



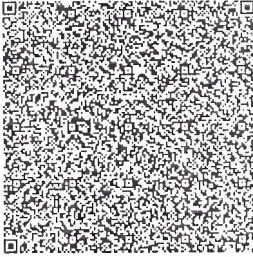
सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No. : IN-DL85502790869345Q  
Certificate Issued Date : 03-Oct-2018 01:25 PM  
Account Reference : IMPACC (IV)/ dl948703/ DELHI/ DL-DLH  
Unique Doc. Reference : SUBIN-DL94870375624661559825Q  
Purchased by : POOJA DODD  
Description of Document : Article Others  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : POOJA DODD  
Second Party : Not Applicable  
Stamp Duty Paid By : POOJA DODD  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



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#### ARBITRATION AWARD

**.IN REGISTRY - NATIONAL INTERNET EXCHANGE OF INDIA**

**.IN domain Name Dispute Resolution Policy**

**INDRP Rules of Procedure**

#### Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.st.cilestamp.com". Any discrepancy in the details on this Certificate and as available on the website 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.

**Disputed Domain Name www.standardelectricals.in**

**Decision of Ms. Pooja Dodd, Sole Arbitrator**

**INDRP Case No. 1025**

**IN THE MATTER OF:**

Havells India Limited

904, 9th Floor, Surya Kiran building

K.G. Marg, Connaught Place

New Delhi – 110001, India

...Complainant

Versus

Jojo Alappat

The Standard Agencies

Kaloor, Kochi

Kochi, Kerala - 682017

India

...Respondent

**1. The Parties:**

The Complainant in this arbitration proceeding is Havells India Limited, a company incorporated under the laws of India with registered office at 904, 9th Floor, Surya Kiran building K.G. Marg, Connaught Place, New Delhi – 110001, India. The Complainant is represented by Rodney D. Ryder of Scriboard Advocates & Legal Consultants.

PD

The Respondent is Jojo Alappat with office at The Standard Agencies Kaloor, Kochi, Kochi, Kerala – 682017, India as per the details provided by NIXI. The email address connected with the Registrant is [thestandardagencies@gmail.com](mailto:thestandardagencies@gmail.com) and the phone number connected with the Registrant is +91.9388850009.

**2. Domain Name and Registrar:**

The Disputed Domain Name is [www.standardelectricals.in](http://www.standardelectricals.in) which was registered on October 27, 2016.

The accredited Registrar with whom the Disputed Domain Name is registered is GoDaddy.com, LLC situated at 14455 N. Hayden Rd., Ste. 226, Scottsdale, Arizona 85260, United States of America (Registrar IANA ID no. 146.)

**3. Procedural History:**

This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (the “Policy”), adopted by NIXI and the INDRP Rules of Procedure (the “Rules”), which were approved by NIXI on June 28, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the Disputed Domain Name with a NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes pursuant to the Policy and the Rules.

As per the information received from NIXI, the history of the proceedings is as follows:

- 3.1. The Complaint was filed with the .IN Registry, NIXI, against Jojo Alappat. NIXI verified the Complainant and its annexures for conformity with the requirements of the Policy and the Rules.

PD

- 3.2. In accordance with the Rules, Paragraph – 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed me as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, the Policy and the Rules.
- 3.3. I submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by NIXI to ensure compliance with Paragraph 6 of the Rules.
- 3.4. NIXI notified the Parties of my appointment as the Arbitrator via email on August 31, 2018 and served an electronic copy of the Complaint on the Respondent. The Parties were notified about the commencement of arbitration proceedings on August 31, 2018 by me and in the same email, I informed the parties that the Complainant's lawyer, Mr. Rodney Ryder and I have been colleagues in the past, while working at a law firm and if either party had any objection or doubted my impartiality, I requested such party to send a written communication so that I may recuse myself. In the absence of objections, the Respondent was directed to submit a Response within 10 days. No objections were raised and the last date to submit the Response expired on September 11, 2018, and no Response was submitted.
- 3.5. On September 11, 2018, I informed the parties that though no Response was received from the Respondent within period granted, I was granting an additional 10 days in the interest of justice, and that if no reply was filed by September 21, 2018, the award will be passed on merits.
- 3.6. Since the Respondent failed to submit any response or documents within the stipulated time, this Complaint is being decided on merits based on materials submitted by the Complainant and contentions put forth by it, in accordance with the Rules.

PD

### Grounds for Arbitration Proceedings

- A. The disputed domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights;
- B. The Respondent has no rights or legitimate interest in respect of the domain name; and
- C. The disputed domain name was registered and is being used in bad faith.

#### 4. Summary of the Complainant's Contentions:

In support of its case, the Complainant, *inter alia* has made the following submissions:

4.1. The Complaint is primarily based on:

4.1.1. Trade mark registrations for STANDARD marks namely:

1. **STANDARD**

2. 

3. 

and related variations of the above, based on their registration and use in India and overseas,

4.1.2 the domain name [www.standardelectricals.com](http://www.standardelectricals.com).

4.2 The Complainant and its predecessors in title consider their STANDARD marks extremely valuable assets and thus in order to protect them, they have secured trade mark registrations for them not only in India but also overseas in countries such as Bangladesh, Nepal, Nigeria, Iran and OAPI. In addition, the Complainant also holds copyright registrations and an application for the STANDARD labels.

B

- 4.3 The Complainant is a billion-dollar organization and one of the fastest growing Fast Moving Electrical Goods (FMEG) companies having extensive production and distribution networks across India and internationally, providing a wide range of world class industrial and consumer electrical products.
- 4.4 The Complainant, being a major power distribution equipment manufacturer, has now come to enjoy an enviable market dominance across a wide spectrum of products ranging from Industrial & Domestic Circuit Protection Devices, Cables & Wires, Motors, Fans, Power Capacitors, CFL Lamps, Luminaires for Domestic, Commercial & Industrial applications, Modular Switches, Water Heaters, Domestic Appliances, home automation, solar range of products, personal grooming products, Water Purifiers, Air Conditioners, Televisions and Washing Machines covering the entire range of household, commercial and industrial electrical needs. Further, a strong global distribution network of the Complainant continuously strives to set new benchmarks in prompt delivery and service to customers.
- 4.5 The Complainant owns prestigious global brands such as STANDARD, HAVELLS, CRABTREE, PROMTEC, REO and LLOYD. The STANDARD brand of the Complainant is an extremely popular brand name in India and elsewhere. The Complainant's trade mark, brand name and trading style under the STANDARD brand is an integral part of the Complainant's business and is widely recognized by the members of the trade and public with the Complainant on account of long-standing use going as far back as 1958 by the Complainant's predecessors in title in respect of an extensive range of products.
- 4.6 The earliest trade mark application for the mark STANDARD was filed by the Complainant's predecessors in title in the year 1961 in relation to a wide range of

electric products. The products of the Complainant under the mark STANDARD are also available internationally since at least 1972 due to its strong export base. The Complainant's goods under the STANDARD marks have met with voluminous and enviable sales running into crores of Rupees translating into enormous goodwill and reputation amongst members of the trade and general public.

4.7 The Complainant offers a wide range of products under the brand STANDARD. This includes highly differentiated domestic and industrial products such as Miniature Circuit Breakers (MCBs), Residual Current Circuit Breakers (RCCBs), Distribution Boards (DBs), Air Circuit Breakers (ACBs), Molded Case Circuit Breakers (MCCBs), Residual Current Circuit Breaker with Over Current Protection (RCBOs), changeover switches, switch disconnecter fuses (SDFs), HBC fuses, modular switches, copper flexible cables, fans, water heaters, etc.

4.8 The Complainant has also pioneered the concept of exclusive brand showrooms in the electrical industry under the name of 'Havells Galaxy' and 'Standard Gallery'. The same are spread across the country, helping customers, both domestic and commercial, to choose from a wide variety of products for different applications. The Complainant's service offers widest coverage spread across over 450 towns with more than 2,000 trained technicians who are connected through state-of-the-art mobile application for real time monitoring of consumer queries.

4.9 The Complainant and its predecessors in title have, since the adoption of the trade mark STANDARD spent enormous sums of money and have put in tremendous efforts in terms of advertising and sales promotion of the said mark. The goodwill of the Complainant's business is reflected, *inter alia*, in its extensive worldwide sales turnover and expenditure incurred on advertising and sales promotion.

4.10 The official website [www.standardelectricals.com](http://www.standardelectricals.com) is a comprehensive, unique and acclaimed introduction to the Complainant's mark STANDARD. The said domain name was registered in the year 2006. To enhance online experience of the consumer, the Complainant has revamped all its websites including the foregoing, to offer easy and faster access, intuitive navigation, consistent visual appeal, rich user interface, e-commerce and mobile e-commerce apart from easy product search, social media engagement, blogs, store locator, device responsive build and multilingual support.

4.11 The Complainant also offers its products for sale under the brand STANDARD through an online store on its website which can be accessed at the following URL: <https://shop.standardelectricals.com>. The Complainant's brand STANDARD has a huge social media presence. The brand's Facebook Page, available at: <https://www.facebook.com/StandardElectricalsIndia/>, has more than Sixty Thousand Followers. Similarly, the brand has a strong presence on Twitter through its official account available at: <https://twitter.com/stdelectricals>.

4.12 The Complainant and its predecessors in title have been extremely vigilant in safeguarding proprietary rights in the STANDARD marks and have from time to time, successfully initiated proceedings against third parties, who were found to be misusing or attempting to register STANDARD or deceptively similar marks. Moreover, STANDARD has also been declared a well-known mark pursuant to an order passed in CS (OS) 2966/2015.

4.13 In support of the contentions, the Complainant has furnished copies of the following documents:





Annexure A	Copy of and the e-mail sent by NIXI and the WHOIS database search conducted on August 28, 2018
Annexure B	Copy of .IN Domain Name Dispute Resolution Policy
Annexure C	Copy of the Incorporation Certificate of the Complainant
Annexure D	Documents such as Incorporation Certificates and Media Reports detailing the relationship between Havells India Limited and the predecessors in title of the STANDARD brand
Annexure E	Documents including correspondence and invoices evidencing the use of the STANDARD marks
Annexure F	Documents evidencing the availability of products bearing the STANDARD brand in a few foreign countries
Annexure G	Copy of CA Certificates mentioning the Sales and Advertisement figures related to STANDARD
Annexure H	Registration Certificates of the STANDARD marks in India and a list of all trade mark registrations/applications obtained/filed in India and other jurisdictions
Annexure I	Details of all copyright applications/registrations for STANDARD
Annexure J	Copy of the WHOIS details and Home Page of www.standardelectricals.com and Copy of the Home Page of the online store
Annexure K	Copies of a few advertisements featuring the Bollywood actress Alia Bhatt
Annexure L	Copies of Orders passed by the Hon'ble Courts

Annexure L1	Copy of the Order passed in Havells India Ltd vs. Pradeep Gupta & Anr. [CS (OS) 2966/2015]
Annexure M	The results [first page] of a 'Google' search conducted on the term 'Standard Electricals'
Annexure N	Promotional Material, Press Releases and other information on the mark STANDARD
Annexure O	Copy of the Terms and Conditions for Registrants issued by the .IN Registry
Annexure P	Copy of the home page of the Disputed Domain Name www.standardelectricals.in as on August 28, 2018
Annexure Q	Authorisation Letter / Vakalatnama

## 5 Discussions and findings:

The submissions and documents provided by Complainant lead to the conclusion that the STANDARD marks are well-known and form an integral part of the Complainant's business. The Complainant conducts business via its official website www.standardelectricals.com. The Respondent does not have any relationship with the business of the Complainant or any legitimate interest in the Disputed Domain Name. Moreover, the Complainant has not authorized the Respondent to use the STANDARD marks. The addition of the term 'electricals' which is related to the Complainant's business activities creates a connection or affiliation of the Disputed Domain Name with the Complainant's business interest and its well-known STANDARD marks in the minds of the public. It is evident that the Disputed Domain Name is identical to the Complainant's domain name www.standardelectricals.com which resolves at the official

website of the Complainant. The only difference in the two domain names in question are the top-level domains i.e. .in and .com. It is well-established that specific top-level domains do not affect the domain names for the purpose of determining if it is identical or deceptively similar.

It's a well-established principle that that once a Complainant makes a prima facie case showing that a Respondent lacks rights to the domain name at issue, the Respondent must come forward with the proof that he has some legitimate interest in the domain name to rebut this presumption.

6 **The Respondent and his default:**

The Respondent has not filed any Response to the Complaint. Paragraph 8(b) of the Rules requires that the Arbitrator must ensure that each party is given a fair opportunity to present its case. Even though sufficient time was granted, the Respondent has not filed any Response to the Complaint.

Paragraph 11(a) of the Rules empowers the Arbitrator to proceed with an *ex parte* decision in case any party does not comply with the time limits or fails to submit a response against the Complaint. As stated above, I initially gave the Respondent 10 days and in the absence of a Response, gave an additional 10 days to respond to the Complaint, but the Respondent failed to file any Response to the Complaint and has sought not to answer the Complainant's assertions or controvert the Complaint and its contentions, in any manner. I find that the Respondent has been given a fair opportunity to present his case but has chosen not to come forward and defend himself.

Paragraph 12(a) of the Rules provides that the Arbitrator shall decide the Complaint on the basis of the statements and documents submitted in accordance with the Arbitration and Conciliation Act, 1996 and any law that the Arbitrator deems fit to be applicable. In accordance with Paragraph 12 of the Rules, the Arbitrator may draw such inferences as are appropriate from the Respondent's failure to reply to the Complainant's assertions and evidence or to otherwise contest the Complaint.

In the circumstances, my decision is based upon the Complainant's assertions and evidence and inferences drawn from the Respondent's failure to submit a Response, despite having been given sufficient opportunity.

**7 The issues involved in the dispute:**

The Complainant invokes Paragraph 3 of the Rules to initiate an arbitration proceeding by submitting a Complaint to NIXI. The Respondent in registering a .in domain name submitted to the mandatory arbitration proceeding in terms of Paragraph 4 of the Policy, which determines the elements for a domain name dispute, which are;

- 1) whether the domain name in question is identical or confusingly similar to a trade mark;
- 2) why the Respondent cannot claim any legitimate interest in the trade mark;  
and
- 3) why it must be considered that the domain name in question is registered in bad faith.

These elements are discussed below in tandem with the facts and circumstances of this case.

Element 1- The Respondent's domain name is identical/confusingly similar to a name, trade mark or service mark in which the Complainant has rights:

I am of the view that the Complainant has submitted enough documentary evidence to prove its rights in and to the ownership of the STANDARD marks arising out of prolonged use and registration. The STANDARD marks have been extensively used by the Complainant to identify its business and goods. The Complainant has produced sufficient evidence to prove that it has been conducting business under the trade name 'Standard' since at least 1972. The submissions and documents provided by Complainant lead to the conclusion that the Complainant has proprietary rights, more particularly trade mark rights, copyrights and other common law rights in the STANDARD marks. The Disputed Domain Name contains the Complainant's STANDARD marks in its entirety and is followed by the generic word "electricals". Therefore, in light of the Complaint and accompanying documents, I am of the view that the Disputed Domain Name is nearly identical with the Complainant's well-known STANDARD marks. Thus, the use of the Complainant's STANDARD marks in the Disputed Domain Name will inevitably lead consumers to believe that the Disputed Domain Name is affiliated to the Complainant. Hence, the first element is satisfied.

Element 2 - The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name:

The Complainant conducts its business via its official website [www.standardelectricals.com](http://www.standardelectricals.com). The Respondent does not have any relationship with the business of the Complainant or any legitimate interest in the domain name [www.standardelectricals.in](http://www.standardelectricals.in). Moreover, the Complainant has, in its submissions

established that it has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use its STANDARD marks.

The Respondent is not commonly known by the Disputed Domain Name or the name 'Standard'. The burden of proof to establish any legitimate interests over the Disputed Domain Name falls on the Respondent, and by not responding to the Complaint, the Respondent has failed to establish legitimacy of registering the domain name www.standardelectricals.in. For these reasons, I find that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

Element 3 - The Disputed Domain Name has been registered in bad faith: Paragraph 6 of the Policy determines what constitutes bad faith. It includes-

*(i) 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 trade mark 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;*

*(ii) the Registrant has registered the domain name in order to prevent the owner of the trade mark 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*

*(iii) 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.*

PD

From the documents put forth before me by the Complainant, I am of the opinion that the Respondent has no previous connection with the Disputed Domain Name and any use of the Disputed Domain Name by the Respondent will result in confusion and deception of trade amongst the public who will assume an association or connection between the Complainant and the Respondent. Use of an identical domain name by the Respondent will lead to confusion with the Complainant's STANDARD marks as to source, sponsorship, endorsement and/or affiliation of the Respondent's business with that of the Complainant. Bad faith of the Respondent is evident from the fact that the Disputed Domain Name contains the generic term 'electricals' which is related to the business activities of the Complainant. Bad faith is further accentuated by the fact that the Disputed Domain Name is identical to the Complainant's domain name (barring the top-level domain name). Moreover, registration of a domain name that arises from the well-known STANDARD marks by the Respondent, who has no connection with and no authorization from the Complainant or any legitimate purpose to utilize the Complainant's STANDARD marks suggests bad faith.

The absence of any website on the Disputed Domain Name, despite creation of the Disputed Domain Name on October 27, 2016 amounts to passive holding of the domain name by the Respondent, which further establishes bad faith.

Thus, the conditions given under Paragraph 6 of the Policy are proved *vis a vis* the facts and circumstances of the present case proving bad faith registration by the Respondent. It appears beyond doubt that the Respondent adopted a domain name that is identical to the Complainant's well-known STANDARD marks and the Complainant's registered domain name resolving to its official website at

www.standardelectricals.com without authorization, for commercial gain and therefore, allowing the Disputed Domain Name to continue to operate, is likely to cause significant harm to the public and to the Complainant.

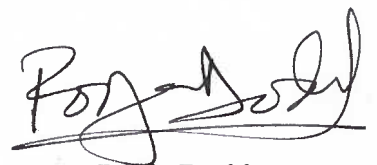
The above leads to the conclusion that adoption by the Respondent of the Disputed Domain Name shows opportunistic bad faith.

8 **Decision:**

In view of the foregoing, I am convinced that the Disputed Domain Name is confusingly similar to the Complainant's well-known STANDARD marks; the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and the Respondent's registration of the Disputed Domain Name is in bad faith. In accordance with the Policy and Rules, I direct that the Disputed Domain Name be transferred to the Complainant with immediate effect, with a request to NIXI to monitor the transfer.

This award is being passed within the statutory deadline of 60 days from the date of commencement of arbitration proceeding. The parties are to bear their own costs.

Dated: October 4, 2018



Pooja Dodd

Sole Arbitrator