

**Government of National Capital Territory of Delhi**

## e-Stamp

Certificate No.	: IN-DL04070696237589X
Certificate Issued Date	: 02-Dec-2025 12:06 PM
Account Reference	: IMPACC (IV)/ dl838903/ DELHI/ DL-NED
Unique Doc. Reference	: SUBIN-DL83890335119423128269X
Purchased by	: ABHINAV S RAGHUVANSHI
Description of Document	: Article 12 Award - Immovable
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: ABHINAV S RAGHUVANSHI
Second Party	: Not Applicable
Stamp Duty Paid By	: ABHINAV S RAGHUVANSHI
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line

BEFORE THE .IN REGISTRY OF INDIA  
INDRP CASE NO. 2015  
IN THE MATTER OF AN ARBITRATION UNDER THE .IN DOMAIN NAME  
DISPUTE RESOLUTION POLICY; THE INDRP RULE OF PROCEDURE  
AND THE ARBITRATION AND CONCILIATION ACT, 1996

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3. In case of any discrepancy please inform the Competent Authority.

.....

**IN THE MATTER OF THE ARBITRATION ACT 1996 as Amended by  
Arbitration & Conciliation (Amendment) Act, 2015**

**and**

**INDRP Rules of Procedure;**

**and**

**.IN Domain Name Dispute Resolution Policy (INDRP)**

**and**

**In the matter of arbitration between**

**IPCO Holdings LLP**

4 Floor Suite A

Greencoat House, Francis Street,

London, England,

United Kingdom, SW1P 1DH

.... Complainant

**Vs**

**OneTraffic**

Fjellskrenten 4,

ASKIM, 1812,

Norway

.... Respondent

in respect of Disputed Domain Name(s):

[superday.in]

INDRP Case No. 2015

**FINAL AWARD**

Date: 02.12.2025

Venue: New Delhi, India



**ABHINAV S. RAGHUVANSHI**

**SOLE ARBITRATOR**

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**A. THE PARTIES AND THEIR REPRESENTATIVE:**

**1. Claimant**

**IPCO Holdings LLP**

4 Floor Suite A  
Greencoat House, Francis Street,  
London, England,  
United Kingdom, SW1P 1DH

**Legal Representative**

Saikrishna & Associates  
VJ Business Tower, 8<sup>th</sup> Floor,  
Plot No. A-6, Sector -125,  
NOIDA - 201301,  
National Capital Region, India  
Tel: 0120-4633900  
Fax: +91- 120- 4633999  
Email: [tm@saikrishnaassociates.com](mailto:tm@saikrishnaassociates.com)

**2. Respondent**

**OneTraffic**

Fjellskrenten 4,  
ASKIM, 1812,  
Norway  
Service  
Universitetsgata 2,  
0164 Oslo,  
Norway  
Tel: +47 900 11 911  
Email: [andre.eilertsen@onetraffic.com](mailto:andre.eilertsen@onetraffic.com)  
[onetraffic.com](http://onetraffic.com)

**B. THE DOMAIN NAMES AND REGISTRAR:**

The disputed domain name <**superday.in**> is registered through the Registrar GoDaddy.com, LLC is accredited with the .IN Registry and is listed on the website of the .IN Registry having its Contact Address:

**OneTraffic**

Fjellskrenten 4,



ASKIM, 1812, Norway  
Service  
Universitetsgata 2,  
0164 Oslo,  
Norway  
Tel: +47 900 11 911  
Email: [andre.eilertsen@onetraffic.com](mailto:andre.eilertsen@onetraffic.com)  
[onetraffic.com](http://onetraffic.com)

**C. PROCEDURAL HISTORY:**

1. Sh. Abhinav S. Raghuvanshi was appointed as the sole Arbitrator on 31<sup>st</sup> July 2025 by the NIXI to act as an Arbitrator in the INDRP case no. 2015 regarding the complaint dated 21<sup>th</sup> July 2025 filed under the INDRP by the Complainant.
2. That the Arbitral Tribunal upon receipt of Complaint, issued the Notice of Arbitration on 12<sup>th</sup> September 2025, and further directed the Complainant to effect the service onto the Respondent and file an Affidavit of Service to the effect. The Respondent was given an opportunity to file a response in writing in opposition to the complaint, if any, along with evidence in support of its stand or contention on or within 15(fifteen) days.
3. That service of the Notice of Arbitration dated 12<sup>th</sup> September 2025 was affected by the counsel for the complainant, and the same was intimated to the Tribunal on 12<sup>th</sup> September 2025 by Saikrishna & Associates, representative of the complainant. The complaint (with annexures) was sent to the email address of the Respondent shown in the WHOIS details. Consequently, the service of the Notice of Arbitration on the Respondent was done in accordance with Rule (2) of the INDRP Rules.
4. The Respondent responded to Notice of Arbitration dated 12<sup>th</sup> September 2025 and filed their response on 25<sup>th</sup> September 2025 in INDRP Case No. 2015



5. Subsequently, the Respondent and the Complainant, in compliance to the directions issued by this Tribunal, filed their Evidence Affidavits on dated 09.10.2025 & 24.10.2025, in INDRP Case No. 2015
6. There was a delay of 21 (twenty one) days in passing the present award, primarily due to the Arbitrator's unavailability, as he was unwell owing to a high blood sugar episode and other health-related issues

**D. COMPLAINANT CONTENTION:**



It is case of the Complainant that:

- i. The Complainant in this administrative proceeding is **IPCO Holdings LLP**, a company incorporated under the laws of India (which term shall include its predecessor in rights, title and interest and its parent company, co-venturers, subsidiaries, affiliates and other group of companies and licensees).
- ii. The Complainant, IPCO Holdings LLP, is a joint venture concern between Reliance Brands Limited, through its wholly owned subsidiary in the UK *i.e.* Reliance Brands Holding UK Ltd. with a UK-based entity *i.e.*, Superdry PLC. The Complainant, *i.e.* IPCO Holdings LLP, has become the subsequent owner of the intellectual property assets, *inter-alia*, the trademark "**SUPERDRY**" in the name of DKH Retail Limited for the territories of India, Sri Lanka, and Bangladesh by virtue of an assignment deed dated November 27, 2023. The Complainant has filed appropriate assignment requests with Trade Marks Registry to bring itself on record as the subsequent proprietor for the said trademarks. A document supporting the statement, ownership and legal status of the Complainant has been attached by the Complainant as **Annexure 1** along with the complaint.
- iii. The Complainant states that the Complainant is a global market leader in contemporary apparel and fashion accessories who produces high-quality products that fuse vintage Americana and Japanese inspired graphics with a British style fashioned under the brand "**SUPERDRY**". The Complainant's products are associated the world over with high quality fabric, impeccable tailoring and niche styling.



- iv. The Complainant further states that through its predecessors in right, the Complainant first adopted the name and mark "SUPERDRY" in 2003 and the first SUPERDRY Store was opened in Covent Garden in 2004. In 2007, when David Beckham was seen wearing a Superdry leather jacket, the brand made a buzz in the minds of consumers and fashion enthusiasts. A supporting document of these claims has been attached by the Complainant as **Annexure 2** along with the complaint.

The Complainant and its co-venturer owns a series of trade marks viz., "SUPERDRY", "SuperDrySport", "SUPERDRYSTORE",



and SUPERDRY

(collectively, the "SUPERDRY Marks").

Since 2003-04, the Complainant and its predecessors in right have been using these marks openly, extensively, and continuously on a wide array of apparel, footwear, bags, accessories etc. and on the retail stores thereof globally.

- v. The Complainant furthermore states that in connection with its business, the Complainant and its co-venturer own and operate multiple websites, that are hosted on the domain names incorporating the mark "SUPERDRY", including TLD <superdry.com> (registered in 1996) and ccTLD <superdry.in> (registered in 2008). These websites contain and offers extensive information about the SUPERDRY brand, its staggering global presence and the range of products. Through its websites [www.superdry.com](http://www.superdry.com), and [www.superdry.in](http://www.superdry.in), internet users across globe including in India are exposed to the SUPERDRY Marks and its goods/services offered thereunder. It is noteworthy that one or more of the SUPERDRY Marks are displayed prominently on top of each page on these websites. This has led to an unmistakable connection of the SUPERDRY Marks with none but the Complainant and its co-venturers alone. Extracts from Whois website and printouts from above mentioned websites showing the use



of the SUPERDRY Marks has been attached by the Complainant as **Annexure 3** along with the complaint.

- vi. The Complainant asserts that through its websites, the Complainant and its co-venturers sell its products to consumers in over 150 countries. The Complainant and its co-venturers have a significant presence around the world, operating through 623 Superdry branded stores in more than 50 countries with 7 manufacturing locations at Bulgaria, Cambodia, Vietnam, Sri Lanka, China, Turkey, and **India**. Additionally, the Complainant and its co-venturers operate 18 Superdry-branded websites, translated into 21 languages. The Complainant and its co-venturers have over 213 owned stores as of April 2023. Franchise and licence partners represent the majority of the Complainant's store portfolio and the Complainant's franchise estate now stands at 410 Superdry stores. It is through such staggering and widespread outreach, sales and repute that the Complainant has amassed the immense goodwill it enjoys across the globe. The SUPERDRY Marks have since come to symbolize the Complainant's business, and the public at large associates the high-quality products, efficient service, and end user satisfaction exclusively with the Complainant and its co-venturers.
- vii. The Complainant further asserts that the SUPERDRY mark has been in extensive and continuous use globally since 2003. Since then, the Complainant's immaculate reputation has garnered recognition and the SUPERDRY Marks have become synonymous with the goods and services of the Complainant and its co-venturers. In India, the Complainant entered into an exclusive franchising agreement in 2012, with Reliance Brands Limited for the sale of products under the SUPERDRY Marks. Under this agreement, Reliance Brands Limited opened over 21 SUPERDRY stores across the cities in India (including New Delhi, Mumbai, Kolkata). The stores have further increased the popularity of products bearing SUPERDRY Marks among customers in India. A redacted copy of the franchising agreement dated May 10, 2012 has been attached by the Complainant as **Annexure 4** along with the complaint.



- viii. The Complainant contends that the Complainant and its co-venturers extensively promote its SUPERDRY Marks through a host of social media accounts including Facebook, Twitter and Instagram. These social media accounts and handles are followed by millions of users who encounter and register the products bearing the SUPERDRY Marks in their mind on a regular occasion. In a globalized economy, such social media engagement with the consumers, promotion and online presence bridges gaps across continents and have made the Complainant's brand information freely accessible around the world. Printouts of the social media handles and posts bearing the marks SUPERDRY has been attached by the Complainant as **Annexure 5** along with the complaint.
- ix. The Complainant further contends that ever since the launch of the products under SUPERDRY Marks, the same has become extremely popular and much sought after. This is clearly evident from the international revenue figures as provided in the below table:

Year	Revenue Figures (in GBP)*
2013	360.4
2014	430.9
2015	486.6
2016	597.5
2017	752
2018	872
2019	871.7
2020	704.4
2021	556.1
2022	609.6
2023	622.5

*\*In millions*

Extracts from the Annual Reports substantiating the abovementioned figures has been attached by the Complainant as **Annexure 6** along with the complaint.

- x. The Complainant furthermore contends that the estimated sales for products sold in India under the SUPERDRY Marks is provided below:

Year	Sales Figures (in GBP)
2013	655,848
2014	1,013,640
2015	1,924,667
2016	1,670,828

2017	2,863,443
2018	4,126,921
2019 - Wholesale Sales (Superdry → Reliance)	5,590,000
2020 - Wholesale Sales (Superdry → Reliance)	3,004,000
2021 - Wholesale Sales (Superdry → Reliance)	10,416,000

A copy of the invoices evidencing sale of products under the SUPERDRY Marks in India has been attached by the Complainant as **Annexure 7** along with the complaint.

- xi. The Complainant highlights that in addition to its websites and the retail stores, the Complainant's goods bearing the SUPERDRY Marks are available for sale to consumers in India through the leading third-party e-commerce retailers such as Amazon, Myntra, Ajio, and Flipkart. Printout from these third-party e-commerce websites showing availability of sale of the Complainant goods under the SUPERDRY Marks has been attached by the Complainant as **Annexure 8** along with the complaint.
- xii. The Complainant points out that in addition to its use of the SUPERDRY Marks on its websites, the Complainant's brick and motor retails stores also feature one or more of the Complainant's SUPERDRY Marks in and/or outside the Complainant's retail stores. The Complainant has invested and continues to invest large sums of money towards advertising, marketing and promoting its goods and services under the SUPERDRY Marks on a regular basis through a host of media including print media, point of purchase materials etc. The estimate promotion and advertising expenses incurred by the Complainant showcasing the SUPERDRY Marks between the years 2014-2022 are as below:

Year	Estimate advertising and promotional expenditure (GBP)
2014	3,193,968
2015	3,005,715
2016	4,335,390
2017	6,298,298
2018	8,379,466
2019	20,163,167

2020	22,298,685
2021	26,453,836
2022	35,048,226

The continuous and extensive use and the widespread marketing and advertising, the Complainant's SUPERDRY Marks have come, in the eyes of the public, to exclusively symbolize the high-quality goods and services offered by the Complainant. Over the years, the SUPERDRY Marks have been constantly covered and featured in the various leading fashion magazines, online articles, newspapers, etc. having wider reach and circulation. Such widespread unsolicited media publicity and attention have resulted into increased recognition and brand recall value of the Complainant and its SUPERDRY Marks. Various third-party magazines and articles featuring unsolicited stories on the SUPERDRY Marks has been attached by the Complainant as **Annexure 9** along with the complaint.

- xiii. The Complainant further highlights that in addition to the common law rights accruing in favour of the Complainant's SUPERDRY Marks in India, the Complainant is also the registered proprietor of the said mark in India, Bangladesh, and Sri Lanka. Further, the SUPERDRY Marks are registered in various international jurisdictions such as Algeria, Argentina, Australia, Bahrain, Brazil, Canada, Chile, China, Colombia, Ecuador, European Union, Hong Kong, Indonesia, Kuwait, Malaysia, Mexico, New Zealand, Peru, Republic of Korea, Russian Federation, Saudi Arabia, Singapore, South Africa, Taiwan, Thailand, United Arab Emirates, and the United States of America, among others. A list of selected registrations for the SUPERDRY Marks across jurisdictions is provided by the Complainant in the Complaint in table format along with their registration numbers.

Copies of a selection of the registration certificates/application e-status evidencing the status as registered trademarks for the marks mentioned in the table. has been attached by the Complainant as **Annexure 10** along with the complaint.

- xiv. The Complainant and its co-venturers actively take legal measures and expends significant amounts of time and money to assert and safeguard its SUPERDRY Marks. The Complainant's predecessor has filed numerous UDRP complaints against infringing domains at the WIPO. Each of these complaints has resulted in the successful transfer of the domain to the

Complainant's predecessor or co-venturers. Given such an impeccable track record of enforcing its rights, the Complainant has time and again successfully established its undisputed rights in the SUPERDRY Marks globally. Details of the domain name disputes leading up to the transfer of infringing domains in the favour of the Complainant and its co-venturers are set out below -

Case No.	Parties	Domain Name
D2018-1799	DKH Retail Limited v. Perfect Privacy LLC / Orn Valdimarsson, Arnarland ehf	<superdryisland.com>
D2019-2210	DKH Retail Limited v. Brian Young	<superdrybrasil.com>
D2021-0008	DKH Retail Limited v. Zuhail Topuz	<superdrycode.com>, <superdrystudios.com>, and <superdryx.com>
D2019-0040	DKH Retail Limited v. ZhouXiaoJie	<superdryno1.com> and <superdryo-tp.com>
D2021-0477	DKH Retail Limited v. Domain Administrator, Domain Is For Sale At www.dan.com	<superdrydetroitstandard.com>
D2021-3394	DKH Retail Limited v. wang yong ming	<superdrynz.com> and <superdryukstore.com>
D2018-2299	DKH Retail Limited v. Domain Administrator, PrivacyGuardian.org / Eric Eichmann	<superdrysklep.com>
D2021-1179	DKH Retail Limited v. Joyce Cheadle	<superdrywuk.com>
D2019-0383	DKH Retail Limited v. Charles Martinez	<superdrygreece.com>
D2021-1185	DKH Retail Limited v. (chen mengyi) / (jie yu hong)	<superdry.cc> and <superdryclothing.com>
D2021-3549	DKH Retail Limited v. Domain Admin, Whoisprotection.cc	<superdryshopgr.com>
D2021-1462	DKH Retail Limited v. Domain Admin, Whoisprotection.cc	<superdryoutletaustalia.com>

D2019-0329	DKH Retail Limited v. Charles Martinez	<superdryjacketireland.com>
D2021-2552	DKH Retail Limited v. Domain Admin, Whoisprotection.cc and Xie A Jun	<superdryshopping.online> and <superdryshoponline.com>
D2021-3548	DKH Retail Limited v. Lucas Goldschmidt – To search	<superdryaldi.com>
D2021-2327	DKH Retail Limited v. 王耀 (wang yao) and 刘兵 (liu bing)	<superdryclothinguksale.com> and <superdryukoutlet.com>
D2021-4100	DKH Retail Limited v. Domain Admin, Whoisprotection.cc / Client Care, Web Commerce Communications Limited	<superdrybudapest.com>, <superdryfiyat.com>, <superdryinofferta.com>, <superdrynzstore.com>, <superdryoutletmx.com>, <superdryoutletromania.com>, <superdrysa.com>, <superdrysgstore.com>, <superdryshopsale.com>, <superdrystoreoutlet.com>, and <superdrystoresg.com>

#### E. RESPONDENT CONTENTION:

Pursuant to the notice issued by this Tribunal dated 12.09.2025, the Respondent have filed their response on 26.09.2025.

It is response of the Respondent that –

- i. The Respondent registered the disputed domain name in good faith, has legitimate rights and interests in the name “Superday,” and has never acted in bad faith toward the Complainant and the Complaint is without merit.
- ii. The Respondent states that in March of 1993, the Respondent started working as a helicopter pilot, airplane pilot and traffic reporter for radio stations in Norway. Listeners started asking if the Respondent could take someone on a helicopter ride for their birthday, fly a bride to her wedding etc. The word spread and requests for a ride in aircrafts and supercars became so many that the Respondent bundled participants on selected days called a Superday and created the website Superday.no to present practical information, forms for applying to participate on a Superday etc.
- iii. The Respondent asserts that the Internet Archive (Wayback Machine) has a copy of the Superday.no website dated September 2009. The website was launched long before 2009, but this is the oldest indexed version on the Internet Archive service and it demonstrates that the name is used for legitimate

purposes and in no way competing or harmful to the brand Superdry. The Respondent has attached a screenshot of the website in his response.

- iv. The Respondent contends that the Respondents were granted trademark rights in 2009 for the word SUPERDAY. This is a screen shot from the Norwegian Patent and Trademark Registry.
- v. The Respondent further contends that as the world started to turn towards mobile phone applications (apps) and digital platforms for information, not only radio and broadcast media, the Respondent started a project called OneTraffic and for many years the Respondent have collaborated with local governments, police, road authorities, media companies etc to distribute traffic information and safety messages via digital platforms to people that are moving around in traffic. A major part of our strategy of Respondent to motivate people to join the network and be as active as possible is to invite the most active members of the network, the superusers, to exclusive and local events where they can experience supercars, get helicopter rides over their city, exclusive concerts and other cultural activities. Such event is called a OneTraffic Superday and the domain Superday.in used to give the members from India practical information, forms for applying to participate etc to a Superday in their area.
- vi. The Respondent further asserts that through extensive research and development, we have obtained many patents in Europe, USA, Asia, South America etc. in the field of intelligent transportation systems and communication networks.
- vii. The Respondent furthermore asserts that India, like most other countries, have problems with traffic congestion and pollution. This is a huge problem and there are not enough money and available space to build the way out of the problem. Collaboration is the only way. The Respondent presented the plans for potential partners, investors etc from many countries in a series of meetings, India was one of these countries and the reception was very positive.
- viii. The Respondent points out that the roll out of the project has already started in Norway, Sweden, and USA. We will launch in India as soon as the negotiations with local investors and partners are completed. Most likely in Q3, 2026. For evidence, the Respondent has attached the trademark for OneTraffic we in India.
- ix. The Respondent highlights that the Complainant has referred to earlier decisions in which domains such as SUPERDRYBRASIL.COM and SUPERDRYGREECE.COM were transferred to them. However, in every case,





the disputed domain name contained the Complainant's trademark "Superdry" in its entirety. The present case is fundamentally different. The disputed domain is SUPERDAY.IN, which does not include the trademark "Superdry" at all. "Superday" is a distinct term, with a different spelling, sound, and meaning, and is intended for bona fide use in connection with community events and related services, not sales of clothing or apparel.



- x. The Respondent further has brought on record various trademarks as registered by him under various classes. The Respondent has attached screenshot of the webpage of Norway Patent and Trademark Registry for supporting his contentions.

## SUPERDAY

TM 200907552

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### Key information

Application number	200907552
Trademark text	SUPERDAY
Case type	National mark
Status	 <b>Registered</b> 2009.11.18 Renewed
Filed	2009.07.28
Registration number	253565
Registered	2009.11.18
Published in the Gazette	2009.11.23
Renewal deadline	2029.11.18
Trademark category	Trademark
Type of Mark	Word Mark
Goods/services (NICE class)	35, 39, 41
Acquired distinctiveness	No
Applicant	Roger André Eilertsen (NO)
Owner	Roger André Eilertsen (NO)
Agent	PLOUGMANN VINGTOFT NUF (NO)
Base for international registration	MP/NO2011182 

## F. DISCUSSIONS AND FINDINGS:

The complainant seeks to rely upon paragraph 4 of the .IN Policy, which reads as:  
 "Any Person who considers that a registered domain name conflicts with his 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 Respondent 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 in bad faith."

And the Complainant seeks to assert that each of the aforementioned factors.

**A. Whether the Respondent's domain name <superday.in> is identical to a name, trademark/ Trade name or Service mark, in which the Complainant has right?**

- i. The Complainant contended that the present complaint is being filed on account of the unauthorized and illegal use of the Complainant's registered trademark "SUPERDRY" by use of a deceptively similar term 'SUPERDAY' as part of the Respondent's domain name <superday.in> (hereinafter referred to as "Disputed Domain Name"). As mentioned above, the Complainant offers for sale various fashion, apparel and lifestyle products and accessories under the trademark "SUPERDRY" and is the registered proprietor of the trademark "SUPERDRY".
- ii. The Complainant further contended that the Complainant's predecessor in right adopted the trademark "SUPERDRY" in 2003, and currently it is the rightful proprietor and registered owner of the trademark "SUPERDRY" in India by virtue of its trademark registrations, continuous and extensive use, and the tremendous reputation accruing in the course of trade. Accordingly, the public associates the trademark "SUPERDRY" with the Complainant alone in India and globally with its co-venturers. One of the earliest registrations for the mark "SUPERDRY" under Registration No. 1421407 in Class 25 in the name of the Complainant dates back to 2006.
- iii. The Complainant submitted that the Complainant has rights in the trademark "SUPERDRY" since 2006 in India, which significantly predates the date on which the Registrant registered the Disputed Domain Name i.e., September 28, 2009. The Complainant has sufficiently

established its rights in the trademark "SUPERDRY" on account of its extensive use and trademark registrations across jurisdictions.

- iv. The Complainant further submitted that it is well-settled under the .IN Policy that for the purpose of conducting the similarity test in respect of Disputed Domain Names, the Country Code Top-Level Domain (ccTLD) suffixes are disregarded under the first element of confusing similarity test. In this case, .IN is a ccTLD and the same can be disregarded from the Disputed Domain Name. In this respect, reliance is placed on WhatsApp, LLC vs. GB APPS - INDRP Case No. 1909 where the panel further relying on Google LLC vs Hom Kit Bk Picture, INDRP/1814, held that "... with regard to the '.net.in' domain extension, it is well established under the .IN Policy that such domain extension may be disregarded when assessing whether a domain name is identical or confusingly similar to a complainant's trademark". Accordingly, upon eliminating the ccTLD, the Disputed Domain Name <SUPERDAY> come across as confusingly similar to the Complainant's trademark "SUPERDRY". The difference between the Complainant's trademark "SUPERDRY" and the domain name <SUPERDAY> is only of one letter i.e., "A" in the place of "R" (SUPERDRY > SUPERDAY). This minor replacement or substitution of the letter "R" with "A" in the Complainant's trademark "SUPERDRY" does not alter any visual or phonetic or structural character of the Disputed Domain Name. In fact, such miniscule change only emphasizes the confusing similarity between the mark "SUPERDRY" and the Disputed Domain Name. The Complainant has intentionally chosen a letter "A" in the place of a letter "R" with a *mala fide* intent to divert the internet traffic of Complainant to the Respondent's Disputed Domain Name and make an illegal gain. This becomes evident from the fact that the letter "A" comes close to the letter "R" on most keyboards, making a typographical error more likely. This is commonly referred to as typo-squatting and creates virtually identical and/or confusingly similar marks to the Complainant's trademark. Further, it is submitted that the Respondent is deliberately using a misspelling of the Complainant's trademark "SUPERDRY" by replacing

the letter 'R' with 'A' in the same with an intent to ride upon the goodwill and reputation of the Complainant. It is settled that misspellings of a trademark in a domain name results in the creation of a confusingly similar domain name under the Policy. In this regard, reliance is placed on the following Panel decisions:

***F. Hoffmann-La Roche AG v. Samir Kumar, [Case No. D2008-0808]:*** The Panel held that "..... the Complainant has shown that it has rights in the XENICAL mark. See section 4 above. The domain name in dispute differs from this mark in that the domain name lacks the letter "C". This is too minor a difference to distinguish the domain name from the mark....".

***Wayfair LLC v. Domain Admin, Whois Privacy Corp. [Case No. D2018-0672]:*** Here the Panel held that ".... the Disputed Domain Name incorporates the Complainant's WAYFAIR mark in its entirety with the sole exception of substituting the letter "r" with the letter "t". The substitution of a mere letter does not significantly affect the appearance or pronunciation of the Disputed Domain Name....."

***Pixabay GmbH v. Domain Admin, Whois Privacy Corp. [Case No. D2021-2147]:*** The Panel held that "the core of the Disputed Domain Name differs from the Complainant's trademark PIXABAY by the mere substitution of the second letter "a" on the word "pixabay" by the letter "q", forming "pixabqy". These letters are located closed to each other on QWERTY keyboards. Such misspelling of the Complainant's trademark is a practice commonly called typo squatting, a kind of cybersquatting in which a respondent registers a domain name in order to take advantage of typing errors eventually made by Internet users seeking a complainant's website (see CPP, Inc. v. Virtual Sky, WIPO Case No. D2006-0201).

***Pfizer Inc. (Pfizer) v. Individual, C/O John Callum, [Case No. D2003-0419]:*** Here the Panel held that "...the Domain Name is identical to the registered trademark save for a "y" being used instead of an "i" resulting in "vyagra" instead of "viagra...".

Given the glaring confusing similarity between the Disputed Domain Name and the Complainant's trademark, an Internet user may be misled when coming across the Disputed Domain Name. Any consumer when reading the Disputed Domain Name is bound to be confused into associating the Disputed Domain Name with the Complainant.

- v. The Complainant asserted that the Complainant has established its rights in the trademark "SUPERDRY" on account of its extensive global use and trademark registrations. Since the Disputed Domain



Name is confusingly similar to the Complainant's trademark in which the Complainant has prior rights, the relevant public and the people visiting the Disputed Domain Name will associate the said Disputed Domain Name with the Complainant alone.

- vi. The Complainant further asserted that an Internet user who carries out a WhoIs search for the Disputed Domain Name will find that the registration of <superday.in> is in the name of the Respondent, or, alternatively, is not in the name of the Complainant. This will further upsurge the severe confusion in the mind of such a user and would mislead a user into believing that the Respondent is in some way associated with or affiliated to the Complainant, or that the Respondent is acting with the consent or endorsement of the Complainant, which is not the case.
- vii. However, it is observed that the Complainant and the Respondent are operating in entirely different domains. Whereas the Complainant - SUPERDRY offers products ranging from apparels; the Respondent - SUPERDAY offers only services, precisely helicopter ride services for enhancing personal experiences.
- viii. Moreover, it is also noted that the Complainant as well as the Respondent, both have got their Trademark registered under Class 35 in Norway.  
  
The Norway Intellectual Property office might have granted Trademark registration under same class to both of them after considering relevant factors. Seeing the difference in products/services offered by both; the Complainant and the Respondent, it cannot be concluded that the Respondent got it services named with a malafide or in a badfaith.
- ix. Since, both the products/services offered by the Complainant and the Respondent are clearly distinct and different, there is a remote possibility of the Respondent passing off products of the Complainant by using the impugned domain name.



- x. Further, I do not find that the domain name of the Registrant's is clearly identical and/or confusingly similar to a Name, Trademark or Service Mark, etc in which Complainant has rights.

**B. Whether the Respondent has rights or legitimate interests in respect of the domain name?**

- i. The Complainant asserted that the Respondent has no proprietary or contractual rights in the Complainant's trademark "SUPERDRY" in any manner. The Respondent could have no possible justification for registering the Disputed Domain Name which is so closely and deceptively similar to the Complainant's trademark "SUPERDRY". This illegal adoption and registration of the Disputed Domain Name without the Complainant's consent or authorization is nothing but an attempt to trade upon to the goodwill and reputation of the Complainant's trademark "SUPERDRY". The Respondent does not have any rights or legitimate interests with respect to the Disputed Domain Name as there is no legitimate business or products/services offering under the Respondent's Disputed Domain Name. In this regard, reliance is placed on the below WIPO Panel Decision -

*F.Hoffmann-La Roche AG v. WhoisGuard, Inc. [Case No. D2018-2495]: "...the Complainant makes it clear that it has given no license or authorization to the Respondent to use the KLONOPIN trademark, and that its use without the Complainant's authorization would violate the Complainant's rights in its KLONOPIN trademark...At the same time there is no evidence that the Respondent has any right or legitimate interest in the Disputed Domain Name... the Panel finds that the Respondent has no rights or legitimate interest in the Disputed Domain Name..."*

- ii. The Complainant further asserted that the Complainant has no relationship with the Respondent to be able to assert any form of relation to the trademark "SUPERDRY". Neither is the Respondent is commonly known by the Disputed Domain Name, nor does it engage in any business or commerce under the said trademark "SUPERDRY". The Respondent is not a licensee of the Complainant, nor has ever been authorized by the Complainant to use the Complainant's trademark or register the Disputed Domain Name. Further, the Complainant has not entered into any

agreement granting the Respondent any right. In this regard, reliance is placed on the decision of the Panel in *The Toro Company v. Dick Egy*, [USDRP Case No. FA1404001553926], where it was held that "if a Respondent is not commonly known by the Disputed Domain Name, then the Respondent cannot have any legitimate rights or interests in the same". In this regard, reliance is placed on the below WIPO Panel Decision –

*F.Hoffmann-La Roche AG v. WhoisGuard Protected, WhoisGuard, Inc. / Samantha Park* (WIPO Case No. D2018-2495): "...the Complainant makes it clear that it has given no license or authorization to the Respondent to use the KLONOPIN trademark, and that its use without the Complainant's authorization would violate the Complainant's rights in its KLONOPIN trademark..."

*MLB Advanced Media, The Phillies, Padres LP v. OreNet, Inc.* [Case No. D2009- 0985]: "There is no indication in the record that the Respondent has ever been commonly known by the Disputed Domain Names, and it is undisputed that the Complainants have not authorized the Respondent to use the Complainants' PADRES and PHILLIES marks. Nor does the record reflect the Respondent's use or demonstrable preparations to use the Disputed Domain Names in connection with a bona fide offering of goods or services prior to any notice to it of the dispute."

Accordingly, the Disputed Domain Name violates the Complainant's rights in its registered trademark "SUPERDRY" as the Complainant has not authorized the Respondent to use the said trademark. This substantiates the Respondent has no rights or legitimate interest in the Disputed Domain Name.

- iii. The Complainant pointed out that the Respondent's lack of rights and legitimate interest is further substantiated by the fact that the Respondent has not made any legitimate use of the Disputed Domain Name in connection with a bona fide offering of goods and/or services since its registration in September 2009. Further, there is no evidence of any demonstrable preparation on part of the Respondent to use the Disputed domain Name. On the contrary, the Respondent does not host a website on the Disputed Domain Name in last 16 years, rather the landing page containing pay-per-click advertisements. The screenshots of the websites supporting his contentions has been attached by the Complainant in the Complaint. Also, the printouts of the Disputed Domain Name has been attached by the Complainant as **Annexure 12** along with the Complaint.



- iv. The Complainant further pointed out that the Respondent appears to have owned the registration for the Disputed Domain Name since 2009, however, no instance of commencement of bona fide use of the Domain Name appears to have been recorded. Relevant web-archive extracts have been attached by the Complainant as **Annexure 13** along with the Complaint.

On the contrary, the Respondent has been using the Disputed Domain Name for a pay-per-click parking page to make commercial gain by re-directing the consumers and the Internet traffic to third party websites. Relevant extracts from the said third party websites supporting his contentions has been attached by the Complainant in the Complaint.

- v. The Complainant furthermore pointed out that the Respondent's use of the Disputed Domain Name for pay-per-click advertisements leading to third party websites does not constitute legitimate non-commercial or fair use of the Disputed Domain Name without the intention of commercial gain by misleadingly or diverting consumers within the meaning of paragraph 6(c) of the Policy. Accordingly, the Respondent has no right or legitimate interest in the Disputed Domain Name. In this regard, reliance is placed on the following WIPO Panel Decisions -

*Facebook, Inc. v. S. Demir Cilingir [WIPO Case No. D2018-2746]: "although the Disputed Domain Name does not currently resolve to an active website, there is no evidence that the Respondent has made any preparations to use that domain name in connection with a bona fide offering of goods or services. The fact that the Disputed Domain Name temporarily resolved to a parking page ...does not in the present case give rise to any rights or legitimate interests in the Domain Name."*

*SGII, Inc. v. New Ventures Services, Corp. [WIPO Case No. D2019-2748]: "...The factual record does not suggest that Respondent is commonly known as the Disputed Domain Name or any portion thereof. Moreover, Respondent's use of the Disputed Domain Name in connection with a pay-per-click website as done here is not a legitimate or bona fide use."*

Reliance is also placed on the following INDRP Panel Decisions -

*Sazerac Brands, LLC v. Dean Chandler [INDRP Case No. 1243]: "...the Respondent has not even commenced use of the domain name even two years after registering it to amount to fair use and at any rate, prior to the Complaint, admittedly, the domain name was simply parked..."*

*Bitmain Technologies Limited v. Sjs Sjsj [INDRP Case No. 1663]: "Further, the Respondent is not commonly known by the disputed domain name and has not made any legitimate non-commercial or fair use of the disputed domain name. Thus, it is very much clear that the Respondent has no legitimate right or interest in respect of the disputed domain name".*

- vi. The Complainant contended that given the Complainant's vast presence, popularity and stature attained prior to the Respondent's registration of the Disputed Domain Name, it is highly unlikely that the Respondent would not be aware of the Complainant and its enviable goodwill and reputation globally and in India. It, therefore, follows that there cannot be any legitimate ground or reason for which the Respondent would register a domain name confusingly similar to the Complainant's Marks and host a landing page featuring pay-per-click ads except to attract Internet users to its website and make an illegal and illegitimate gain. In this regard, reliance is placed on the following WIPO Panel Decision -

*Philip Morris Incorporated v. r9.net [WIPO Case No. D2003-0004]: "The disputed domain name links to a website that appears to be a fabricated "mock-up" of a web page "under construction," created for the sole purpose of displaying banners and advertisements. The home page displays <marlboro.com> in prominent letters, but otherwise is dedicated to displaying three banner advertisements: (1) a textual and banner advertisement for Sell.com, Inc., an online classifieds company; (2) a banner advertisement for AdultFriendFinder.com (billing itself in the advertisement as the "world's largest sex personals"); and (3) a banner advertisement for Starluck Casino, an online gambling service. Clearly, the disputed domain name is being used intentionally to attract users to these other sites, and thus is evidence of bad faith"*

- vii. The Complainant further contended that the Respondent's registration of the Disputed Domain name and the pay-per-click advertisements do not constitute bona fide or legitimate fair use of the Disputed Domain Name within the meaning of paragraph 69(c) of the Policy.
- viii. For the reasons as stated under para F(A) points vii-ix, it is amply clear that the Respondent cannot be said to lack right or legitimate interest in the disputed domain name as the same is inconsonance with the services being offered by the Respondent.

**C. Whether the Registrant's domain name has been registered or is being used in bad faith?**

- i. The Complainant highlighted list of three circumstances that should be given close attention, in the light of the facts of this case:
  - b. *circumstances indicating that you have 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 your documented out-of-pocket costs directly related to the domain name; or*
  - c. you have registered the domain name to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, if you have engaged in a pattern of such conduct; or
  - d. by using the domain name, you intentionally attempt to attract Internet users to your website and 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 your website or location or of a product or service on your website or location
- ii. The Complainant submitted that the Respondent has registered the Disputed Domain Name solely with an ulterior motive to make monetary profits by riding upon the goodwill and reputation of the Complainant's prior registered trademarks. The Respondent applied for the Disputed Domain Name on September 28, 2009, which is much subsequent to the date of adoption, use, and registration of the trademark "SUPERDRY" by the Complainant, i.e., 2003. It is submitted that the Complainant is extremely well-known and popular amongst the Indian populace and there is virtually no possibility that the Respondent was unaware of its existence or presence in the market. Therefore, there can be no legitimate ground or reason for which the Respondent would register a domain name which is confusingly or deceptively similar to the trademark of another company.
- iii. The Complainant further submitted that the Respondent does not host a website on the Disputed Domain Name, rather it hosts a landing page featuring pay-per-click ads. It is evident from this that the Respondent has registered the Disputed Domain Name solely with an ulterior motive to make commercial gains. Such inactivity suggests a strong bad faith on the

part of the Respondent. In this regard, reliance is placed on the following WIPO Panel Decisions –

*Ferring B.V. v. Domain Administrator, Fundacion Privacy Services LTD. [WIPO Case No. D2021-0784]:* “As regards bad faith use, the Domain Name redirected at times to websites displaying links to third party websites, which suggests that, presumably, Respondent received PPC fees from the linked websites that were listed thereon. It has been recognized that such use of another’s trademark to generate revenue from Internet advertising can constitute registration and use in bad faith.

*Vorwerk International AG v. Host Master, Transure Enterprise Ltd WIPO Case No. D2022-4237:* “The Domain Name has been used for competing pay-per-click links which does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use.”

*Overstock.com, Inc. v. Metro Media [WIPO Case No. DME2009-0001]:* “...the Respondent’s use of the Domain Name is not “non-commercial or fair use” under paragraph 4(c)(iii) of the Policy, given that Respondent is seeking commercial gain from its use of the Domain Name by establishing a parked page with pay-per-click advertisements that compete with Complainant’s services. Therefore, the Domain Name is used for commercial purposes and paragraph 4(c)(iii) is not applicable.”

*Telstra Corporation Limited v. Nuclear Marshmallows [WIPO Case No. D2000- 0003]:* “...it is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith.”

- iv. The Complainant asserted that it has been sufficiently established that the Complainant is the prior right holder of the “**SUPERDRY**” trademarks. The Respondent does not own any registrations/applications for the “**SUPERDAY**” trademark. The Respondent also has no *bona fide* use of the “**SUPERDAY**” trademark. The Complainant has not consented to the use of its trademark by the Respondent. Further, the Respondent’s registration for the Disputed Domain Name is of September 2009 whereas the Complainant has been extensively using the “**SUPERDRY**” trademark since 2003 and owns trademark rights in India since as early as 2006. It is implausible that the Respondent was not aware of the Complainant’s trademark. Accordingly, the Respondent has no legitimate rights in the Disputed Domain Name, and therefore hosting a parking page on the Disputed Domain Name constitutes *bad faith*.
- v. The Complainant further asserted that the lack of any legitimate or *bona fide* use can be construed as Respondent’s bad faith registration of the Disputed

Name. As per WIPO Jurisprudential Overview 3.0, one of the relevant factor for (*relevant to the present Complaint*) indicating that the Respondent's intent in registering the Disputed Domain Name was made in bad faith, is-- "a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name..."

- vi. The Complainant contended that the Complainant has sufficiently demonstrated the confusing similarity of the infringing domain name <superday.in> with the "SUPERDRY" trademark in the preceding paragraphs. Furthermore, given the Complainant's ownership of the domain name <superdry.in> and <superdry.com>, among other domain names comprising of the top-level domain ".com", the Respondent's registration for a domain name consisting of a confusingly similar mark demonstrates *prima facie* bad faith. In *Sanofi-aventis v. Elizabeth Riegel and Andrew Riegel* [WIPO Case No. D2005-1045] the panel held that "The use of typo squatting is itself evidence of bad faith. The only explanation of it is a desire to disrupt the Complainant's relationship with its customers or potential customers or attempt to attract Internet users for potential gain."
- vii. The Complainant further contended that owing to the extensive marketing and promotion of the "SUPERDRY" trademark, the Complainant's mark has gained immense popularity. Furthermore, owing to the extensive unsolicited media reporting of the Complainant's "SUPERDRY" trademark, the public at large associated the "SUPERDRY" trademark with the Complainant alone. Further, the date of registration of the Disputed Domain Name, *i.e.*, September 28, 2009, is significantly subsequent to the Complainant's adoption and use of the trademark "SUPERDRY" which was adopted and is in use since 2003. It is highly implausible that the Respondent was not aware of the Complainant's trademark. If the motive of the Respondent was *bona fide*, the Respondent could well have chosen a domain name that was not similar to Complainant's trademarks and/or in which Complainant had no rights. Accordingly, the Respondent ought to have been aware of the Complainant's "SUPERDRY" trademark.

- viii. The Complainant pointed out in support of the submissions made above to establish bad faith on part of the Respondent, reliance is placed upon the following WIPO Panel Decisions –

*Bottega Veneta SA v. ZhaoJiafei [Case No. D2013-1556]: "The Disputed Domain Name was registered many decades after the Complainant first registered its BOTTEGA VENETA trademark. The evidence on the record provided by the Complainant with respect to the extent of use of its BOTTEGA VENETA trademark, combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent most likely knew of the Complainant's BOTTEGA VENETA trademark, and knew that it had no rights or legitimate interests in the Disputed Domain Name."*

*Rolls-Royce PLC v. Ragnar Kallaste [Case No. D2014-2218]: "In the Panel's opinion, the Complainant has made a prima facie case against the Respondent. The Respondent indeed registered the Disputed Domain Names, which fully integrate the most distinctive Trademark owned by the Complainant, in a way which can only be explained by reference to the Complainant's products and business activities."*

- ix. The Complainant asserted that the Respondent has registered the Disputed Domain Name primarily for the purpose of disrupting the business of the Complainant.
- x. From the discussions in preceding paragraphs under para F(A) points vii-ix, it is clearly evident that no malafide or badfaith can be attributed to the Respondent for getting the domain name <superday.in> registered in its name as business of both the entities are completely and entirely different and the Respondent has successfully been able to register Trademark with the Norway Authorities class 35 in the year 2009.

#### G. DECISION:

In the light of foregoing findings, namely, that the domain name is not confusingly similar to a mark in which the Complainant have rights, that the Respondent has rights or legitimate interests in respect of disputed domain name and that the disputed domain name was not registered in bad faith and not being used in bad faith in accordance with the policy and rules, the arbitrator orders that the

Complaint of the Complainant regarding the domain name <superday.in> is dismissed.

However, parties are suggested to explore possibilities of mutual settlement, if any.



Abhinav S. Raghuvanshi

Sole Arbitrator

Place: New Delhi

Date: 02.12.2025