



सत्यमेव जयते

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Account Reference : SHCIL (FI)/ tnshcil01/ Saidapet-SRO/ TN-CS
Unique Doc. Reference : SUBIN-TNTNSHCIL0103652794294000X
Purchased by : SAISUNDER N V
Description of Document : Article 12 Award
Property Description : NA
Consideration Price (Rs.) : 0
(Zero)
First Party : SAISUNDER N V
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Stamp Duty Paid By : SAISUNDER N V
Stamp Duty Amount(Rs.) : 200
(Two Hundred only)



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NV SAISUNDER
SOLE ARBITRATOR
.IN REGISTRY- INTERNET EXCHANGE OF INDIA
INDRP CASE NUMBER: 1936
DISPUTED DOMAIN NAME: <hdfcmutualfunds.in>



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Statutory Airt:

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IN THE MATTER OF ARBITRATION BETWEEN:

HDFC Bank Limited

HDFC Bank House, Senapati Bapat Marg,
Lower Parel W, Mumbai,
Maharashtra, India, 400013

..... Complainant

Versus

Lovepreet Singh,

Uttal, Patran, Punjab,
India – 147105

..... Respondent

ARBITRATION AWARD

DATED: 19/02/2025

1. PARTIES:

The Complainant in this proceeding is HDFC Bank Limited, a public limited company incorporated under the laws of India, having its registered office at HDFC Bank House, Senapati Bapat Marg Lower Parel W, Mumbai, Maharashtra – 400013, India. The Complainant is represented by Samvad Partners, having office at 62/1 Palace Road, Vasanthnagar, Bengaluru 560 001 India.

The Respondent in this proceeding is Mr. Lovepreet Singh, Uttal, Patran, Punjab - 147105, India, as per the WHOIS details disclosed by NIXI.

2. DOMAIN NAME AND REGISTRAR:

The disputed domain name <hdfcmutualfunds.in> is registered with GoDaddy.com, LLC.

3. PROCEDURAL HISTORY:

The Statement of Acceptance and Declaration of Impartiality was submitted by me on 20th January 2025, as required by NIXI and the copy of amended complaint along with Annexures were served to Arbitrator on 24th January 2025. In accordance with Rules




and 5(b), NIXI appointed me as the sole arbitrator for deciding on the complaint filed in respect of the disputed domain name on 24th January 2025 to arbitrate the dispute between the Parties in accordance with the Arbitration and Conciliation Act 1996 and accordingly notified the Parties of the appointment of the Arbitrator on 24th January 2025. In accordance with Rule 5(c), the notice to the Respondent was issued on 24th January 2025 by the Arbitrator and the Respondent was called upon to submit their response, if any within 10 (ten) days from the date of issue of the notice, which ended on 3rd February 2025. The Respondent did not file any response within the said date and nor has this panel received any response even as on the date of this award viz., 20th February 2025. Further, the Arbitrator did not receive any delivery failure notification from the Respondent's email id and hence the complaint is deemed to be served. Therefore the complaint is decided *ex-parte* solely based on the materials and evidence placed before the Arbitrator.

4. FACTUAL BACKGROUND:

The Complainant, HDFC Bank Limited, claims that it is one of India's largest private banks and was among the first to receive approval from the Reserve Bank of India (RBI), India's central bank, to set up a private sector bank in 1994 with its registered office in Mumbai, India. The Complainant provides a wide range of banking and financial services catering to diverse needs of the customers and claims that it has a nation-wide network of 7,945 branches situated in across 3,836 cities in India. It is noted that with effect from July 1, 2023, the Complainant's associate and promoter entity, Housing Development Finance Corporation Limited ("**HDFC Limited**") merged into the Complainant to create a financial sector behemoth, with a full suite of banking and other financial products under it. The said merger was effected through a scheme of amalgamation duly sanctioned and confirmed by the Hon'ble National Company Law Tribunal, Mumbai Bench, India vide its order dated March 17, 2023.

Accordingly, the Complainant claims to have become the successor-in-title to the trademarks and trade name "HDFC" with effect from July 1, 2023. It is further noted from the various documents and annexes submitted by the Complainant as part of its Complaint that HDFC Limited has been in existence since October 17th, 1977, and accordingly, it can be noticed that the trade name and trademark "HDFC" came to be in first use by the Complainant's predecessor as early as in October 1977.



The Complainant is the registered proprietor of the word HDFC and/or its formative marks in India and other jurisdictions. It is also established that "HDFC" is the prominent part in most trademarks registered by the Complainant. The Complainant claims that HDFC Mutual Fund ("HDFCMF") / HDFC Asset Management Company Limited ("HDFC AMC"), a subsidiary of HDFC Bank, was incorporated as a public company on December 10, 1999 and that HDFC mutual funds is a significant part of the HDFC Group's financial services offerings. The Complainant is also registered proprietor of various domain names containing "HDFC" including. The Complainant also states that it has made an application to the Indian Trademark Registry seeking recognition of the  logo as a well-known mark in India, which has since been accepted by the Indian Trademark Registry, as has now been verified by this Panel.

The Complainant holds various domains including hdfcbank.com, hdfcfund.com, hdfcmutualfund.co and hdfcmutual.fund. The Complainant is also the owner of the Top Level Domain ("TLD") ".hdfcbank".

The Complainant also relies on its select illustrative national and international recognitions and achievements such as the recognition for Best Large Bank in India by Fortune India – Grant Thornton Bharat's study of India's Best Banks 2022, the recognition for Best Bank in India by Euromoney Awards for Excellence 2022, recognition for being ranked as India's Most Valuable Brand for the 7th consecutive year as per the survey, '2020 BrandZ™ Top 75 Most Valuable Indian Brands, conducted by Kantar Millward Brown and recognition for the 'Most Committed to High Governance Best Standards' by Finance Asia's Best Companies in Asia Poll 2022.

The disputed domain name was registered on 17th January 2024 and appears to be a parked site.

From the whois details disclosed, the Respondent appears to be an Individual named Lovepreet Singh from India.

5. PARTIES CONTENTIONS:

A. Complainant:

The Complainant has contended that all three elements of the INDRP is applicable to the present case.



The Complainant contends that in accordance with the Paragraph 4(b)(v) of the INDRP Rules, the Complainant is the registered proprietor of the mark "HDFC". Further, the Complainant is the owner of multiple trademarks and the word "HDFC" is a prominent part in most of the trademarks registered by the Complainant. The disputed domain name 'hdfcmutualfunds.in' is deceptively and confusingly similar to the trademarks registered by the Complainant. Further, the Complainant submits that the operative part of the domain name HDFC is identical and deceptively similar to the registered trademark of the Complainant. The Complainant submits that the disputed domain name, hdfcmutualfunds.in, does not at all distinguish itself from the Complainant's trademark and has relied on *EQT AB & EQT Partners Pte Ltd vs. XUH SS, AI, USA* (INDRP Case No. 1844), *Wal Mart Stores, Inc. vs. Richard MacLeod* (WIPO Case No.: D2000-0662), *SUPERCELL OY. vs. Mr. Harshwardhan Gupta* (INDRP Case No. 1842)

The Complainant further submits that the Complainant's international presence, with its significant market capitalization and frequent mentions in global media, makes it highly improbable that the Respondent, being an individual having address in and likely a resident of India, to be unaware of the Complainant, its services, and its marks when registering the disputed domain name. Further it is pertinent to note that the Respondent is based in Patran, Patiala, Punjab where the Complainant already has multiple branches / ATMs. Further, the Complainant submits that it has never authorized the Respondent to use its trademark "HDFC" as part of the disputed domain name. Also, the disputed domain name is a parked site. The Complainant submits that the fact that the domain name still remains unused indicates that the Respondent has no legitimate interest in using the domain name 'hdfcmutualfunds.in' in connection with *bona fide* offering of goods or services.

Also, the Respondent is not commonly known by the disputed domain name or the term "HDFC" and further, the Respondent has not been using the disputed domain name for any legitimate non-commercial or fair use, as the domain name remains unused as of October 2024.

The Complainant submits that the Respondent's act of registering the disputed domain name which contains the Complainant's trademark as a dominant feature, in itself, is suggestive of bad faith. The Complainant submits that the Respondent has intentionally attempted to attract customers / prospective customers of HDFC AMC.



the disputed domain name by creating a likelihood of confusion with the Complainant's mark. Hence the disputed domain name has been registered in bad faith.

B. Respondent:

The Respondent did not file any response to the submissions of the Complainant.

6. DISCUSSION AND FINDINGS:

Under the INDRP, the following three elements are required to be established by the complainant in order to obtain the remedy of transfer of the disputed domain name to the complainant:

- (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.

A. Identical or confusingly similar:

The Disputed Domain Name incorporates the Complainant's "HDFC" mark in its entirety. It is well accepted principle that the first element functions primarily as a standing requirement. The threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Disputed Domain Name. The Complainant has submitted evidence of its trademark registrations that establish that the Complainant has statutory rights in the mark for the purpose of policy and specifically also holds registration in India, the country where the Respondent is operating out of. The well-known trade mark of the Complainant has been reproduced within the Disputed Domain Name "hdfcmutualfunds.in". The disputed domain name plainly contains the Complainant's HDFC trademark, in addition to the word "mutualfunds" and this addition (and the ccTLD extension ".in") does absolutely nothing to preclude a finding of confusing similarity. In support of these findings the Panel relies on *Advanced Magazine Publishers Inc. d/b/a Conde Nast Publications v. MSA, Inc. and Moniker Privacy Services*, WIPO Case No. D2007-1743 and also *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen* (Case No. D2014-0657). This Panel also notes that the "HDFC Bank" Logo of the Complainant has also been recognised



as a well-known trademark in India by the Indian Trademark Registry and hence it is stated that, a moral duty has been cast on panels such as this, to protect the bonafide and genuine proprietary rights of such complainants in reputed trademarks against blatant cases of cybersquatting indulged in by the third parties as in this instant dispute. This Panel also takes specific note of the panel's decision in Housing Development Finance Corporation Ltd. v. Shomprakash Sinha Roy (Case No. D2019-2567) in which it was observed that "the Complainant's trademark 'HDFC' has no established meaning or generic value but as a well-established brand and is distinctive only of the Complainant and its services.

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(a) of the Policy, that the Disputed Domain Name is identical or confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate interest

Paragraph 6 of the Policy provides a list of circumstances in which the registrant of a domain name may demonstrate rights or legitimate interests in a disputed domain name. While the overall burden of proof in the proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production 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 Panel finds the following from the records before it:

- a. before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the Domain Name with a bona fide offering of goods or services.
- b. the Respondent has not been commonly known by the Disputed Domain Name.



- c. the Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.
- d. the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Disputed Domain Name.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name.

The Respondent's use of the Disputed Domain Name to exhibit PPC links does not amount to bona fide use offering of goods and services. 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(b) of the Policy has been met by the Complainant.

C. Registered and/or used in bad faith:

The Panel notes that, for the purposes of paragraph 4(c) of the Policy, paragraph 7 of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The trademark registrations of the Complainant pre-date the creation date of the disputed domain name and that the trademark HDFC of the Complainant has acquired substantial recognition through the various publicity and marketing efforts of the Complainant. The Panel agrees with the Complainant's submissions that it ought to be presumed that the Respondent had constructive notice of the Complainant's trademark owing to the fact that the trademark 'HDFC' is well established and such knowledge of the Respondent is an indicator of bad faith on its part in having registered the disputed domain name. In the light of the proprietorship over the trademark of the Complainant and the fact that the Respondent has incorporated the trademark "HDFC" in entirety in the Disputed Domain Name which is not active but hosting PPC links to unduly enrich



himself, the Panel is in no doubt that the Respondent had the Complainant and its rights in the HDFC mark in mind when it registered the Disputed Domain Name.

This Panel agrees with the Complainant's contention that since the Complainant's line of business, which is providing financial services, is a strictly regulated space if the disputed domain name becomes functional and operative, it could deceive the general public to believe that the disputed domain name belongs to the Complainant and that this would, in turn, mislead consumers, divert them to the disputed domain name that does not belong to the Complainant, thereby leading to severe customer grievances and financial losses and this would also consequently tarnish the Complainant's reputation and goodwill garnered in the market. This indeed is a valid concern of the Complainant that cannot be brushed aside, more so owing to the fact that in the recent times there has been an increasing trend of online financial scams and frauds where innocent internet users are being duped of their monies, which needs to be nipped in the bud by discouraging blatant cases of cybersquatting being indulged in by third parties as is the case in the instant dispute.

Accordingly, in Panel's view the bad faith is evidently established and hence its very use by the Respondent with no connection to the trademarks suggests opportunistic bad faith.

7. **DECISION:**

In view of the above findings it is ordered that:

- a. The Disputed Domain Name <hdfcmutualfunds.in> be transferred to the Complainant.
- b. The Respondent pay the Complainant a sum of INR 1,50,000/- (Indian Rupees One Lakh and Fifty Thousand only) towards costs of these proceedings.



(SAISUNDER NV)

Arbitrator

Date: 19th February 2025

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