



सत्यमेव जयते

Government of National Capital Territory of Delhi

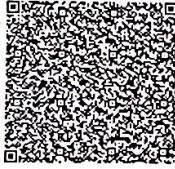
₹100

e-Stamp

Certificate No. : IN-DL43764446362306W
Certificate Issued Date : 27-Aug-2024 02:45 PM
Account Reference : IMPACC (SH)/dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference : SUBIN-DLDSLHIMP1740307738087806W
Purchased by : DEEPALI GUPTA
Description of Document : Article 12 Award
Property Description : Not Applicable
Consideration Price (Rs.) : 0
(Zero)
First Party : DEEPALI GUPTA
Second Party : Not Applicable
Stamp Duty Paid By : DEEPALI GUPTA
Stamp Duty Amount(Rs.) : 100
(One Hundred only)

सत्यमेव जयते

₹100 ₹100 ₹100 ₹100



₹100



Please write or type below this line IN-DL43764446362306W

**DEEPALI GUPTA
SOLE ARBITRATOR**

**.IN Registry - National Internet Exchange of India
INDRP Case No: 1880**

In the matter of Arbitration Between:

Tata Communications Limited

.....Complainant

Versus

Chandan

.....Respondent

Disputed Domain Name : < vsnl.co.in >

Statutory Alert:

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

**DEEPALI GUPTA
SOLE ARBITRATOR
.IN Registry - National Internet Exchange of India
INDRP Case No: 1880**

In the matter of Arbitration Between:

Tata Communications Limited,
C-21 & C-36, G-Block,
Bandra-Kurla Complex,
Mumbai – 400 098, Maharashtra.
Through its Authorised Representative:
Arjun T. Bhagat & Co.,
Advocates / Trade Mark & Patent Attorneys.
132, Shaheen Apartments, Mody Street,
P. B. No. 1865, Fort, Mumbai – 400 001. INDIA.
Ph.:91 - 22 – 2269 67 29 / 3717 / 3718.
Fax:91 – 22 – 2269 58 75.
E-mail:legal@atbhagatandco.comCOMPLAINANT

VERSUS

Chandan,
II Main, Bangalore,
Karnataka – 560 061.
INDIA.
chandan.webs@gmail.com
Phone: 944885207RESPONDENT

Disputed Domain Name : < VSNL.CO.IN >

ARBITRATION AWARD

DATED AUGUST 29, 2024.

1) The Parties:

The Complainant in the present arbitration proceedings is Tata Communications Limited, having its registered office at VSB, Mahatma Gandhi Road, Fort Mumbai – 400 001, Maharashtra,



India, and its corporate office C-21 & C-36, G-Block, Bandra-Kurla Complex, Mumbai – 400 098, Maharashtra. The Complainant is represented by its Authorized Representative Mr. Vinod Bhagat, Arjun T. Bhagat & Co., Advocates/Trade Mark & Patent Attorneys, 132, Shaheen Apartments, Mody Street, P. B. No. 1865, Fort, Mumbai – 400 001. India.

The Respondent in the present case is Chandan, having its address at II Main, Bangalore, Karnataka – 560 061, as per the details available in the 'WHOIS' database by National Internet Exchange of India (NIXI).

2) The Domain Name, Registrar and Registrant:

The disputed domain name is <VSNL.CO.IN >

The Registrar is Dynadot LLC

The Registrant is - Chandan, having its address at II Main, Bangalore, Karnataka – 560 061, chandan.webs@gmail.com

3) Procedural History:

This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP) adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28th June 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed Ms. Deepali



Gupta as the Sole Arbitrator to arbitrate the dispute between parties in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.

That the present arbitration matter was assigned to an empaneled Arbitrator initially and Notice dated 30/7/2024 was issued by the said Arbitrator in terms of the INDRP Rules and Policy. The Respondent was called upon to submit their response within seven (7) days of the receipt of the Arbitrators email. That as per record amended Complaint with annexures was filed by the complainant. However, thereafter the said Arbitrator recused himself and the matter was reassigned and accordingly NIXI formally notified the parties of the appointment of Ms. Deepali Gupta as the Sole Arbitrator to arbitrate the dispute between parties in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.

The Arbitrator received no response from the respondent within the timeline as per the Notice or even thereafter. Further no delivery failure notification was received from the Respondents email id, therefore the respondent is deemed to be served with the complaint. In view of no response / acknowledgement / communication from the Respondent, the Complaint is being decided ex-parte and solely based on the materials and evidence submitted by the Complainant and contentions put forth by them.



4) FACTUAL BACKGROUND:

The Complainant herein is a group company of Tata Group of Companies, which is one of India's largest conglomerate, headquartered in Mumbai, comprising of nearly 100 companies encompassing several business sectors ranging from chemicals, consumer products, energy, engineering goods, steel, motors, appliances, hotels, information systems, materials and services.

The Complainant was originally incorporated in the year 1986 under the name and style of Videsh Sanchar Nigam Limited (VSNL), being a public sector enterprise engaged in offering overseas communication services.

Before its acquisition by the Tata Group, the Complainant was a government-owned telecommunications service provider and was under the ownership of the Department of Telecommunications, Ministry of Communications, Government of India. In the year 2002, the Indian Government privatized VSNL and the Tata Group acquired a controlling stake in the Complainant company. In 2008, the Complainant company was renamed as Tata Communications Limited.

In relation to its aforementioned services, the Complainant has used the trade mark VSNL since atleast February 2002. The trade mark VSNL was independently adopted from its former corporate name, Videsh Sanchar Nigam Limited. Extensive business had been undertaken by the Complainant under its former corporate name, using the said trade mark VSNL, as a result of which the said trade mark acquired enormous goodwill and valuable reputation. The trade mark VSNL is distinctive of the services rendered by the Complainant and a residual goodwill and brand recall continues to vest in the said trade mark VSNL, which is even today identified with the Complainant and with none else. Valuable




common law rights have thus come to be acquired by the Complainant in its trade mark VSNL. Owing to its wide usage, both in the domestic markets as well as overseas, the services rendered using the trade mark VSNL connote and denote the offerings rendered by the Complainant. Any use of the trade mark VSNL when used in relation to any goods or services would ordinarily be associated with the Complainant and with no one else.

5) Summary of Complainant's contentions:

The Complainant's contentions are divided into three parts as follows:

A. Firstly:

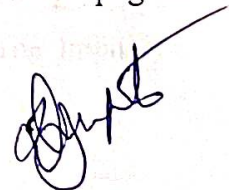
- a) The Complainant submits that the present dispute has arisen on account of registration of the disputed domain name <vsnl.co.in> by the Respondent which fully incorporates the well-known trademark 'vsnl' of the Complainant. The disputed domain name <vsnl.co.in> is virtually identical or at least confusingly similar to Complainant's prior trademarks as the Disputed Domain Name <vsnl.co.in> reproduces Complainant's trademark 'vsnl' in its entirety. That the incorporation of a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to Complainant's registered trademark.
- b) The Complainant has submitted that Complainant is the registered proprietor of the trade mark VSNL. The Complainant relies on ANNEXURE- C, Copy of its registration certificate and entry thereof in the Register of Trade Marks maintained online pertaining to the said registration. The disputed domain name www.vsnl.co.in is identical with and/or is deceptively similar to the Complainant's trade mark 'VSNL'.



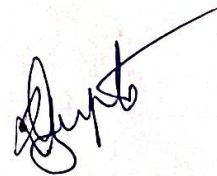
c) It is further submitted that in fact, the whole of the Complainant's trade mark is subsumed and is to be found in the impugned domain name. The Complainant has acquired valuable statutory rights in its trade mark 'VSNL', which rights are sought to be impinged and violated by the Respondent who has no rights of whatsoever nature therein in the disputed domain name. The impugned registration of the almost identical/deceptively similar domain name www.vsnl.co.in has been obtained by the Respondent much subsequent to the acquisition of statutory rights in the Complainant's favour.

B. Secondly:

- a) The Complainant further submits that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. It is submitted that the Respondent is neither an authorized vendor nor a licensee of Complainants and does not have authorization to use the trade Mark or to register any domain name containing the trade Marks or any confusingly similar variation thereof of the Complainant.
- b) The Complainant submits that the disputed domain name was adopted and registered by the Respondent on 15.02.2024, which is a date much subsequent to the registration and first use of the Complainant's trade mark VSNL. The Complainant submits that Respondent has designed the impugned website under the domain name to defraud innocent netizens into believing that the services rendered thereunder are offered by the Complainant. The Respondent unauthorized use of an arbitrary name, first coined and invented by the Complainant clearly indicates that the Respondent was very much aware of the Complainant, their reputation and their business. The Complainant submits that the Respondent does not have any legitimate interest in the impugned domain name.



- c) It has further been submitted by the Complainant that the Respondent has not been associated with the Complainant nor with their services nor has the said Respondent been legally authorized, permitted and/or licensed by the Complainant to register or use the disputed domain name and website www.vsnl.co.in. It is submitted that the nefarious activities of the Respondent is aimed at practicing deception and fraud upon the unwary public who would be confused upon seeing the Respondent's website and domain name and are likely to access the same under the belief that the same is the website of the Complainant or is associated or affiliated with or is sponsored by the Complainant. The Complainant submits that the disputed domain name is sought to be used by the Respondent to lure the unwary people into believing that they are dealing with the Complainant. The Complainant relies on **Annexure G**.
- d) The Complainant submits that though Respondents have no legitimate right or interest in the disputed domain name www.vsnl.co.in, it is seeking to encash upon the Complainants' goodwill and reputation. There is thus deception and fraud perpetrated and/or sought to be perpetrated by the Respondents. Such fraud is likely to result in personal gains and enrichment to the Respondents whilst tarnishing and demeaning the Complainants' trade mark, its goodwill and its impeccable reputation earned through sheer dint of hard work and toil. The Complainant further submits that all of this has been knowingly undertaken by the Respondents, who has otherwise no right or interest in the trade mark VSNL.
- e) It has been submitted by Complainant that the Respondents have no bonafide rights in respect of the impugned domain name but are holding on to such registration with a malafide motive of perpetrating fraud by usurping upon the trade mark of the Complainant. The impugned



domain name has been knowingly and fraudulently obtained by the Respondent to piggy-back and ride upon the goodwill and reputation earned by the Complainant and not because of some right or legitimate interest of its own.

C. Thirdly:

- a) The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It is submitted that the disputed domain name has been dishonestly adopted by the Respondent. The same has been adopted by the Respondent by using the Complainant's trade mark 'VSNL' in its entirety. By registering and using the impugned domain name, the Respondent is seeking to lure the gullible members of the public into believing that they are accessing the Complainant's website and be misled into believing that the services offered by the Respondent are in some way associated with the Complainant. The Respondent is likely to collect money from the unwary public by practicing deception, under the guise of offering additional services in some way connected with the Complainant, leading to fraud.
- b) It has been submitted by the Complainant that the registration of disputed domain name in favour of the Respondent is done with the sole motive of disrupting and usurping the Complainants' business and with a malafide motive of attracting, for commercial gains and for making illegal profits, internet users to its web site causing them to believe that the Respondent is associated with, or has some means, sponsorship and/or affiliation with the Complainant whereas no such thing exists. The Complainant submits that the Respondent has knowingly used the impugned domain name to derive illegal gains and benefits to which it



is not entitled with the motive of selling, renting and transferring the impugned domain name to the Complainant for a valuable consideration. The adoption of the disputed domain name thus appears to have been undertaken in utter bad faith and is completely dishonest. The Complainant states that the impugned domain name has been registered by the Respondents without any sufficient cause, except for personal enrichment.

- c) Hence, the Complainant asserts that the disputed domain name has been registered and being used by the respondent in bad faith.

6. RESPONDENT:

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

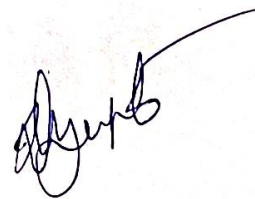
7. DISCUSSION AND FINDINGS

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

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

Identical or confusingly Similar:

It is found that the Complainant has the right in the 'VSNL'



trademark. The disputed domain name includes the Complainant's 'VSNL' trademark. Such inclusion is by itself enough to consider the disputed domain name confusingly similar to the Complainant's VSNL trademark. The suffix / addition of the term "CO" in the disputed domain name does not prevent a finding of confusing similarity. The suffix 'CO' has been probably used to mislead internet consumers. Merely adding of a generic term to a trademark in a domain name does not mitigate the confusing similarity between the mark and the domain name.

It is well established that the full incorporation of a complainant's trademark in a disputed domain name is sufficient for a finding of identical or confusing similarity. 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 submitted evidence of its trademark registrations for the "VSNL" mark in India and has accordingly established its rights in the mark. The Complainant has also provided evidence of the reputation, goodwill and fame associated with its mark due to its extensive use.

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

The disputed domain name is accordingly found to be confusingly similar to the trade mark. in which Complainant has rights. The requirement provided for in paragraph 4(a) of the Policy is accordingly satisfied.



Rights and Legitimate Interests:

There is no evidence that shows the Respondent is commonly known by the name "VSNL" or that the Respondent is affiliated with the Complainant or authorized or licensed to use the Complainant's trademark.

It is seen that the disputed domain name resolves to a website that is otherwise a passive website and is surreptitiously used as a hyper-link to third party websites. The impugned website is so designed that it takes the visiting customers to websites of different universities offering curriculum courses in different fields of education. The Respondent has designed the impugned website using the disputed domain name to mislead innocent netizens into believing that the Complainant has diversified its business into the field of education, or is associated with, or endorses such third parties. Consequently, Respondent fails to show that the non-commercial intention or the fair use of the disputed domain name. It is plausible that Respondent has no legitimate interest or rights in the disputed domain name. Hence, as a matter of fact, it cannot be inferred that Respondent is making a legitimate non-commercial or fair use of disputed domain name. Hence apparently the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services or for any legitimate noncommercial or fair use.

Since the Respondent did not reply to the Complaint in this proceeding, it is found as per the available record that the Complainant has established an unrebutted prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The above requirement provided for in paragraph 4(b) of the Policy is accordingly satisfied.

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a series of loops and a long horizontal stroke extending to the right.

Bad faith

The complainant's rights in the Trademark predate the registration of the disputed domain name by numerous years. Moreover it is noted that the Complainants renown dates back many decades before the registration of the disputed Domain Name. The Complainant has used the trade mark VSNL since atleast February 2002. The trade mark VSNL was independently adopted from its former corporate name, Videsh Sanchar Nigam Limited. The trade mark VSNL when used in respect of telecommunication services is inherently distinctive, is identified with and is associated with the aforementioned services rendered by the Complainant. On account of such use, the trade mark VSNL has acquired a secondary meaning synonymous with the services rendered by the Complainant. Owing to its wide usage, both in the domestic markets as well as overseas, the services rendered using the trade mark VSNL connote and denote the offerings rendered by the Complainant. Therefore, it is highly unlikely that the Respondent would not have known of the Complainant's right in the trademark at the time of registration of the disputed domain name.

It is implausible that Respondent was unaware of Complainant's Mark when he registered the disputed domain name. Bad faith can be found where respondent "*knew or should have known*" of Complainant's trademark rights and, nevertheless registered a domain name in which he had no rights or legitimate interests.

The evidence on record clearly demonstrates the Complainant's prior adoption and extensive use of the 'VSNL' mark which is even otherwise a coined word. The disputed domain name has been



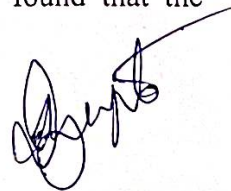
registered much later. These facts establish the Complainants prior adoption of the 'VSNL' mark and the evidence filed by the Complainant also establish that it has extensively used the said trademark in commerce for a number of years continuously and the mark is recognized internationally including India and is well known, which has substantial value.

The Respondent has been found to have no rights or legitimate interests in the disputed domain name. It is furthermore observed that the facts, circumstances and the evidence indicate that the Respondent has used the VSNL Mark in the disputed domain name to intentionally mislead and attract for commercial gain, internet users to its website by creating a likelihood of confusion with the mark of Complainant and based on the reputation associated with the mark.

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

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

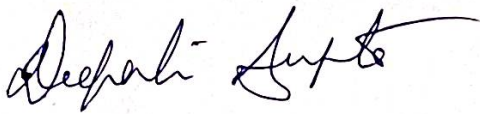
In the light of all that has been discussed, it is found that the

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Respondent has registered the disputed domain name in bad faith. Accordingly, it is found that the Complainant has established the third element under paragraph 4(c) of the Policy.

DECISION

In view of the above findings it is ordered that the disputed domain name <VSNL.CO.IN> be transferred to the Complainant.



Deepali Gupta
Sole Arbitrator
Date: 29th AUGUST, 2024