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 Description of Document : Article 12 Award
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**BEFORE BHARAT S KUMAR, SOLE ARBITRATOR
NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)**

INDRP ARBITRATION

INDRP Case No. 1933

DISPUTED DOMAIN NAME:<EAGLEADBLUEINDUSTRIES.CO.IN>

ARBITRATION AWARD DATED MARCH 24, 2025



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BEFORE BHARAT S KUMAR, SOLE ARBITRATOR
.IN REGISTRY
NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)
INDRP ARBITRATION
INDRP Case No. 1933
DISPUTED DOMAIN NAME:<EAGLEADBLUEINDUSTRIES.CO.IN>
ARBITRATION AWARD DATED MARCH 24, 2025

IN THE MATTER OF:

VDA Verband Der
Automobilindustrie E.V.
Behrenstr. 35, 10117, Berlin,
Germany

Complainant

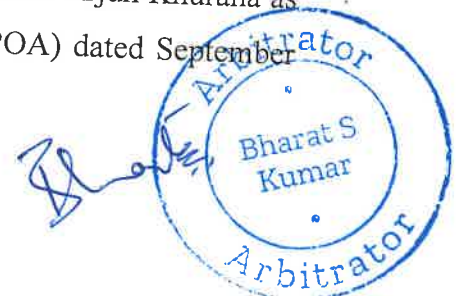
VERSUS

Manender Singh Nandal
Eagle Adblue Industries
Rohtak,
Haryana – 122018,
India
Email: eagleadblueindustries@gmail.com

Respondent

1. The Parties in the proceeding:

The complainant in this administrative proceeding is VDA Verband Der Automobilindustrie E.V., having its address at Behrenstr. 35, 10117, Berlin, Germany (hereinafter referred to as the 'complainant'). The complainant's authorized signatory, Dr Ricarda Leffler, has authorized Mr. Arjun Khurana as its authorized representative, vide Power of Attorney (POA) dated September



12, 2024 in the present proceedings. The complainant avers that a cease and desist notice was sent by the complainant to the respondent, pursuant to which the impugned website, <eagleadblueindustries.co.in>, was allegedly taken down. Reference is drawn from paragraph 32 of the complaint.

The respondent in the present proceedings is Mr. Manender Singh Nandal, having his address at Eagle Adblue Industries, Rohtak, Haryana – 122018, India. The complainant has also filed the publicly-available WHOIS record, for the domain name < eagleadblueindustries.co.in >.

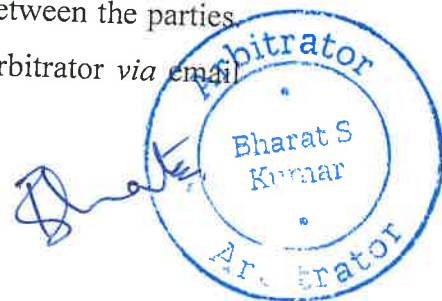
2. **Domain Name and Registrar:-**

The disputed domain name is < eagleadblueindustries.co.in >. The domain name was registered on November 4th ,2023. The registrar with which the domain name is registered is Endurance Digital Domain Technology Private Limited. The email address of the registrar is not mentioned in the complaint.

3. **Procedural History:**

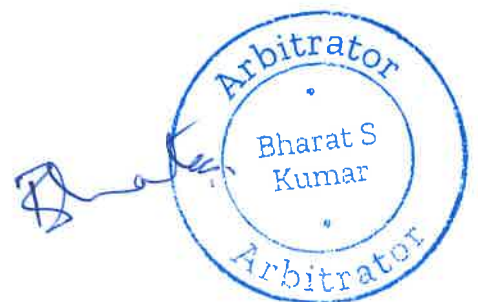
3.1 This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (the "Policy") adopted by the National Internet Exchange of India ("NIXI") and the INDRP Rules of Procedure (the "Rules"). The arbitration proceeding is approved in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with a NIXI accredited Registrar, the respondent has agreed to the resolution of disputes pursuant to the said Policy and the Rules.

3.2 The complaint was filed by the complainant with NIXI against the respondent. On 16.01.2025, to ensure compliance, I had submitted statement of acceptance and declaration of impartiality and independence as required by the Arbitrator's Empanelment Rules (Rule 5). On 23.01.2025, I was appointed as the sole arbitrator to decide the disputes between the parties. NIXI notified both the parties of my appointment as arbitrator via email.



dated 23.01.2025. NIXI had also served by email an electronic copy of the complainant with annexures, on the respondent at the email address of the respondent, eagleadblueindustries@gmail.com , whilst appointing me as an arbitrator.

- 3.3 On 23.01.2025, I had issued notice to the respondent and directed the complainant to serve the complete paperbook on the respondent, i.e. the complaint which was filed by the complainant and the complete annexures (annexures 1 to 10). The service was done by the complainant's counsel, Mr. Sachin Choudhary, on 24.01.2025, on the email address present through a WHOIS lookup, i.e eagleadblueindustries@gmail.com. It may be noted that I had on 23.01.2025 also granted the respondent a time period of 15 days, to file a response to the complaint, from my email and the delivery of service of the complete paperbook.
- 3.4 That pursuant to no response from the respondent for 15 days after service of the complaint and the documents(annexures), I had on 11.02.2025 sent an email to the respondent apprising it of its rights to file a defence (response), being closed. That in the same email, I had also asked the complainant's counsel whether they wish to seek any personal hearing, to which they declined the same and requested that the complaint further proceed on merits.
- 3.5 That, all the communications to the complainant, respondent and NIXI by this tribunal have been through email. None of the emails sent on eagleadblueindustries@gmail.com have bounced or returned. I therefore hold that the service is complete as per the INDRP rules as all correspondences effectively took place on eagleadblueindustries@gmail.com.



Respondent being proceeded *ex-parte*:

3.6 I wish to highlight Clause 13(b) of the INDRP Rules of procedure requires that the arbitrator shall at all times treat the parties with equality and provide each one of them with a fair opportunity to present their case. Clause 17 of the INDRP Rules of procedure grant the power to an arbitrator to proceed *ex-parte*, in the event any party breaches the provisions of INDRP rules and/or directions of the arbitrator.

3.7 The respondent has been given a fair opportunity to represent itself, respond to the complainant's assertions & contentions and counter the same, if it so wishes to. However, there has been no response by the respondent, despite effective service. It is noteworthy that Clause 18 of the INDRP Rules of procedure mandate that an arbitrator shall decide a complaint on the basis of the pleadings submitted and in accordance with the Arbitration & Conciliation Act, 1996 amended as per the Arbitration and Conciliation (Amendment) Act, 2015 read with the Arbitration & Conciliation Rules, Dispute Resolution Policy, the Rules of Procedure and any by-laws, and guidelines and any law that the arbitrator deems to be applicable, as amended from time to time. In these circumstances this tribunal proceeds to decide the complaint on merits, in accordance with said act, policy and rules on respondent's failure to submit a response, despite having been given sufficient opportunity and time to do so and represent itself. As a result of the aforementioned, the respondent is proceeded *ex-parte*.

4. Legitimate rights under which a complainant can approach NIXI:

4.1 The complainant has invoked Clause 4 of the INDRP policy to initiate the arbitration proceeding. Clause 4 reads as under:



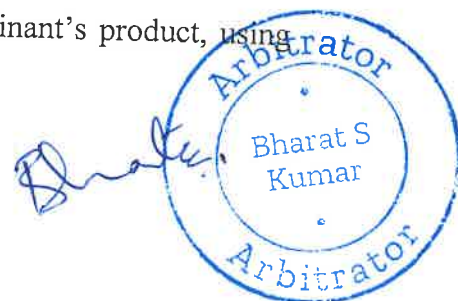
4. Any person who considers that a registered domain name conflicts with his/her legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

- (a) the Registrant's domain name is identical and/or confusingly similar to a Name, Trademark or Service Mark etc. in which the Complainant has rights; and
- (b) the Registrant has no rights or legitimate interests 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.

The complainant therefore has to satisfy this arbitral tribunal on all the three aforementioned clauses/conditions, i.e 4 (a), (b) and (c).

5. Case of the complainant



5.1 The complainant avers that it has over 600 members, represents the length and breadth of automotive industry including automobile manufacturers and automotive suppliers. Some of the most prominent and highly influential companies in the automotive industry form part of complainant's organization, including the companies like, Audi, Bavarian Motor Works (*Bayerische Motoren Werke* in German), Bridgestone, Daimler, Goodyear, Ford, Opel, Pirelli, Volkswagen, and Volvo, among others. It states that in the year 2005, it adopted the trademark **ADBLUE (hereinafter 'mark' and/or trademark)** to designate the compound Diesel Exhaust Fluid which is used in Selective Catalytic Reduction (hereinafter referred to as 'SCR technology') to convert harmful nitrogen oxides from the diesel vehicle exhaust into harmless nitrogen and steam, therefore considerably reducing the emissions of nitrogen oxides which are a major source of atmospheric pollution and leads to smog in urban areas. The complainant avers that since its adoption, the acceptance, and the use of complainant's product, using



ADBLUE, has not only increased but has expanded to various parts of the world, including in India.

5.2 The complainant further avers that catering to the growing use of European diesel cars in India (which conform to high standards of pollution emission control), the complainant through its licensee Kruse Group, set up NPL BlueSky Automotive. The said company is a 50:50 Joint Venture formed between Nandan Petrochem Ltd (NPL) and of Kruse Automotive GmbH Germany to manufacture and market AdBlue in India. The objective of setting up this company, it avers, was to supply **ADBLUE** to Indian customers for their fill requirement as well as to service their vehicles using the SCR Technology on the road. It further states that to further this objective, NPL BlueSky Automotive commissioned the **ADBLUE** manufacturing plant in Silvassa near Vapi, Gujarat. That, the plant has been imported from Germany and is being used all over the world by KRUSE Joint Venture partners. It further states that this plant has been patented by Kruse and is certified by Complainant to produce AdBlue meeting ISO 22241 standards. A list of its licensees, the complainant states, can be accessed at https://www.vda.de/dam/jcr:a884b8b2-c348-4648-9295-de3467a6f2ff/2023-04-12_Lizenznehmer_AdBlue.pdf.

5.3 The complainant states that its goods under the mark **ADBLUE** have become highly recommended and preferred by various prominent automobile manufacturers who incorporate SCR technology in their diesel vehicles. It further avers that this acclaim and reputation within the industry is true of the Indian market as well and is itself evidenced by the fact that complainant's aforementioned Indian Joint Venture counts among its customers the world's foremost Original Equipment Manufacturers and brands such as TATA, Toyota, Mercedes Benz, Volvo and Fiat.

5.4 The complainant states that it maintains as well as operates the website at <https://www.vda.de>, which provides extensive information about its business-related products and services including those offered under the mark **ADBLUE**. It states that the said website prominently displays the mark **ADBLUE** on its webpages thereby leading its present and potential consumers as well as general public accessing, visiting and viewing the said website from across the world to relate the mark with none but complainant solely. The complainant states that it has filed relevant extracts from its website in support of the aforementioned. The same have been filed as **Annexure 5**.

5.5 The complainant avers that its mark has acquired significant reputation and considerable goodwill in India and across the globe. It states that it is now the case that where any goods/services relating to diesel exhaust fluids, liquid solution of urea and granular urea, or eliminating or reducing polluted exhaust fumes in vehicles, etc. are offered under a name or trademark that comprises of the word **ADBLUE** in any form or manner, it will denote and connote or appear to the public that such services and products emanate from complainant. The complainant states that the instant recognition of the mark with complainant is further augmented by the fact that a general search for the word '**ADBLUE**' on the search engine Google.com throws results that lead either to complainant's website at <https://www.vda.de> or third-party links providing information on complainant itself. Hence, the complainant emphasizes that association of the mark **ADBLUE** is exclusively made with it.

The complainant's assertions pertaining to advertisements of the mark **ADBLUE** in India:

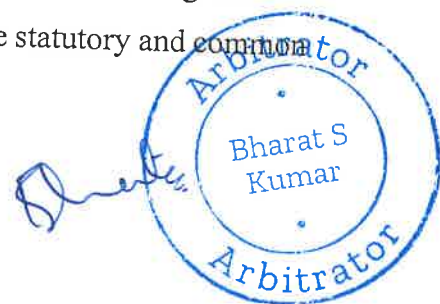
5.6 The complainant states that the mark **ADBLUE** is widely advertised globally including in India through different modes. The complainant and its licensees spend consideration time, energy and money in promoting and



advertising the products under the mark **ADBLUE**. By virtue of such promotions it avers, the mark **ADBLUE** has become a highly recognizable brand among the members of relevant trade and public. The complainant has by way of an example, filed a few representative copies of advertisement of the mark **ADBLUE** in India as **Annexure 6**.

5.7 The complainant avers, as a result of its high-quality goods and worldwide promotions thereof, the goods offered under the mark **ADBLUE** have met with exponentially rising sales translating into enormous goodwill and reputation amongst members of the trade and general public. The estimated annual consumption of complainant's goods under the mark **ADBLUE** has been in excess of 163 million litres in 2022-23, 196 million litres in 2023-24 and 230 million litres in 2024-25. A few representative invoices showing sale of products under the mark **ADBLUE** in India are annexed herewith as **Annexure 7**. The complainant further states that complainant actively protects its rights in the mark **ADBLUE** by taking appropriate actions against misuse of the same around the world including in India. The complainant states that it has initiated several actions against misuse of its mark **ADBLUE** in India and also received favourable outcomes. The complainant states that it has also initiated domain name proceedings against domain names incorporating the mark **ADBLUE**. In support of the same, it has filed copies of a few favourable orders as **Annexure 8 and 10**. Significantly, the WIPO order present at Annexure 10 is against the respondent herein itself on a domain name registered by it, <eagleadblue.com>. The domain name has been cancelled in the complainant's favour.

5.8 The complainant states that by virtue of continuous use of the brand **ADBLUE** in respect of complainant's goods, coupled with extensive marketing and promotions; noteworthy sales and revenues generated therefrom; as well as due to acquisition of worldwide statutory and common



law rights – the brand and mark **ADBLUE** has amassed for itself an unrivalled reputation, acquiring such a degree of distinctiveness in commerce that members of the trade and public make a spontaneous association between the mark **ADBLUE** and the complainant. The mark **ADBLUE** the complainant avers is, therefore, identified as the source indicator of the goods offered by complainant by the general public and more so by the relevant section of the trade, on account of which complainant is entitled to its sole and exclusive use for its goods, products and businesses. The complainant states that given the vital importance of its brand and its **ADBLUE** mark to its business, complainant has made dedicated efforts to protect the same by acquiring substantial statutory rights worldwide as well as amassing significant common law rights therein by extensive usage. It avers that on account of such honest adoption, international use, worldwide statutory rights and common law rights by virtue of usage and significant marketing / promotional efforts, the **ADBLUE** mark in its various forms of usage has come to be inexorably linked and associated with complainant by the general public, relevant sections of the trade as well as media and publications, across the world. The complainant states that its mark **ADBLUE** has amassed an immense goodwill and trans-border reputation, which has certainly percolated into India – becoming radically distinctive to complainant solely.

The complainant's statutory claims pertaining to trademark "ADBLUE":

5.9 The complainant states that it is the prior user and registered proprietor across jurisdictions of the trademark **ADBLUE**. The complainant states that it owns registrations/applications for the mark **ADBLUE** in numerous jurisdictions worldwide, including but not limited to Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Benelux, Bhutan, Bolivia,



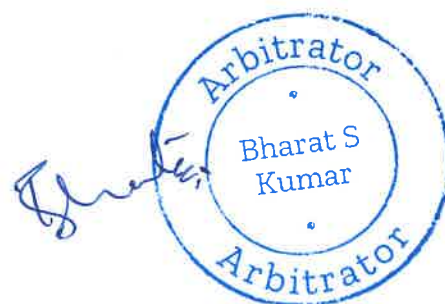
Bonaire, Sint Eustatius and Saba, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burundi, Canada, Chile, China, Colombia, Croatia, Cuba, Curacao, Cyprus, Czech Republic, Ecuador, Egypt, Estonia, Ethiopia, European Union, Finland, France, Georgia, Germany, Great Britain, Greece, Guatemala, Hong Kong, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Kosovo, Kuwait, Kyrgyzstan, Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Macao, Macedonia, Madagascar, Malawi, Malaysia, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Morocco and numerous other countries. The list of the complainant's trademark applications/ registration along with copies of a few representative trademark registration certificates for the mark ADBLUE have been attached as **Annexure 3 (colly)**.

5.10 The complainant states that in India, it owns the registration for the mark ADBLUE in Classes 1 & 12 under no. 1368315 since July 01, 2005. The complainant has filed a copy of the registration certificate in support of the above is annexed as **Annexure 4**.

6. The dispute raised before this tribunal – case of the complainant:

The Domain Name and associated website

6.1 The complainant states that it recently came across the respondent's domain name < eagleadblueindustries.co.in > ('*disputed domain name*') which was registered on 04.11.2023. The complainant avers that the respondent uses the complainant's registered trademark **ADBLUE** as the dominant part of the impugned domain name. The complainant emphasizes that this is a calculated and deliberate use of the complainant's registered trademark by the respondent. The complainant states that this amounts to infringement of the complainant's rights in its trademark **ADBLUE** as mentioned in the



complaint. The complainant has attached the WHOIS extract of the disputed domain as **Annexure 2**.

7. Analysis

7.1 It is pertinent to note that Paragraph 4 of the INDRP Domain Name Dispute Resolution Policy, mentions about class of disputes, which grants any person who considers that a registered domain name conflicts with his/her legitimate rights or interests, the right to file a complaint with the .IN Registry. There are 3 conditions which an aggrieved right holder may file the complaint under. The complainant has in the present complaint mentioned that its rights under all the three conditions have been violated:

- i. Condition 4(a) - The Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the complainant has rights;

The complainant states in the complaint that it has statutory and common law rights in the trademark(s) **ADBLUE** as mentioned above and such rights predate the registration of the disputed domain name by many years. The complainant asserts that the disputed domain name incorporates complainant's reputed mark **ADBLUE** in its entirety. It relies upon "*Vertex Pharmaceuticals Inc. v. Private Data Domains Ltd. AnonymousSpeech, Anonymous Speech, Michael Weber*, Case No. D2019-1259 (WIPO July 25, 2019); *Reliance Industries Ltd. et al. v. jiomartfranchise.in et al.*, Case No. INDRP/1264 (NIXI Oct. 7, 2020) to prove its case.

The complainant avers that the presence of the terms 'eagle' and 'industries' in the disputed domain name, both of which are non-distinctive terms, do not render the same distinguishable from the complainant's prior adopted, **ADBLUE** mark. It relies upon "*Petróleos Mexicanos v. Registration Private, Domains By Proxy, LLC / Marta Ramos*, Case No. D2019-0946



(WIPO June 18, 2019); *Baxter International Inc. v. None*, Case No. INDRP/1662 (NIXI April 24, 2023) to prove its case.

The complainant avers that the country code Top-Level Domain “.in”, being a technical requirement does not reduce the deceptive similarity between complainant’s mark **ADBLUE** and the disputed domain name <**eagleadblueindustries.co.in**>. It relies upon *Incase Designs Corp. v. Stavros Fernandes*, Case No. INDRP/1209 (NIXI March 27, 2020), more particularly the following excerpt from the case:

“the mere addition of the Country Code Top Level Domain ‘.in’ does not add any distinctive or distinguishing element, so in essence, the disputed domain name is identical to Complainant’s INCASE mark”.

The complainant further avers that there is no excuse and the respondent willingly and deliberately has incorporated its trademark **ADBLUE** as a part of its domain name. The complainant states that this is an attempt by the respondent to associate itself with the complainant.

I have gone through the pleadings and documents filed by the complainant. With regard to the fulfilment of paragraph 4(a) of the INDRP policy, it is evident that the complainant has been continuously and extensively using the registered trademark **ADBLUE** in the course of trade and commerce since its adoption in the year 2005. Pertinently, the trademark **ADBLUE** is registered, dating back to the year 2005. The same indicates the complainant’s presence in India in automotive goods and/or accessories. The complainant has also registered its trademark **ADBLUE** across myriad classes (trademark registrations) and across numerous jurisdictions. Its statutory rights thus, in the trademark **ADBLUE** is well established. It is pertinent to note that the disputed domain name <**eagleadblueindustries.co.in**> was registered on November 04, 2023, almost 18 years after the adoption and subsequent registration of the complainant’s registered trademark, **ADBLUE**.



It is noteworthy that a perusal of the disputed domain name 'eagleadblueindustries.co.in' of the registrant/respondent shows that the respondent has used the complainant's trademark ADBLUE in its entirety and merely added the words "eagle" and a generic word 'industries', to it. The disputed domain name 'eagleadblueindustries.co.in' is deceptively similar, to the 'ADBLUE' trademark of the complainant, with merely the words 'eagle' and 'industries' added to it. It is well established that the mere addition of a TLD such as "co.in" and even words, such as 'eagle' and 'industries' to a registered trademark, are not significant in distinguishing a domain name. It has been held by prior panels deciding under the INDRP, such as in *Kenneth Cole Productions v. Viswas Infomedia INDRP/093*, that there is confusing/deceptive similarity where the disputed domain name wholly incorporates a complainant's trade mark. It is further noteworthy that, a TLD/ccTLD such as "co.in" is an essential part of domain name. Therefore, it cannot be said to distinguish the respondent's domain name 'eagleadblueindustries.co.in' from the complainant's trademark ADBLUE. In **Satyam Infoway Ltd vs Siffynet Solutions Pvt. Ltd AIR 2004 SC 3540**, the Hon'ble Supreme Court of India stated that the law pertaining to the Trademark Act, 1999 shall be applicable to domain names in India. The Hon'ble Supreme Court of India also observed that domain names have the same characteristics of a trademark and thus act as a source and business identifier. In *M/s Retail Royalty Company v. Mr. Folk Brook INDRP/705*, wherein on the basis of the complainant's registered trademark and domain names for "AMERICAN EAGLE", having been created by the complainant much before the date of creation of the disputed domain name <americaneagle.co.in> by the respondent, it was held that:

"The disputed domain name is very much similar to the name - and trademark of the complainant. The Hon'ble Supreme Court of India has recently held that the domain name has become a business identifier. A



domain name helps identify the subject of trade or service that an entity seeks to provide to its potential customers. Further that there is a strong likelihood that a web browser looking for AMERICAN EAGLE products in India or elsewhere would mistake the disputed domain name as of the complainant. "

A precedent, pertinent to the present case at hand, it being *WhatsApp, Inc. v. Nasser Bahaj*, WIPO Case No. D2016-058. The relevant excerpts are highlighted as hereinunder:

"The disputed domain name <ogwhatsapp.org> comprises the Complainant's trademark WHATSAPP combined with the letters "og" which are the initials of the developer Osama Ghoraib as indicated on the website of the Respondent. Adding these two letters does not in any way eliminate the confusing similarity with the Complainant's trademark. As for the gTLD ".org", it is established that a gTLD does not typically eliminate confusion.

The disputed domain name <whatsapp-plus.org> comprises the Complainant's trademark WHATSAPP in its entirety. Adding the term "plus" not only does not eliminate confusion but on the contrary gives the impression that new and enhanced versions of the Complainant's application are available through the website the disputed domain name resolves to."

The complainant has rights in the trademark ADBLUE by way of trademark registrations across myriad classes, and by virtue of use in the course of trade, as part of their company. Pertinently, the use is much prior to the date on which the respondent created the impugned domain <eagleadblueindustries.co.in> incorporating the complainant's trademark and trade name ADBLUE in totality and as a whole. I agree that merely adding the word "eagle" and "industries" not only creates confusion, but may even make a potential web user believe that this may well be associated with the complainant.


 Arbitrator
 Bharat S
 Kumar
 Arbitrator

The respondent has not filed any response to the assertions put forth by the complainant. The averments of the complainant thus remain unrebutted.

In view of the above facts and submissions of the complainant, on perusal of the documents filed and annexed with the complaint, I therefore hold that the disputed domain name <eagleadblueindustries.co.in> of the registrant (respondent) is near identical and/or confusingly/deceptively similar to the trademark ADBLUE of the complainant.

- ii. Condition no.4 (b) the Respondent (Registrant) has no rights or legitimate interest in respect of the domain name:

The complainant asserts that the respondent is unable to invoke any of the circumstances set out in Paragraph 6 of the .IN Policy to demonstrate rights or legitimate interests in the domain name. To further its claims, the complainant states that the disputed domain name has not been used in connection with *bona fide* offering of goods or services by the respondent. The complainant asserts that the website www.eagleadblueindustries.co.in (impugned website) **was operational earlier, but was taken down pursuant to the cease and desist notice by complainant to respondent.** The complainant further has filed a few extracts of the impugned website to show the *mala fides* of the respondent (**Annexure 9**). The complainant also avers that it is evident, that the impugned website was promoting Diesel Exhaust Fluid products under the mark 'Eagle Adblue', which is the same product offered by complainant under its mark **ADBLUE**. Therefore, use of complainant's mark by respondent for identical products shows their intention to mislead the consumers as to the source of such products. The complainant relies upon *Hitachi Limited v. Kuldeep Kumar*, Case No. INDRP/1092 (NIXI June 14, 2019)

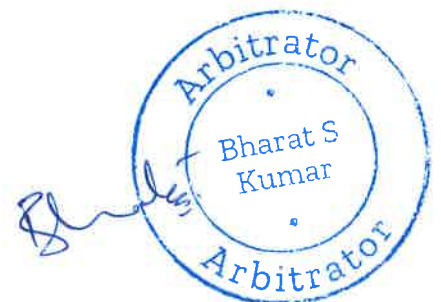


Arbitrator
Bharat S
Kumar
Arbitrator

The complainant also avers that the respondent's use of the disputed domain name is for commercial gain as the respondent's website offers for sale goods bearing the complainant's ADBLUE trademark(s). It states that the respondent's use of the complainant's ADBLUE trademark is unauthorised. The complainant states that the respondent's acts are probative of its intention to make profit from unauthorised use of complainant's ADBLUE trademark. It further states that the respondent has been using its trademark to show an association and connection with it. Therefore, it states that the respondent has no legitimate interest in the disputed domain name, rather the sole purpose of its registration is to misappropriate the reputation associated with the complainant's popular trademark, ADBLUE.

The complainant claims that it has therefore established a *prima facie* case that the respondent has no rights and legitimate interests in the disputed domain name.

I agree with the assertions put forth by the complainant. I believe that the complainant has established its rights in the trade mark ADBLUE. It is significant to note that the use of ADBLUE in the respondent's domain name is definitely likely to give a false impression to internet users that the disputed website is either owned by the complainant or is affiliated to the complainant in some manner. The respondent cannot conceivably claim that its use of the complainant's trademark is *bona fide* as per paragraph 6(a) of the .IN Policy or is commonly known by the domain name in accordance with paragraph 6(b) of the .IN Policy.



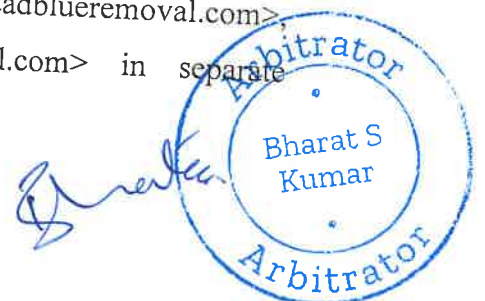
The mere fact that the disputed domain name is registered does not imply that the respondent has any rights or legitimate interests in them. Further, the mala fides of the respondent seem to be writ large from the fact that it had taken down the website after a notice from the complainant. In *Deutsche Telekom AG v. Phonotic Ltd.* (WIPO Case No. D2005-1 000), it has been held that "Registration of a domain name in itself does not establish rights or legitimate interests for purposes of paragraph 4(a)(ii) of the Policy". Therefore, any use of the disputed domain name by the respondent is not a legitimate, non-commercial or fair use. The respondent thus has no rights or legitimate interests in, the disputed domain name.

The adoption of word/mark "ADBLUE", therefore in the disputed domain name affirms the *mala fide* intention of the respondent to make use of and ride on the coat tails of the complainant for earning commercial benefits. Such a conduct demonstrates anything, but a legitimate interest in the domain name.

It is pertinent to note that the complainant has also not licensed the use of the mark, ADBLUE, to the respondent. In such as situation, there is no reason for the respondent to use the same as its domain name. The use is therefore clearly unauthorized. A decision of a previous panel, *Wacom Co. Ltd. v. Liheng*, INDRP/634, is relevant in this case. It was stated that:

"the Complainant has not licensed or otherwise permitted the Respondent to use its name or trademark or to apply for or use the domain name incorporating said name"

I further peruse and rely upon decisions of the WIPO panel filed with the present complaint as Annexures 8 and 10, whereby the panel had transferred in three domain names, <adblueremoval.com> <adblueremoval.com> and <adblueremoval.com> in separate



decisions. Pertinently, the WIPO panel has recognized the statutory rights in the trademark **ADBLUE** of the complainant.

It is reiterated that the respondent (registrant) has not filed any response to counter the complainant's assertions, despite service. The respondent has thus failed to satisfy the conditions contained in clauses 6(a),(b) and (c) of INDRP Policy. Significantly, the respondent has never been identified with the disputed domain name or any variation thereof. The respondent's (Registrant) use of the disputed domain name will inevitably create a false association and/or affiliation with complainant and its trademark mark(s), **ADBLUE**.

Therefore, in view of the submissions made in the complaint and on perusal of the accompanying documents, I am of the opinion that the respondent has no rights or legitimate interests in respect of the disputed domain name. Accordingly, condition 4(b) of the INDRP policy is decided in the favour of the complainant.

- iii. Condition 4(c): The Registrant's domain name has been registered or is being used in bad faith:

To look into condition 4 (c) of the INDRP policy, clause 7 is to be looked into. Clause 7 of the INDRP policy states as under:

For the purposes of Clause 4(c), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the Registration and use of a domain name in bad faith:


- (a) *circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to*



- the Complainant, who bears the name or is the owner of the Trademark or Service Mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or*
- (b) the Registrant has registered the domain name in order to prevent the owner of the Trademark or Service Mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or*
- (c) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location; or*
- (d) The Registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor.*

The complainant states that the issue at hand falls 7 (c) of the INDRP policy as the Registrant (respondent) has intentionally attempted to attract users to the Registrant's website. The complainant states that the respondent has registered the disputed domain name subsuming the complainant's trademark ADBLUE, with the sole reason of attracting prospective customers to its website and gain commercially. The complainant states that by using the disputed domain name, the respondent was attracting users to its website in order to make commercial gains. The complainant further states that the respondent's bad faith is readily established by its brazen and unauthorized use of the mark **ADBLUE** in connection with the same products that are offered by complainant, as detailed in the complaint. It avers that the respondent's bad faith and intent is also clear from the fact that apart from disputed domain name, the respondent also

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registered the domain name <eagleablue.com>. It states that the complainant has already filed a domain name complaint against the said domain name and received a favourable order from WIPO. The copy of the WIPO decision has been attached as **Annexure 10**.

It is pertinent to reiterate that the complainant is vested with statutory rights across myriad classes in its ADBLUE trademark in India and across the globe. The use of the trademark ADBLUE has been from the year 2005. The respondent's registration of a disputed domain name wholly incorporating the complainant's trademark is most certainly to ride on the coat tails of the complainant's commercial success which its ADBLUE trademark has attained over the past 20 years. It is also noteworthy that the actions of the respondent seem to fall squarely within subclause (c) hereinabove.

Given the enormous success of the complainant's business, its known trademark ADBLUE, there seems to be no reason for the respondent to adopt an identical name/ mark with respect to the impugned domain name. This adoption by the respondent, of course seems to create a deliberate and false impression in the minds of users that the respondent is somehow associated with or endorsed by the complainant. A case by a previous panel, *M/s Merck KGaA v Zeng Wei JNDRP/323*, can be referred wherein it was stated that:

"The choice of the domain name does not appear to be a mere coincidence, hut a deliberate use of a well-recognized mark... such registration of a domain name, based on awareness of a trademark is indicative of bad faith registration. "

It is noteworthy that Rule 3 of .IN Domain Name Dispute Resolution Policy (INDRP), casts obligations on a registrant, such as the respondent here. The same provides as under:




3. Registrant's Representations

By applying to register a domain name, or by asking a Registrar to maintain or renew a domain name registration, the Registrant hereby represents and warrants that:

(a) the credentials furnished by the Registrant for registration of domain name are complete and accurate;


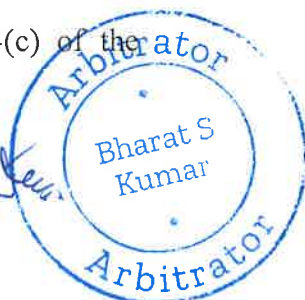
(b) to the knowledge of Registrant, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;

(c) the Registrant is not registering the domain name for an unlawful and malafide purpose; and

(d) the Registrant will not knowingly use the domain name in violation or abuse of any applicable laws or regulations. It is the sole responsibility' of the Registrant to determine whether their domain name registration infringes or violates someone else's rights.

It is evident from above rule that rule 3(b) and (d) puts an obligation on the Registrant, the respondent herein, before registering a domain name. The registrant is to verify that the registration of the domain name will not infringe upon or otherwise violate the rights of any third party. That, prior decisions of the WIPO panel(Annexure 10 of the complaint herein) and a notice sent by the complainant in this complaint affirms that the respondent would have been aware of the complainant's ADBLUE trademark since the registration of the disputed domain name.

From a perusal of the averments and documents filed herewith, there is therefore no doubt that the respondent has got the disputed domain name registered in bad faith and to ride on the complainant's ADBLUE trademark's goodwill and reputation. The actions of the respondent are thus in contravention with paragraph 4(c) of the



Arbitrator
Bharat S
Kumar
Arbitrator

INDRP policy. I therefore hold that the respondent's domain name has been registered in bad faith.

Decision

In view of the foregoing, I hold that the disputed domain name, <eagleadblueindustries.co.in> is confusingly similar to the complainant's 'ADBLUE' trademark(s). I further hold that the respondent has no rights or legitimate interests in respect of the disputed domain name and that the same was registered in bad faith by the respondent.

In accordance with the INDRP Policy and Rules, I direct that the disputed domain name registration be transferred to the complainant. No order as to costs.

Date: 24.03.2025

Place: New Delhi

