



**Hindustan Petroleum Corporation Limited v. Neel Punatar, Case No. D2004-0351**

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Mary Padbury, Sole Panelist- WIPO Arbitration and Mediation Center

**CASE FACTS**

The complainant, Hindustan Petroleum Corporation Limited is in the business of refining and marketing petroleum products since 1974. It is the second largest company in India with a vast network and a huge turnover. It had registered about 17 domain names, one of which is Hindpetro, which was registered and was in use since 1996. The trade mark, Hindpetro which was in use continuously and extensively, since 1974, is also an abbreviation for the company and its stock exchange representation. It was not renewed from 2003 because of an oversight on the part of the software company which was supposed to renew it. It was then registered by Neel Punatar with Domainsite.com.

Hindustan Petroleum Corporation Limited filed a complaint against Neel Punatar at the WIPO Arbitration and Mediation Center, on May 12, 2004 and proceedings commenced on June 3, 2004, in accordance with the Rules for Uniform Domain Name Dispute Resolution Policy.

**ISSUE:**

Whether the domain name, 'Hindpetro', used by Neel, is too similar or too identical to the trademark of the Hindustan Petroleum Corporation Limited and whether it amounts to an infringement of such trade mark?

**RULE OF LAW**

When a trade mark is too identical or too similar to an already registered trade mark, it is an infringement of the latter.

**ANALYSIS:**

HPCL is commonly known and identified by the name of Hindpetro. Hindpetro, a well-known trade mark acquired over 30 years ago and in continuous use since then, is entitled to protection as a trade mark. The use of this name, by anybody else, would be an infringement of the trade mark of HPCL.

Neel registered the domain name of Hindpetro and attempted to cash in on the good will of HPCL. Neel intended to use 'Hindpetro' for a commercial purpose, without having any legitimate interest in the domain name. The panel of the WIPO Arbitration and Mediation center found that the domain name, Hindpetro, registered by Neel, was too identical to the trade mark of the Hindustan Petroleum Corporation Limited. The panel ordered that the domain name be transferred to the Hindustan Petroleum Corporation Limited.

The decision of the WIPO Arbitration and Mediation Center Panel illustrates one of the fundamental principles of trade mark protection, that the owner of a trade mark can prevent the register of another trademark, which, by being too identical or too similar to the original trademark, attempts to cash in on the good will and reputation of the original trade mark