

BEFORE THE .IN REGISTRY OF INDIA
INDRP CASE NO. 1906
IN THE MATTER OF AN ARBITRATION UNDER THE .IN DOMAIN NAME
DISPUTE RESOLUTION POLICY; THE INDRP RULES OF PROCEDURE
AND THE ARBITRATION CONCILIATION ACT, 1996

INDEX

S.NO.	DESCRIPTION	PAGE NO.
1.	Disputed Domain name and Registrar	2
2.	Arbitration Tribunal	3
3.	Parties to the Arbitration	3-4
4.	Facts of the case	4-5
5.	Contentions of the Parties	6-8
6.	Analysis	8-11
7.	Conclusion	11
8.	Order	12

VP Pathak
V. P. PATHAK
H.J.S.
Former Judge
Sole Arbitrator

BEFORE THE .IN REGISTRY OF INDIA
INDRP CASE NO. 1906
IN THE MATTER OF AN ARBITRATION UNDER THE .IN DOMAIN NAME
DISPUTE RESOLUTION POLICY; THE INDRP RULES OF PROCEDURE
AND THE ARBITRATION CONCILIATION ACT, 1996

Fashnear Technologies Pvt. Ltd.
3rd Floor, Wing E, Helios Business Park,
Kadubeesanahalli Village, Varthur Hobli,
Outer Ring Road, Bengaluru,
Karnataka- 560103

.... Complainant

Versus

LinQing
Fengtaiquhuishixinyuan
Beijing, China- 100028

....Respondent

DISPUTE RELATING IN THE DOMAIN DISPUTE NAME www.meesho.in

Award Dated- 6.02.2025

BEFORE V.P.PATHAK
SOLE ARBITRATOR
AT NEW DELHI

➤ **DISPUTED DOMAIN NAME & REGISTRAR-**

The disputed domain name is registered through the Registrar of the disputed domain name abuse@dynadot.com LLC is accredited with the .IN registry and is listed on the website of the .IN registry having their contact address:

Dynadot LLC
210 S Ellsworth Ave
#345 San Mateo, CA 94401
United States of America

V. P. PATHAK
H.J.S.
Former Judge
Sole Arbitrator

VP Pathak

➤ **ARBITRATION TRIBUNAL-**

1. The Complainant has filed this complaint for the disputed domain name www.meesho.in, to be transferred to the Complainant. To decide this complaint, NIXI has appointed the undersigned as Arbitrator. This tribunal has resumed this matter on 14.01.2025, by sending notice to the Respondent for reply. Before that, a consent letter with a declaration of impartiality by the undersigned to decide this case was sent to NIXI on 8.01.2025.
2. As per **Rule 5 of the INDRP Rules** the Tribunal issued a notice dated 14.01.2025 calling upon the Respondent to file its reply on the Complaint within fifteen days from the date of receipt of the notice and rejoinder within fifteen days thereafter.
3. The Tribunal is constituted under the INDRP Policy and Rules. Under rule 13, the arbitration proceedings have to be conducted in accordance with the Arbitration and Conciliation Act, 2019 (as amended up to date) read with the Arbitration & Conciliation Rules, Dispute Resolution Policy and its by-laws, and guidelines, as amended from time to time.
4. Thus, the present arbitration proceedings are not only governed by the INPRP Policy and Rules but are also governed by the provisions of the Arbitration and Conciliation Act, 1996.

➤ **PARTIES TO THE ARBITRATION-**

5. The Complainant is an Indian company with its head office in Bengaluru, Karnataka.
6. The Complainant has filed the instant Complaint challenging the registration of the domain name www.meesho.in. Pursuant to the ".in" Domain Name Dispute Resolution Policy (INDRP) and the rules framed there under. The Complainant has preferred this arbitration by raising this dispute for the reprisal of its grievances.

VP Redmane
V. P. PATHAK
H.J.S.
Former Judge
Sole Arbitrator

12. The Complainant contends that the Respondent's domain name *meesho.in* (disputed domain name) was registered on 15.10.2017 and is valid till 15.10.2025. The disputed domain name resolves to a parked website (Respondent's website) which does not provide any substantive content and instead offers pay-per-click (PPC) sponsored links for various e-commerce platforms that are competitors of Complainant, offering clothing and clothing accessories which is probative of the fact that the disputed domain name has been registered for commercial gains. Further, the disputed domain name has been consistently advertised for sale since its registration and is presently advertised for USD 18888. (ANNEXURE E)

• RESPONDENT-

13. The Respondent has pleaded that according to the "first come first serve" principle of domain registration, the Respondent registered the domain "meesho.in" in October 2017. Although the Complainant registered the "meesho.com" domain and used the MEESHO brand in 2015. This does not imply that the Complainant has exclusive rights to the domain name prefixed with MEESHO. The registration time of the "meesho.in" domain was in October 2017, while the Complainant's registration of MEESHO trademark in India was on 5.01.2018 and the registration of trademarks in classes 9,35, and 42 was on January 24, 2019 (application numbers- 4066599, 4066600, and 4066601).
14. Thus, it is clear that when the Respondent registered the "meesho.in" domain, the Complainant's trademark was not registered in India. So, there was no malicious registration on the part of the Respondent. It is also pleaded by the Respondent that the "meesho.in" domain is parked for sale on www.sedo.com. The advertising on the parked page is unrelated to the domain registrant. The Complainant also places a large number of advertisements on the internet. The advertising on the domain is not a fraudulent act. Domain resale does not constitute an element of malice. There is no intention of malicious registration and use of the domain name. It is finally pleaded that the application of the Complainant lacks factual and legal grounds. The Respondent's registration and use of the "meesho.in" domain is not illegal. So, it is

V.P. Pathak
V. P. PATHAK
H.J.S.
Former Judge
Sole Arbitrator

requested that the complaint be dismissed and the status quo regarding domain name "meesho.in" be maintained.

➤ **CONTENTIONS OF THE PARTIES-**

● **Complainant -**

15. The Complainant owns statutory and common law rights in the trademark MEESHO. It is submitted that the disputed domain name *meesho.in* includes the Complainant's trademark MEESHO in its entirety, hence it is identical to the Complainant's trademark.
16. The disputed domain name completely incorporates the trademark/service mark of the Complainant and the gTLD *.in* (According to Google, gTLD means- a generic Top-Level Domain – the last part of a domain name after the final dot (that makes up the URL of a web address aka the site's domain name) will not distinguish the disputed domain name from the Complainant's trademark.
17. According to the Complainant, the Respondent has not made any use and/or demonstrable preparations to use the disputed domain name consequently, they are not commonly known by this disputed domain name. There is evidence against the Respondent that the disputed domain name has been persistently advertised for sale since its registration, where no bona fide use is being made of the website from <https://web.archive.org/> . ANNEXURE F.
18. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use their registered and famous trademark MEESHO.
19. The Respondent registered the disputed domain name after the Complainant acquired common law trademark rights in its mark MEESHO. The disputed domain name appears to be registered by the Respondent with the sole purpose of selling it to the Complainant's competitors for an exorbitant price. This shifts the burden of proof on the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name.

VP Pathak
 V. P. PATHAK
 H.J.S.
 Former Judge
 Sole Arbitrator

20. Through continuous and exclusive use and promotion of the MEESHO trademark since 17.10.2015, the public and members of the trade have come to recognize and associate the MEESHO mark exclusively with the Complainant. The Complainant also submits that the Hon'ble Delhi High Court has recognized MEESHO as a "well-known" trademark in *Fashnear Technologies Pvt. Ltd vs. Meesho Online Shopping Pvt. Ltd. & Anr [CS (COMM) 475/2022]- ANNEXURE G*.
21. Clause 3(d) of the INDRP requires a Respondent to not knowingly use the domain name in violation or abuse of any applicable laws or regulations. The obligations imposed by clause 3(d) are an integral part of the INDRP applicable to all the Respondents, and cannot be ignored.
22. Thus, the Complainant prays for IN Registry of NIXI to transfer the disputed domain name "meesho.in" to the Complainant along with the costs of the proceedings of the Complainant.

• **RESPONDENT-**

23. The Respondent registered the "meesho.in" domain in October 2017. Although the Complainant registered the "meesho.com" domain and used the "meesho" brand in 2015, this does not imply that the Complainant has exclusive rights to domain names prefixed with "meesho." In fact, domain names such as "meesho.cn," and "meesho.co.in" are not owned by the Complainant.
24. The registration time of the "meesho.in" domain was in October 2017, while the Complainant's registration of the "meesho.in" trademark in class 35 in India was on January 5, 2018 (application number 3719928), and the registration of trademarks in class 9,35, and 42 was on January 24, 2019 (application numbers- 4066599, 4066600, and 4066601). This indicates that when the Respondent registered the "meesho.in" domain, the Complainant's trademarks were not yet in India, thus there was no malicious registration on the part of the Respondent.
25. The "meesho.in" domain is parked for sale on sedo.com, which is a common and legitimate practice in the domain market. The advertising on the parked page is unrelated to the domain registrant, and the Complainant also places a large number of

VP Pathak
V.P. PATHAK
H.J.S.
Former Judge
Sole Arbitrator

advertisements on the Internet. This is not a fraud case and the Complainant should not confuse itself about the same.

26. The resale of the domain does not constitute an element of malice and its parking for sale is based on the judgement of the domain's market value and normal business practices.
27. The Respondent concludes that the Complainant's complaint against the domain dispute lacks factual and legal basis. The Respondent's registration and use of the "meesho.in" domain are legal and do not involve any malicious registration or use. Thus, the Respondent requests that the complaint should be dismissed and maintain the status quo of the "meesho.in" domain.

> **ANALYSIS-**

28. According to the above-mentioned facts of the case, the Tribunal has to decide the following points-

A. Whether the Respondent's domain meesho.in is identical and confusingly similar to the trademark or service mark in which the Complainant has rights.?

As per the Complainant, the website www.meesho.com was registered on 17.10.2015 and the website shows their use of trademark since 23.11.2015. Here, it is important to understand that a domain name is registered so that there is an internet address. A trademark is registered to identify a product or service. The meaning of the word "domain name" is "a unique name that identifies a website on the internet" which in this case is MEESHO which came into use when the Complainant came into business in 2015. The domain name then further ends with an extension, without which the website is incomplete and cannot be opened such as - .in, .com, .org and so on. This extension is called gTLD (generic Top-Level Domain)- the last part of a domain name after the final dot (that makes up the URL of a web address aka the site's domain name). Thus the Respondent's domain name is identical and similar to the trademark or service mark to that of the Complainant. The Complainant had its business up and running since 2015, with the name MEESHO and the Respondent's name for its website came in 2017 making it a copy of the Complainant's business name. The

VP Pathak
V. P. PATHAK
 H.J.S.
 Former Judge
 Sole Arbitrator

Complainant has relied on a past decision of INDRP-

ITC Limited vs. Travel India (INDRP Case No. 065) which states that- the fact that a disputed domain name, wholly incorporates a Complainant's trademark is sufficient to establish the identity or confusing similarity for the purpose of INDRP.

This proves that the Respondent is running its business under the Complainant's domain name making the Respondent's domain name unauthentic. Thus, the Respondent's domain name is identical and confusingly similar to the trademark or service mark in which the Complainant has rights and the Respondent should not think of it as its own and run its business using this name.

B. Whether the Respondent has no rights or legitimate interests in respect of the domain name?

The Respondent has claimed in his written statement that he registered the domain name "meesho.in" in October 2017 whereas the Complainant did the same later on with "meesho.com." The Respondent has contended that the Complainant's domain name and their domain name are not similar since it has used the gTLD ".in" and the Complainant has used ".com" which are not identical. However, the Tribunal is of the view that the Complainant had started its business with the domain name meesho.com in 2015, which makes it very clear that the Complainant is the first and only user of the domain name MEESHO and not the Respondent. It is also pertinent to mention that the word MEESHO is the disputed domain name and any the gTLD after this name does not matter as the Complainant is the sole holder of this disputed domain name. The Complainant has relied on a decision of INDRP in the case-

Nike Inc. v. Nike Innovative CZ Zhaxia (Case No- INDRP/804) which said that- the disputed domain name completely incorporates the trademark/service mark of the Complainant and the gTLD "in" will not distinguish the disputed domain name from the Complainant's trademark. It is a settlement principle that gTLD is not to be considered when determining the similarity of the domain name with a mark under the first element.

So, to answer the above-mentioned question, it is true that the Respondent has no rights or legitimate interests concerning the domain name "meesho.com".

V. P. PATHAK
H.J.S.
Former Judge
Sole Arbitrator

C. Whether the Respondent's domain name registered or is being used in absolute bad faith?

The Complainant in its statement supported with evidence has contended that the Respondent is prominently advertising the disputed domain name for sale at USD 18888 and this has been going on since its registration by the Respondent, without any substantive use of the website to mislead and divert customers to tarnish the trademark or service mark "meesho." The Respondent has replied that- "the domain name "meesho.in" domain is parked for sale on sedo.com, which is a common and legitimate practice in the domain market. (A domain parking page is a placeholder page that displays when a user tries to access a domain that has been purchased but is not fully developed. Such a page can be used to display ads and earn money from visitors who click on them).

The advertising on the parked page is unrelated to the domain registrant, and the Complainant also places a large number of advertisements on the Internet." The Tribunal is of the opinion that since the Respondent had registered the domain name "meesho.com", and has only advertised the domain name for sale at USD 18888. The Respondent is right when he said that the practice of selling domain names is a common practice but the practice is valid only when the domain name is of the right and legitimate owner. The Complainant mentioned the case-

Legacy Health System v. Nijat Hassan v99 WIPO (Case No- D2008-1708,) it was found that the Respondent had no rights or legitimate interests as "the sole purpose of the disputed domain name is to resolve pay-per-click advertising websites and collect click-through revenue from advertising links.

On the other hand, the Respondent has relied on various judgements as mentioned on Page No. 15 of their reply. The citation of these judgements is not disclosed in the pleading of the Respondent. It is not clear that these judgements are given to which of the authorities. Further, the facts as narrated by the Respondent do not match with that of the Complainant's. The applicant registered this "meesho.com" earlier in time (October 2015) in comparison to the Respondent which was registered in October 2017. The Respondent itself has admitted in their pleading the above facts about the

VP Pathak
V. P. PATHAK
H.J.S.
Former Judge
Sole Arbitrator

registration of the Complainant's domain name in 2015. Again, the registration by the Respondent was for resale purposes. Re-selling is nothing but gaining profit and the Respondent was fully aware of the facts of registration of the Complainant's domain name in 2015 and even then the Respondent company registered their domain name using the word MEESHO in 2017 for reselling. This fact itself makes it clear that the whole activity by the Respondent was for gaining profit maliciously. The facts themselves disclose about the malice of the Respondent. So, there is no requirement for any evidence regarding the bad faith of the Respondent. This tribunal is not in consonance with the Respondent's argument.

Answering the above-mentioned question- the Respondent's domain name registered is being used in absolute bad faith and such use demonstrates that the Respondent has used the disputed domain name to derive a commercial benefit and to tarnish the Complainant's website and domain name image.

➤ **CONCLUSION-**

29. Considering the above facts, this Tribunal believes that the complaint has merit. The Respondent did not have the Complainant's permission to use its domain name and hence it had no right to treat the domain name as its own. It is being mentioned again, that without the domain name, there is no gTLD. So, even though the Respondent's domain name is "meesho.in", the name "meesho" belongs to the Complainant. The whole dispute in this complaint is for the domain name and the mere alteration of a domain name or its extension does not affect or alter the ownership thereof.
30. The Respondent's repeated contention that "the registration of the "meesho.com" domain and use of the "meesho" brand since 2015 by applicant, does not imply that the Complainant has exclusive rights to domain names prefixed with "meesho"- is bogus. The Complainant brought the name MEESHO to life, so the Respondent does not have any standing in this domain name anymore.
31. The Complainant has the full right and ownership of the domain name MEESHO & "meesho.com." So the complaint has to be allowed.

VP Pathak
V. P. PATHAK
H.J.S.
Former Judge
Sole Arbitrator

32. This Award is being passed as per Clause 5 (e) of the INDRP Rules, and Arbitration Act, 1996.

➤ **ORDER-**

33. The .IN Registry of NIXI is directed to transfer the disputed domain name "meesho.in" to the Complainant forthwith. Registry to do the needful.

34. Parties to bear their own costs.

35. This Award is passed today at New Delhi on 6.02.2025.

V. P. PATHAK
V.P.PATHAK
Former Judge
Sole Arbitrator

SOLE ARBITRATOR

DATE: 6.02.2025