



सत्यमेव जयते

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e-Stamp

Certificate No. : IN-TN63399041198430X
Certificate Issued Date : 06-Feb-2025 03:36 PM
Account Reference : SHCIL (FI)/ tnshcil01/ Saidapet-SRO/ TN-CS
Unique Doc. Reference : SUBIN-TNTNSHCIL0101240850983281X
Purchased by : Saisunder N V
Description of Document : Article 12 Award
Property Description : NA
Consideration Price (Rs.) : 0
 (Zero)
First Party : Saisunder N V
Second Party : Saisunder N V
Stamp Duty Paid By : Saisunder N V
Stamp Duty Amount(Rs.) : 200
 (Two Hundred only)



Please write or type below this line

NV SAISUNDER
SOLE ARBITRATOR

.IN REGISTRY- INTERNET EXCHANGE OF INDIA
INDRP CASE NUMBER: 1903
DISPUTED DOMAIN NAME: <KOSAS.IN>



HF 0032471667

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IN THE MATTER OF ARBITRATION BETWEEN:

Kosas Cosmetics, LLC
137 N Larchmont Blvd
Suite 457 Los Angeles
California 90004
United States of America

..... **Complainant**

Versus

Kane Christopher
Christopher Kane
12 Avenue Parmentier
Paris 75002
France

..... **Respondent**

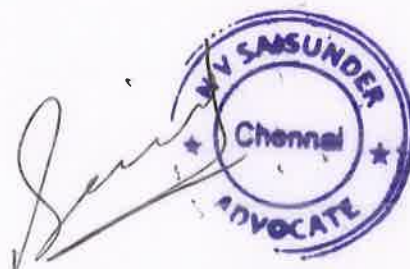
ARBITRATION AWARD

DATED: 06/02/2025

1. PARTIES:

The Complainant in this proceeding is Kosas Cosmetics, LLC, having its registered office at 137 N Larchmont Blvd, Suite 457, Los Angeles, California, 90004, United States of America. The Complainant is represented by its authorised representative Safenames Ltd., Safenames House, Sunrise Parkway, Linford Wood, Milton Keynes, MK14 6LS, United Kingdom.

The Respondent in this proceeding is Kane Christopher, 12 Avenue Parmentier, Paris, 75002, France, as per the WHOIS details disclosed by NIXI.



A handwritten signature in blue ink is written over a circular blue stamp. The stamp contains the text "SASUNDER" at the top, "Chennai" in the center, and "ADVOCATE" at the bottom, flanked by two stars.

2. DOMAIN NAME AND REGISTRAR:

The disputed domain name <kosas.in> is registered with 1APi GmbH.

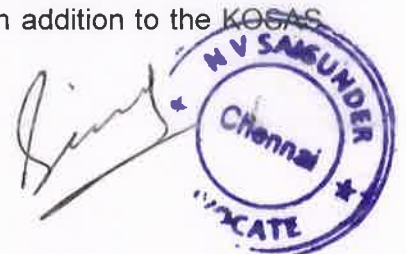
3. PROCEDURAL HISTORY:

The Statement of Acceptance and Declaration of Impartiality was submitted by me on 8th January 2025, as required by NIXI and the copy of amended complaint along with Annexures were served to Arbitrator on 14th January 2025. In accordance with Rules 3 and 5(b), NIXI appointed me as the sole arbitrator for deciding on the complaint filed in respect of the disputed domain name on 14th 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 14th January 2025. In accordance with Rule 5(c), the notice to the Respondent was issued on 17th 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 27th January 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., 6th 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, is a beauty brand known for its makeup and skincare products, founded in the year 2015. The Complainant was established in Los Angeles and has expanded globally since its creation. The Complainant's products are available to purchase through its official website www.kosas.com and shipped in the United States (US) and also internationally to various countries such as Canada, United Kingdom (UK), India, Brazil and China, etc. Complainant's products are available through renowned make-up and beauty third party retailers. Complainant has provided list of websites through which its products are sold *inter-alia* targeting Indian market.

The Complainant is the registered proprietor of the trademark "KOSAS" and claims to have been continuously using the mark in the global market. In addition to the KOSAS



marks exhibited in the publicly available information at <http://www.wipo.int/branddb/en/>, Complainant provides for the following list of marks:

Trademark	Jurisdiction	Registration Number	Registration Date	Classes Covered
KOSAS	European Union	018050525	29/11/2019	3, 4, 8, 18, 21, 24, 25
KOSAS	United Kingdom	UK00918050525	29/11/2019	33, 4, 8, 18, 21, 24, 25
KOSAS	New Zealand	1176944	27/10/2021	3
KOSAS	United States	4979426	14/06/2016	3
KOSAS	United States	6647372	15/02/2022	3
Kosas	Mexico	2647374	15/01/2024	3

The disputed domain name was registered on 28th February 2024 and appears to be a parked site containing PPC links.

From the whois details disclosed, the Respondent appears to be an Individual named Kane Christopher, based out of Paris, France.

The Complainant had issued a cease and desist letter to the Respondent on 3rd May 2024 requesting the transfer of the Disputed Domain Name, to which the Respondent had replied vide email dated 04th May 2024 vaguely quoting \$1500 as the base price, apparently for transferring the Disputed Domain Name.

5. PARTIES CONTENTIONS:

A. Complainant:

The Complainant has contended that all three elements of the INDRP is applicable to the present case. The Complainant holds many trademarks for the KOSAS mark across numerous jurisdictions, including the European Union, where the Respondent claims to be based. The Complainant also relies on the goodwill and recognition that has been attained under the KOSAS name which has become a distinctive identifier for its cosmetic products. The Disputed Domain Name incorporates the Complainant's



KOSAS mark in its entirety and hence submits that the disputed domain name is identical to the trademark in which the Complainant has rights.

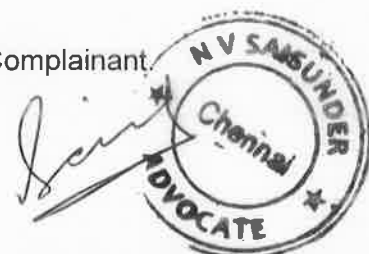
The Complainant contends that the Respondent has used the Disputed Domain Name to display Pay-Per-Click ("PPC") advertising links which bare no relation to the term 'kosas' and to advertise the Disputed Domain Name for sale as evidenced through the annexes attached to the complaint. The Complainant submits that the Respondent has not used, nor prepared to use, the Disputed Domain Name in connection with a bona fide offering of goods or services. The Complainant contends that the Respondent's attempts to generate commercial revenue from misusing the Complainant's KOSAS trademark, both through PPC advertising links and the offer to sell the Disputed Domain Name for a cost exceeding the registration cost, which indicates no legitimate use of the Disputed Domain Name.

The Complainant further claims that the Respondent uses the Disputed Domain Name to capitalise on the goodwill of the Complainant's KOSAS mark, by creating confusion for Internet users accessing the Disputed Domain Name in the belief they are engaging with the Complainant's offerings, given its identity to the KOSAS trademark.

The Complainant also has evidenced the list of other ccTLDs registered by the Respondent containing "Kosas" such as <kosas.at>, <kosas.fr> and <kosas.it>. The Complainant further submits that the Respondent has acquired the Disputed Domain Name to obtain undue profit through: (i) PPC links, and; (ii) the sale of the Disputed Domain Name to the KOSAS trademark holder. The Respondent's use of the Disputed Domain Name to display PPC links that redirect Internet users to third-party offerings, constitutes further evidence of bad faith use within the meaning of Paragraph 7(c) of the INDRP Policy. The Complainant contends that the fact that the Respondent has registered so many other domain names corresponding to third-party brands – particularly those brands in the same sector as the Complainant further affirms the Complainant's belief that the Respondent intentionally registered the Disputed Domain Name to profit from the value of KOSAS as a trademarked term, which indicates the bad faith registration pursuant to the Policy.

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 "Kosas" 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 Complainants 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 the country where the Respondent is operating out of. The trade mark of the Complainant has been reproduced within the Disputed Domain Name "Kosas.in". 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. The Complainant has also provided evidence of the reputation, goodwill and global presence associated with its mark due to its extensive and continuous use.

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:

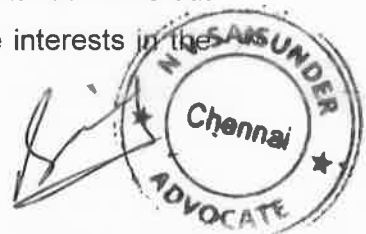
Paragraph 6 of the Policy provides a list of circumstances in which the registrant of a domain name may demonstrate rights or legitimate interests in a disputed domain name. While the overall burden of proof in the proceedings is on the complainant, panels have recognized that proving a respondent lacks 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.

In the light of the proprietorship over the trademark of the Complainant and the fact that the Respondent has incorporated the trademark "kosas" 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 KOSAS mark in mind when it registered the Disputed Domain Name, and the Respondent's email dated dated 04th May 2024 vaguely quoting \$1500 as the base price, apparently for transferring the Disputed Domain Name also prima facie evidences the bad faith in the registration of the same. Further, the Complainant's evidence that the Respondent has a pattern of such illegitimate holdings of domains containing well-known trademarks further goes to establish the bad faith conduct of the Respondent. 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 <kosas.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: 6th February 2025

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