

Series of brief newsletters released by **Bharucha & Co.** on latest developments in IP predominantly in Pakistan.

COMPLAINT FILED WITH THE WIPO ARBITRATION AND MEDIATION CENTER FOR DOMAIN NAME DISPUTE

COMPLAINANT: MASTER ENTERPRISES (PVT.) LIMITED
RESPONDENT: SUPPORT TEAM, IT SERVICES, UNITED STATES OF AMERICA
DECISION: DOMAIN NAME TRANSFERRED IN THE NAME OF THE COMPLAINANT

Bharucha & Co. represented Master Enterprises (Pvt.) Limited (the “**Complainant**”) in filing a complaint before the WIPO Arbitration and Mediation Center (the “**Center**”) on 27th February 2024 in relation to the domain name; “www.moltyfoam.com” (the “**Domain Name**”) registered by the Respondent.

The Complainant was reputable entity involved in the business of mattresses, bedding, furniture and associated accessories; operating both physical and online stores as well as selling its products through various third party vendors and websites. The Complainant was the owner of the “MOLTYFOAM” trademark (the “**Trademark**”), having registrations of the same in Pakistan as well as certain foreign countries - with the earliest registration dating back to 1986. The Complainant was also operating its official website at “www.moltyfoam.com.pk”.

The Respondent had registered the Domain Name in 2000, which currently lead to a website showing derogatory content and offering the same for sale at USD 120,000. The Domain Name also contained a link to the Complainant’s official website. The Complaint was filed on the three main principles underlined in the Uniform Domain Name Dispute Resolution Policy 1999 for the transfer of a domain name, as highlighted below:

Decision of WIPO:

The Center held the following on the three main principles:

- (i) Domain name is identical or similar to the Complainant’s Mark;

The Center used the test of a straightforward comparison between the Trademark as well as the Domain Name and found that the latter incorporated the entirety of the Trademark – therefore being identical in nature.

- (ii) Respondent has no right or legitimate interest in the Disputed Domain Name;

Based on *prima facie* evidence provided by the Complainant and the failure of the Respondent to provide a reply to the Complaint or rebut any evidence, the Center held that the Respondent had failed



to provide any reason of its legitimate right or interest in the Domain Name. As the Domain Name lead to an inactive website, there was no evidence on record to establish any right or legitimate interest.

(iii) Registered and used in Bad Faith;

It was held that the Respondent's act of incorporating the entirety of the Trademark in the Domain Name coupled with the fact that it had been passively holding registration of the same since the year 2000 and offering the same for sale at an amount far exceeding the actual market value all contributed to Bad Faith.

All three principles were satisfied and the Disputed Domain Name was transferred to the Complainant on 9th May 2024.

