) The Respondent lacks rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered or is being used in bad faith.

Identical or confusingly Similar:

The Disputed Domain Name incorporates the Complainant's 'STANLEY' mark in its entirety. The Complainant has submitted that respondent's domain name incorporates the Complainant's 'STANLEY' mark exactly, in its entirety.

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. Addition of generic terms to a well known trademark does not prevent a finding of confusing similarity between the disputed domain name and mark. It is a well established principal that when a domain name wholly incorporates a complainant's registered mark, the same is sufficient to establish identity or confusing similarity for purposes of the Policy. It is evident that the disputed domain name "STANLEYCO.IN." incorporates the Complainant's trademark 'STANLEY' in its entirety with the added word 'CO' as a suffix appended to it. However, such differences can be ignored for the purpose of determining similarity between the disputed domain name and the Complainant's trademark as it is non-distinctive and does not prevent a finding of confusing similarity between the disputed domain name and mark.



Further a TLD / ccTLD such as '.in' is an essential part of domain name. Therefore it cannot be said to distinguish the Respondents Domain Name <STANLEYCO.IN> from the Complainants trademark 'STANLEY'.

The Complainant has submitted evidence of its trademark registrations for the "STANLEY" mark in India as also in other Jurisdictions globally and has accordingly established its rights in the mark. The Complainant has also provided evidence of the reputation, goodwill and fame associated with its mark due to its extensive use. Further in addition to the above, the Complainant is also the owner of domain name having the mark 'STANLEY' as a prominent feature thereof. Complainant is the registered proprietor of 'STANLEY' Marks in many countries around the world, including India. The Complainant has relied upon trademark registrations for the mark 'STANLEY' registered in India since September 27, 2005.

In *Motorola, Inc. vs NewGate Internet, Inc.* (WIPO Case D2000-0079), it was held that use of the trademarks can not only create a likelihood of confusion with the Complainants' marks as to the source, sponsorship, affiliation or endorsement of its web site, but also creates dilution of the marks.

It is well established that in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark.

The disputed domain name is accordingly found to be identical or confusingly similar to the Complainant's mark. The Complainant has successfully fulfilled the first element under paragraph 4 of the Policy, that the disputed domain name is identical or confusingly similar to a mark in which the Complainant has rights.

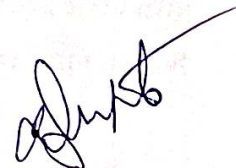


Rights and Legitimate Interests:

The second element requires the Complainant to put forward a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Although the onus of proving that the Respondent lacks rights or legitimate interests in the disputed domain name lies on the Complainant, the same may amount to 'proving in negative' hence may not be possible. Hence 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 argued that the Respondent lacks rights or legitimate interests in the disputed domain name and has submitted that the Registrant does not own any registered rights in any trademarks that comprise part or all of the disputed domain name. It is further observed that the trademark 'STANLEY' was already registered in India when the Respondent registered the Disputed Domain Name www.stanleyco.in on January 13, 2024, Further, a perusal of the website operating on the said domain name shows that the Respondent is making use of the impugned domain name to gain illicit profits by luring consumers thereby clearly illustrating their mala fide intentions to reap unjust profits therefrom.

The Complainant has submitted that the Disputed Domain Name, 'STANLEYCO.IN', includes the identical well-known and earlier trademark 'STANLEY' of the Complainant inasmuch as the Disputed Domain Name incorporates the trademark 'STANLEY' in its entirety. That the term 'STANLEY' is etched in the minds of the members of trade and public as signifying the Complainant's goods and services.

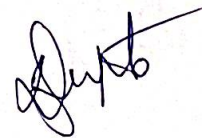


That the use of the Domain Name by the respondent, in which the Complainant enjoys a global reputation, by misleading and luring consumers by dishonest and fraudulent means so as to gain illicit profits by the respondent, cannot constitute a legitimate non-commercial interest in the Domain Name. The Claimant states that prima facie, the Registrant has no rights or legitimate interests in respect of the disputed Domain Name.

The Complainant has argued that due to extensive use of the 'STANLEY' mark globally and in India, the mark is distinctive and enjoys substantial goodwill, reputation and fame. It is found that the Complainant has acquired rights in the mark 'STANLEY' through use and registration and the Complainant has provided evidence of the mark being distinctive and having a substantial recognition. In the light of these facts and circumstances, it is found that the respondent's use of the 'STANLEY' mark which is distinctive of the Complainant and its products & services, does not constitute legitimate use or fair use of the mark by the Respondent.

The Complainant has further argued that the Respondent has registered the disputed domain name after a considerable time of the Complainant having established its rights in the 'STANLEY' mark. It is found that the Complainant has provided evidence of its prior adoption of the 'STANLEY' mark. The Complainant has submitted that the use of the mark by the respondent is likely to mislead people and the respondent lacks rights to use the said trademark in the disputed domain name. The Complainant's submissions that the Respondent's use of mark in the disputed domain name is likely to mislead Internet users is plausible.

In the case of *Paris Hilton v. Deepak Kumar*, [WIPO Case No. D2010-1364] (September 23, 2010), it was held that "if the owner of the domain name is using it in order to unfairly capitalize upon or otherwise take advantage of a similarity with another's mark then such use would not provide the registrant with a right



or legitimate interest in the domain name. The Respondent's choice of the Domain Name here seems to be a clear attempt to unfairly capitalize on or otherwise take advantage of the Complainants' trade marks and resulting goodwill."

Use of the said trademark 'STANLEY' by the Respondent with the intention of attracting consumers is likely to cause confusion and deception to those who encounter the disputed domain name. Internet users are likely to believe that the disputed domain name is in some way connected to the Complainant or is endorsed or authorized by the Complainant. Use of a trademark with the intention to derive benefit from the mark and to make improper commercial gains by such use is recognized as infringing use under INDRP Policy. Refer to, *Google LLC V Gurdeep Singh*, INDRP Case No.1184 (<googlepays.in>) where use of GOOGLE mark in the domain name <googlepays.in> by the respondent in that case was found to lack rights or legitimate interests because the mark was used to attract customers by a respondent who was found to have no connection with the well known mark. The use of the Complainants 'STANLEY' mark by the Respondent, is found to be misleading use of the mark, and is accordingly found not qualifying as legitimate use by the Respondent.

The Respondent has not participated in these proceedings. The Complainant has categorically submitted that it has not consented, authorized or permitted the Respondent for use of the disputed domain name.

In the light of the facts and circumstances discussed, it is accordingly found that the Complainant has made out a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name. The second element under paragraph 4 of the Policy has been met by the Complainant.

Bad faith

The evidence on record clearly demonstrates the Complainant's prior adoption and extensive use of the 'STANLEY' mark. That the disputed domain name



'stanleyco.in' was registered on January 13, 2024, whereas the Complainant has had the trade mark 'STANLEY' registered in India since September 27, 2005, and the said trademarks are valid and subsisting and confer upon the claimant the exclusive right to use the said mark. These facts establish the Complainants prior adoption of the STANLEY mark and the evidence filed by the Complainant also establish that it has extensively used the said trademark in commerce for a number of years continuously and the mark is recognized internationally and is well known, which has substantial value. The evidence filed by the Complainant clearly establishes the international recognition and reputation associated with the STANLEY mark.

Further the evidence placed on record depicts that the Respondent has registered the Disputed Domain Name primarily for the purpose of gaining illicit profits by luring consumers into dishonest and fraudulent means of earning easy money. This only shows the *mala fide* intention of the Respondent to wrongfully gain monetary benefits at the cost of the goodwill and reputation of the Complainant's trademark 'STANLEY'.

It is observed that such acts constitute misrepresentation. Such acts are not only prejudicial to the rights of the Complainant but also to the members of trade and public. The activities of the Respondent rise to the level of a bad faith usurpation of the recognition and fame of Complainant's well-known and earlier trademark 'STANLEY' to improperly benefit the Respondent financially and are in violation of applicable laws. It has been argued by the Complainant that these activities demonstrate bad faith registration.

The Respondent has been found to have no rights or legitimate interests in the disputed domain name. It is furthermore observed that the facts circumstances and the evidence indicate that the Respondent has used the 'STANLEY' Mark in the disputed domain name to intentionally mislead and attract for commercial

A handwritten signature in black ink, appearing to be 'Dyso', is located in the bottom right corner of the page.

gain, internet users to its website by creating a likelihood of confusion with the mark of Complainant and based on the reputation associated with the mark.

There are numerous precedents under the Policy, where it has been held that the registration of a domain name with a well known mark which is likely to create confusion in the minds of Internet users and attempting to use such a domain name to attract Internet traffic based on the reputation associated with the mark is considered bad faith registration and use under the Policy. Similarly in the present case it is found that the use of the 'STANLEY' mark by the Respondent is likely to attract customers based on the Complainant's mark and Internet users are likely to be misled by the use of the trademark in the disputed domain name.

For the reasons discussed, the registration of the disputed domain name by the Respondent leads to the conclusion that the domain name in dispute was registered and used by the Respondent in bad faith.

In the light of all that has been discussed, it is found that the Respondent has registered the disputed domain name in bad faith. Accordingly, it is found that the Complainant has established the third element under paragraph 4 of the Policy.

DECISION:

In view of the above findings, it is ordered that the disputed domain name <STANLEYCO.IN > registered in the name of respondent be transferred to the Complainant.



Deepali Gupta
Sole Arbitrator
Date: 28th August, 2024.