

# COMPETITION COMMISSION OF PAKISTAN

## ENQUIRY REPORT

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(Under the provisions of Section 37(2) of the Competition Act, 2010)

**IN THE MATTER OF COMPLAINT FILED BY M/S BUREAU VERITAS  
AGAINST M/S. MCI-BUREAU OF INSPECTION & CERTIFICATIONS FOR  
DECEPTIVE MARKETING PRACTICES**

BY

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**AMIN AKBAR & MEHMOONA ALLAUDDIN**

**DATED: March 27, 2025**


## 1. BACKGROUND:

- 1.1 M/s Bureau Veritas (the ‘Complainant’), filed a complaint against M/s MCI – Bureau of Inspections and Certification – Pakistan, (the “Respondent No. 1”) and M/s MCI – Bureau of Inspections and Certification - United Kingdom, (the “Respondent No. 2”), (hereinafter jointly referred as the “Respondents”) with the Competition Commission of Pakistan (the “Commission”), dated October 02, 2023, for alleged violation of Section 10 of the Competition Act, 2010 (the “Act”), i.e., deceptive marketing practices.
- 1.2 It has been submitted that the Complainant and Respondents are undertakings within the meanings of Section 2(1)(q) of the Act and the title complaint has been filed on behalf of the Complainant’s organization by Mr. Mohiuddin Adeni S/o Muhammad Wahiduzzaman Adeni (Late) who is the authorized attorney of the Complainant.
- 1.3 The Complainant alleged that the Respondents are disseminating false or misleading information, and is fraudulently using its registered trademark without any authorization. This practice is capable of harming the business interest of the Complainant and amounts to deceptive marketing practices in violation of Section 10 of the Act.
- 1.4 After attaining the preliminary facts, on October 25, 2023, the Competent Authority initiated an enquiry under subsection (2) of Section 37 of the Act by appointing Mr. Faiz-ur-Rehman, Joint Director (OFT) and Mr. Riaz Hussain, Deputy Director (OFT) as enquiry officers (collectively the “Enquiry Committee”) to conduct the enquiry into the matter. On February 12, 2024, the Enquiry Committee was reconstituted by appointing Mr. Riaz Hussain, Deputy Director (OFT) and Ms. Ayesha Batool, Research Analyst (OFT). Ms. Ayesha Batool took her Ex-Pakistan leave, so the Enquiry Committee was reconstituted, and Mr. Amin Akbar, Assistant Director (OFT), was appointed as the new inquiry officer to replace Ms. Ayesha Batool. Subsequently, on January 01, 2025, Mr. Riaz Hussain, Deputy Director (OFT) was transferred to Cartel and Trade Abuse department, so the Enquiry Committee was again reconstituted by appointing Ms. Mehmoona Allauddin, Management Executive (OFT) as new enquiry officer. The new Enquiry Committee was directed to conduct the enquiry on the issues raised in the complaint and to submit the enquiry report by giving its findings and recommendations, *inter alia*, on the following:
- i. *Whether the Respondent’s conduct pertains to the fraudulent use of another’s trademark, firm name, or product labeling or packaging, in violation of Section 10(2)(d) of the Act?;*
  - ii. *Whether the conduct of the Respondent is capable of harming the business interest of the Complainant in, prima facie, violation of Section 10 (2) (a) of the Act?;and*
  - iii. *Spillover effect of the Respondent’s marketing practices.*

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## 2. THE COMPLAINT:

- 2.1 The Complainant is a French Organization specialized in testing, inspection and certification founded in 1828. It operates in variety of sectors, including building and infrastructure, agri-food and commodities, marine and offshore, industry, certification and consumer products and has been providing services in Pakistan since 1999.
- 2.2 The Complainant established its first international office in London and Paris during the 1920's and subsequently the Complainant expanded its operations globally, providing inspections and certification services to a wide range of industries. Additionally, the Complainant played an active role in the development of international standards and regulations, contributing its technical expertise to ensure safety and quality across sectors.
- 2.3 The Complainant being well aware of the immense goodwill and popularity attached to its trademark "Bureau Veritas", has constantly developed its intellectual property. To further, enhance the exclusivity attached to its trademark, it adopted and devised unique and distinctive artistic works including logo, stylization and get up to the trademark 'Bureau Veritas'.
- 2.4 Thus, being vigil of its proprietary rights, the Complainant has duly registered its logo either alone or in conjunction with other marks, with the Intellectual Property Organization, Government of Pakistan and by virtue of the same, all property rights in the Bureau Veritas logo vested with the Complainant. Details of trademark registrations are as below:-


S. No	Trademark	Registration No.	Class
1	BUREAU VERITAS	237768	42
2		237769	42

Copy of trademark registration certificates are attached and marked as Annex-A.


- 2.5 The Complainant has also sought protection of its 'Bureau Veritas' logo in numerous jurisdictions across the globe. The Complainant submitted that its trademark and logo design encompass of original artistic work and are fully protected under international laws, specifically the Berne Convention, the Universal Copyright Convention, the TRIPS Agreement, as well as the Copyright and Intellectual Property Laws of Pakistan, which follows the Copyright Ordinance, 1962.
- 2.6 The Complainant being global registered proprietor of the Bureau Veritas logo and associated IP rights has warranted rights for marketing, promoting and/or offering services under its logo. Thereby, any unauthorized use, marketing, promotion and/or offering of any services bearing the Bureau Veritas logo in any way or any variations thereof; constitute as an infringement of the Complainant's property rights and is further contrary to Competition law.

2.7 The Complainant further submitted that it has come to the complainant's knowledge that the Respondents are involved in the blatant and unabashed infringement of its IP rights on several fronts. This includes, but is not limited to the, marketing, promotion, offering for sale of


services under a deceptively similar mark/logo  to that of the Complainant's registered

trademark . Thus, the Respondents' act of unauthorized and illegal use of the Complainant's trademark is to ride on the coattails of the Complainant's well-established goodwill and business reputation.

2.8 That the Respondents are also engaged in the testing, inspection, and certification industry. The Respondents have commenced business operations under the deceptively similar mark

 which is the integral identifier of the Complainant and is also printed on each certification issued by the Complainant. The Complainant's mark is not only registered with IPO Pakistan but also numerous trademark registration bodies across the globe. Thus, the adoption of an identical mark and/or deceptively similar mark by the Respondents is against the established ethical norms of business and is also against the law. The Complainant is trusted globally for the certifications it issues and its customers place reliance on certification bearing the Complainant's logo. As such the use of a deceptively similar logo may lead consumers to believe that the certifications issued by the Respondents are either issued by the Complainant and/or the Respondents have a nexus with the Complainant.

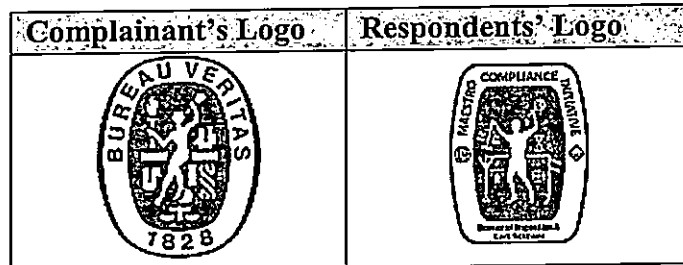
2.9 The Complainant further stated that it is seriously aggrieved by the Respondents' blatant deceptive marketing tactics to exploit the fair competition regime. The Complainant stresses

that the brazen and unhindered use of the deceptively similar logo  by the Respondent, coupled with the fact that the Respondents and the Complainant operate in the same industries, is primarily aimed at deriving an undue benefit of the goodwill and reputation of the Complainant's 'BUREAU VERITAS' logo and it highlights the mala fide intent on part of the Respondents. The Complainant pointed out that the use of a deceptively similar logo by the Respondents is an act of unfair competition in order to show off a nexus between the Respondent and the Complainant and/or to pass off the services of the Respondents as that of the Complainant.

2.10 Furthermore, the certifications granted by the Complainant are very sensitive in nature and are awarded after rigorous testing and due diligence, as such the use of the deceptively similar logo by the Respondents on their certifications would cause deception and confusion amongst

the customers who would believe the same to emanate from the Complainant and/or having the seal of approval of the Complainant. As such the actions of the Respondents are contrary to the Competition Law.


2.11 A perusal of the Complainant's mark and the deceptively similar and imitated mark of the Respondents is as below:-




2.12 The Respondents' actions are further promoted through continuous use, marketing, offering of services, and promotion of the same on various forums online, including but not limited to, Facebook and LinkedIn. Some of these are as follows:-

- i. <https://www.facebook.com/MaestroCompliance/about>
- ii. <https://www.linkedin.com/company/maestrocomplianceinitiative/>


2.13 The Respondents' deliberate, wilful and intentional actions as aforesaid are contrary to fair and healthy competition in the industry and in utter violation and breach of Section 10 of the Act.

2.14 The Respondents are marketing and continuing to use the mark  , which is deceptively


similar to the renowned and registered trademark/logo  and its associated intellectual property without permission of the Complainant and despite being fully aware of the Complainant's proprietary rights vested in the said trademark. Such unauthorized and fraudulent use of the registered trademark of the Complainant may lead to consumers obtaining the services of the Respondents' believing them and relying upon them to be the services of the Complainant and therefore the illegal acts of the Respondents fall within the meaning of the 'Deceptive Marketing Practices' as defined under Section 10(2) (d) of the Act and is prohibited under Section 10(1) of the Act.

2.15 In addition to the above, the Respondents' conduct also constitutes a clear violation of Section 10(2)(a) of the Act as the use of an identical logo is bound to create false impression amongst the public at large, particularly persons/entities interested in obtaining certifications for their commercial decisions. By way of example the Complainant submitted that certain persons may obtain certifications of the Respondent believing there to be an association between the Respondent and the Complainant, who is internationally recognized. Moreover, amongst third

party dealing in commercial transactions, procurement, business dealing, where certifications are important, a company may rely upon the certification provided by the Respondent under the false impression that the same has been granted by the Complainant and then make a commercial decision on the basis thereof which is fundamentally capable of damaging the said third party's brand reputation and causing irreparable financial harm. As such, the unauthorized use of the Complainant's registered trademark/logo by the Respondent for the same market segment is against the spirit of competition law as the false association is likely to result in harm to the public at large.

2.16 That the Complainant's brand BUREAU VERITAS and its associated logo  are established as symbols of trust and the same is instantly identifiable as being associated with the Complainant. The misuse of the trademark/logo causes the consumers to be deceived and/or misled regarding the origin of services/certifications/training.

2.17 That it is well established as per the applicable laws and the precedents laid down by the superior courts of Pakistan that a mere potential harm to the business interests of the Complainant suffices to constitute a violation of the provision of Section 10(2)(a) of the Act (2022 CLD 1343). In the same breath, it is important to mention that the dissemination of such misleading information is not only capable of hurting the business interests of the Complainant but is also likely to deceive the general public as to the source and origin of the

testing/certification/training/inspection bearing the mark/logo  . Thus the same attracts the provisions of Section 10(2)(d) of the Act, and the Respondent is to be held liable for the violation of the same.

2.18 Forgoing of the view, the Complainant has prayed for:


- a) Initiation of proceedings as per Section 30 of the Act;
- b) An order restraining the Respondents permanently from engaging deceptive marketing practices;
- c) An order directing the confiscation, forfeiture, destruction and/or market withdrawal of all the Respondents' promotional material and recall of any or all certifications that carry the potential to cause deception and confusion among the public;
- d) An order directing the Respondents to take down all promotional material carrying visual content depicting the services of the Respondents that carry the Complainant registered trademark/logo;
- e) An order directing the Respondents to submit a compliance report within (30) days of the order with the direction of the order, in particular with Section 10 of the Act;

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- f) An order directing the Respondents to compensate the Complainant for losses suffered as a result of its deceptive marketing practices, which the Complainant estimates to be in region of 500 Million Rupees; and
- g) Any other relief deemed by the Commission.

### 3. SUBMISSIONS OF THE RESPONDENT


- 3.1 The complaint was forwarded to Respondents for their comments on November 06, 2023. The Respondents appointed the external counsel namely M/s Siddique Law Associates to appear before the Commission on behalf of Respondents. The counsel, vide letter dated November 19, 2023, requested to extend the time for submission of their comments. On November 29, 2023, Respondents filed their comments, which are summarized below:
- 3.2 That the complaint is liable to be dismissed on the ground that it has been instituted with malafide intention, out of business rivalry and ulterior motive.
- 3.3 The complaint under reply lacks a cause of action against the Respondents, hence is liable to be dismissed because the Respondents neither using the mark/logo/artistic work, trade dress/layout, and font of the Complainant nor has any intention of using the mark/logo on their certification services in present or future.
- 3.4 That the Complainant is incompetent to file the complaint and the complaint filed by the person having no legal authority because the power of attorney has not been registered properly. The Respondents submitted that there is no similarity between the logos of the parties to cause and result in deception. That any reasonable comparison differs in every aspect of both marks/logos. The Respondents' logo is neither identical nor similar to the Complainant's logo. Hence, there is no question of deceptive marketing practices.
- 3.5 The Respondents further submitted that the nature of the present complaint does not fall within the ambit of Section 10 of the Act and it is out of the jurisdiction of this Hon'ble Commission.
- 3.6 The Respondent No. 1 stated that it has been engaged in the business of trademark and certification; scientific and technological services and research and design relating; industrial analysis, industrial research, and industrial design services; quality control and authentication services and other allied services since 2022 under the trademark/logo/artistic work trade dress a/layout , with red color standing a man under the trade name, 'MCI-Bureau of Inspection & Certifications' on the label.
- 3.7 That Respondent No. 1 is duly registered with the Federal Board of Revenue and has also obtained ISO 9001:2015 certification.

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- 3.8 The trade names of both parties are distinct and unlikely to cause confusion or deceive consumers. Respondent No. 1 has not adopted the trademark/logo design or the trade name/style of the Complainant, thereby minimizing the likelihood of confusion or deception and preventing substantial damage to the goodwill and reputation of the Complainant. Additionally, there is no probability of the Complainant's services being misrepresented as the services of the Respondents.
- 3.9 That it has no concern with the business as well as trademark/logo design of Respondent No. 2 and the name of Respondent No.2 has been included in the instant complaint erroneously.
- 3.10 In their para-wise reply to the complaint, Respondent No. 1 denied every averment made therein and demanded strict proof of the allegations leveled in the complaint. The Respondent No. 1 reiterated the aforementioned submission.

#### 4. REJOINDER


- 4.1 The Respondents' response was forwarded to the Complainant for a rejoinder via correspondence dated December 1, 2023. Subsequently, the Complainant, by means of correspondence dated December 11, 2023, requested an extension of the deadline for submitting the rejoinder. Consequently, an extension was granted until December 21, 2023. The Complainants' rejoinder, received on December 20, 2023, is summarized below:
- 4.2 That the Respondents have been put to strict of their claims made in the reply. The Respondents have miserably failed to prove with legitimate arguments and evidence that their adoption of  is honest and have entirely relied on the assertion that there is no element of deception and/or confusion. In fact, the Respondents themselves have provided a comparison of two logos which establishes beyond any doubt the similarities in the between two logos.
- 4.3 That the Respondents have entirely ignored the potential for public harm caused by the Respondents' fraudulent adoption and use of the deceptively similar logo and stated that the two logos bear no similarity. The Complainant was established two centuries ago in 1828 and has been using its registered trademark/logo since long. The deceptive adoption of the Complainant's logo by the Respondents is further highlighted that the Respondents only recently started using the deceptive similar logo within the same industry, thereby in efforts to mark the services of the Respondents as that of the Complainant and/or with nexus to the Complainant.

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4.4 The Respondents are using the deceptively similar logo  along with similar features in terms of graphic, design, font, and stylization which clearly shows that it was a fraudulent imitation of the Complainant's registered logo.

4.5 That the instant complaint is filed against the fraudulent adoption of the Complainant's

registered logo  and to mislead the public at large by creating a false trade association with the Complainant. Such misleading information is not only capable of deceiving the general public but also hurting the business interests of the Complainant. Hence, the Respondent's acts warrant the initiation of proceedings in accordance with Section 30 of the Act.

4.6 That Respondent No. 2 is an associate concern of Respondent No. 1 which can be verified from their website [www.mcipk.com/get-in-touch/](http://www.mcipk.com/get-in-touch/). The Complainant's trademarks/logos are fully protected under international laws, specifically the Berne Convention, the Universal Copyright Convention, the TRIPS Agreement, as well as the Copyright and Trademark Laws of Pakistan.

4.7 The well-established registered trademark/logo of the Complainant has acquired tremendous goodwill and reputation in favor of the Complainant. By virtue of such rights, the

trademark/logo  either alone or in conjunction with any other marks and/or associated intellectual property is recognized by the members of the trade and the public at large as originating from none other than the Complainant.

4.8 The Respondents initiated their business activities in 2022 and must have been fully aware of the Complainant who is an industry leader. The Respondents have miserably failed to raise a single substantive legal ground to justify their acts of fraudulently imitating the Complainant's registered trademark/logo. On a Respondent's claim that they have obtained NTN and Licences from certified companies, the Complainant stated that in any event obtaining an NTN does not allow the Respondents to engage in deceptive marketing practices and/or infringe upon the intellectual property rights of others.

4.9 The Learned Commission has already settled that such deceptive marketing practices harm growth and cause a loss to the sustainability of Pakistan's economy and must be discouraged at all costs. Thus, since the Respondents' continue to negate all established norms of business by marketing and promoting the deceptively similar logo, they have actively distorted fair competition in the market. Thereby, the Complainant humbly prays the Commission to direct the Respondents' to cease use of the said logo and any other infringing intellectual property, with immediate effect.

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## 5. ANALYSIS:

5.1 The Enquiry Committee was given the mandate to conduct an enquiry regarding the issues raised in the complaint and to submit the enquiry report by giving its findings and recommendations, *inter alia*, on the following issues:

- i. *Whether the Respondent is violating Section 10(1) of the Act, in terms of Section 10 (2) (d) of the Act, which prohibits fraudulent use of another's trademark, firm name, or product labeling or packaging?;*
- ii. *Whether the Respondent is disseminating false or misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the character, properties, suitability for use, and quality of goods in, prima facie, violation of Section 10 (1) in general and in particular, Section 10 (2) (b) of the Act?;*
- iii. *Whether the conduct of the Respondent is capable of harming the business interest of the Complainant in, prima facie, violation of Section 10 (2) (a) of the Act?;*
- iv. *Whether there is a spillover effect of the conduct of the Respondent?*

**I. WHETHER THE RESPONDENT IS VIOLATING SECTION 10(1) OF THE ACT, IN TERMS OF SECTION 10 (2) (D) OF THE ACT, WHICH PROHIBITS FRAUDULENT USE OF ANOTHER'S TRADEMARK, FIRM NAME, OR PRODUCT LABELING OR PACKAGING.**

5.2 The Respondent No. 1 is a sole proprietorship, owned and operated by Mr. Ateeq-ur-Rehman, a Pakistani individual, having a registered business address at office no. 152, 2<sup>nd</sup> floor, block 47-A, Lucky Center pak-arab society, Lahore. The Respondent No. 1 is duly registered with the Federal Board of Revenue under registration no. 3460308488509.

5.3 The Respondent No. 1 has obtained a certificate of accreditation from the United States Accreditation Council to provide audit and certification of management systems for ISO 9001:2015 quality management system, ISO 14001:2015 environmental management systems, and ISO 45001:2018 occupational health and safety management systems.

5.4 In the complaint, it is stated that Respondent No. 2 has a place of business at 13 Churchfields Avenue Feltham, Middx, London, TW13(5)PB, United Kingdom. The Complainant has submitted that both Respondents are undertakings as per the definition outlined in Section 2(1)(q) of the Act. Therefore, the present complaint has been filed against both Respondents. The term "Undertaking" is defined in Section 2(1)(q) of the Act.

*"undertaking means any natural or legal person, governmental body including a regulatory authority, body corporate, partnership, association, trust or other entity in any way engaged, directly or indirectly, in the production, supply, distribution of goods or provision or control of services and shall include an association or undertakings"*


5.5 The Respondent No. 1, in its reply, has submitted that it has no concern with the business as well as trademark/logo design of Respondent No. 2 and the name of Respondent No.2 has been included in the instant complaint erroneously. The Complainant in its rejoinder has submitted that the Respondent No. 2 is an associate concern of Respondent No. 1 and the same can be verified from their website, [www.mcipk.com](http://www.mcipk.com).


5.6 It is pertinent to mention here that even if Respondent No. 2 is an associate concern of Respondent No. 1 and operates outside of Pakistan's territorial jurisdiction, it does not fall under the jurisdiction of the Act. Section 1(2) of the Act clearly specifies this.


*"It shall apply to all undertakings and all actions or matters that take place in Pakistan and distort competition in Pakistan"*

5.7 It is quite evident that the Act applies to all the activities and matters that occur within the territory of Pakistan, and Respondent No. 2 does not operate within Pakistan. The Complainant vide letter dated April 08, 2024, was asked to explain how the actions and practices of Respondent No. 2 distort competition, through the adoption of a similar trademark, in Pakistan. In this regard, the Complainant submitted that Respondent No. 1 has listed a United Kingdom address on its website, however, it has not conducted any activity in the United Kingdom. Therefore, the actions and practices of Respondent No.1 will only be scrutinized in accordance with the provisions of Section 10 of the Act.

5.8 The Complainant is a French organization specialized in testing, inspection and certification founded in 1828. It operates in a variety of sectors and has been providing its services in Pakistan since 1999. The Complainant is duly accredited to ISO/IEC 17065:2012 by the United Kingdom Accreditation Service (UKAS) to provide product conformity certification. The Complainant is also an accredited body by the Pakistan National Accreditation Council (PNAC).

5.9 As mentioned in 2.4 *ibid*, the trademark/logo  of the Complainant is duly registered with the IPO vide TM No. 237769. On the other hand the Respondent No. 1 has also applied

for registration of trademark/logo  with the IPO on 9<sup>th</sup> of January 2024 under TM application no. 237769. It is important to highlight that Respondent No. 1 has been operating


and providing its services in Pakistan since 2022 under the trademark/logo , whereas in its application with the IPO, the Respondent No. 1 had mentioned the use of logo since June 2021.

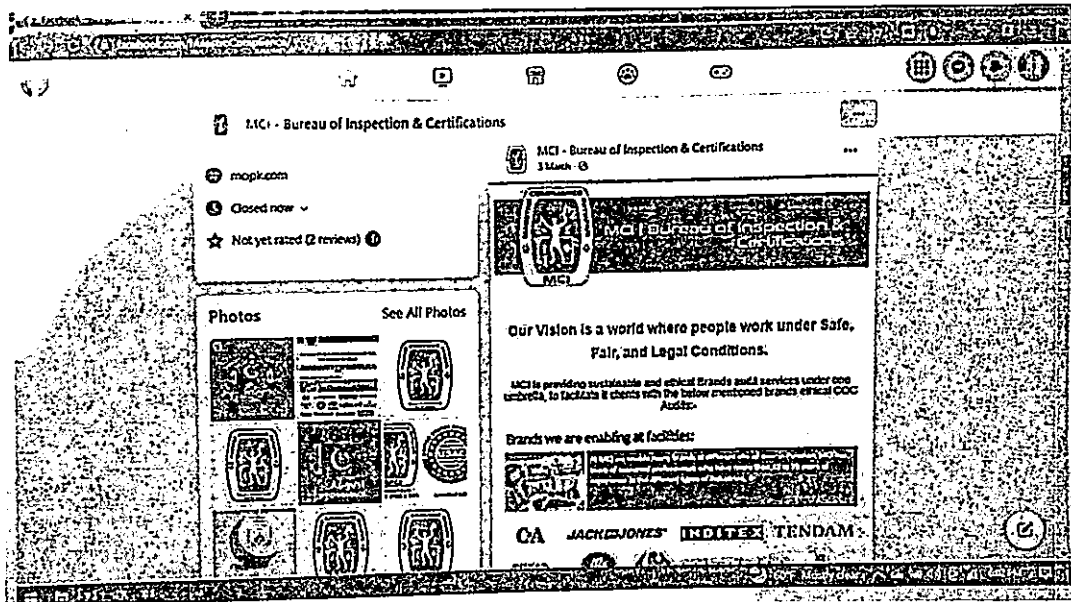
5.10 The matter in hand is of deceptive marketing practices by fraudulent use of Complainant's registered trademarks by the Respondents. It needs no emphasis that the Complainant is a very famous French company specializing in testing, inspection, and certification.

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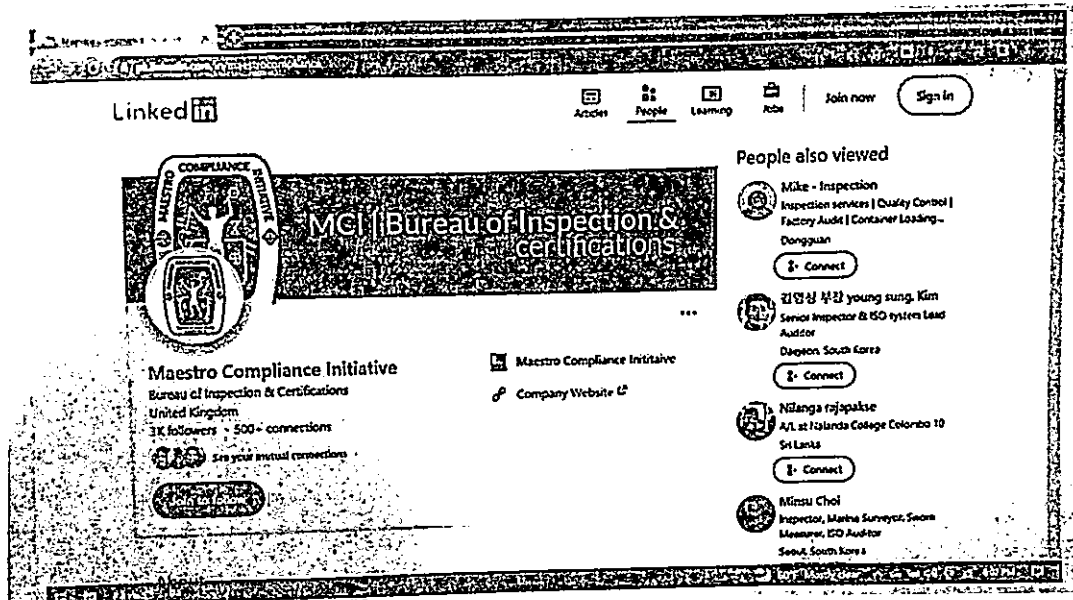
5.11 The Respondent No. 1, in its comments/reply to the complaint, has denied the allegation of the Complainant and submitted that there is no similarity between the trademark/logo of the Complainant and Respondent No. 1 that can confuse the mind of consumers. The Respondent No. 1's trademark/logo is neither identical nor similar to the Complainant's logo. The Respondent No. 1 has submitted that the names, as well as the trademarks/logos of both companies, are entirely different from each other. The Respondent No. 1 has also denied the allegation of passing off.

5.12 The Respondent No. 1 stated that it has been engaged in the business of trademark & certification; scientific and technological services and research and design relating thereto; industrial analysis, quality control & authentication services and other allied services since

2022 under the trademark/logo  with a red color trademark wherein a man is standing inside the logo design, holding scientific instruments in his hands, under the trade name MCI-Bureau of Inspection & Certifications on the label. Copy of the Facebook and LinkdIn images, containing the initiated trademark/logo, are depicted below:




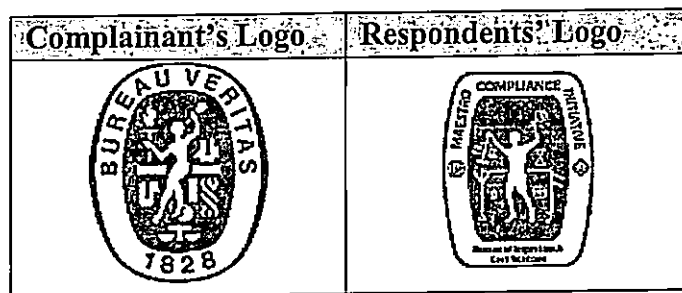
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5.13 From the bare perusal of the Facebook and Linkdin images of the Respondent No. 1, it is clear that the registered trademark/logo of the Complainant has been used by the Respondent No. 1 on its marketing material and the imitation of deceptively similar trademark/logo on marketing material can easily deceive a purchaser viewing the website, Facebook and LinkdIn pages that the services advertised are that of the Complainant or the Respondent No. 1 has some association with the Complainant.



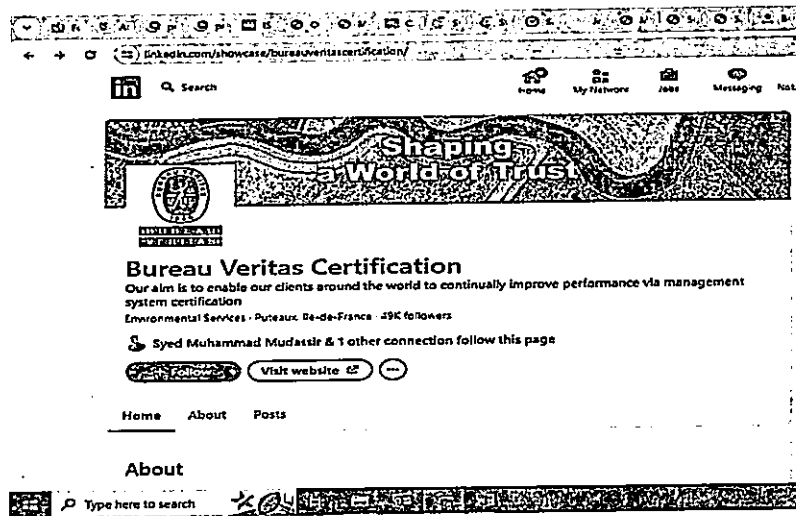
5.14 The Complainant's trademark/logo  has been duly registered with the IPO, as mentioned in paragraph 2.4 *ibid* of the same document, it states that the Complainant's trademark was registered on June 16, 2007 in class 42 of IPO classification. The trademark features a parabolic shape with a human character inside, holding various scientific instruments, and is called "Bureue Veritas". Initially, the Respondent No. 1 has adopted a similar trademark design to the complainant's, which can be compared by looking at the trademarks depicted below:



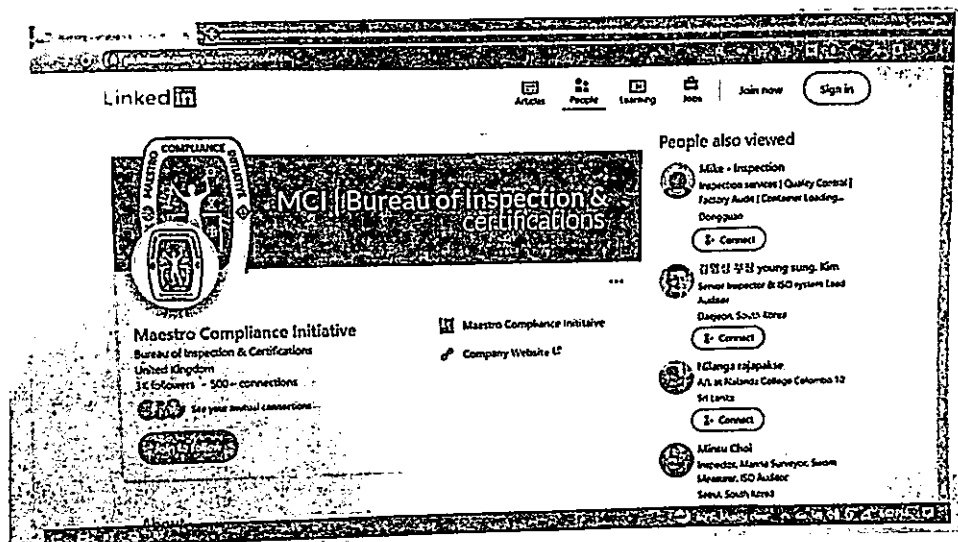
5.15 If we place both the trademark side by side, it reveals that the Respondent No. 1 has copied the dominant features of the Complainant's registered trademark. The font, shape and design of both the marks are very similar to each other. The Respondent No. 1 is using a similar trademark/logo with similar features in terms of graphic, design, font and stylization which shows its fraudulent intent to pass off its goods/service as that of the Complainant's goods/services.

5.16 In order to determine instance of deception in any marketing material, the main focus of the Enquiry Committee, as per the general practice, is to evaluate its "net general impression". The Commission relied upon the principle of net general impression and stated that: "To determine whether a representation is false or misleading, the courts consider the "general impression" it conveys, as well as its literal meaning."<sup>1</sup>

5.17 From the above, it is clear that for purposes of determination on Section 10 of the Act, it is important what net general impression the advertisement conveys. No excerpt in isolation can be taken into account, rather the entire scheme of advertisement or marketing campaign is to be looked into. Before looking into the Respondent No. 1's advertisement, we deemed it appropriate to refer to the logo of the Complainant, the graphic representation whereof is as under:

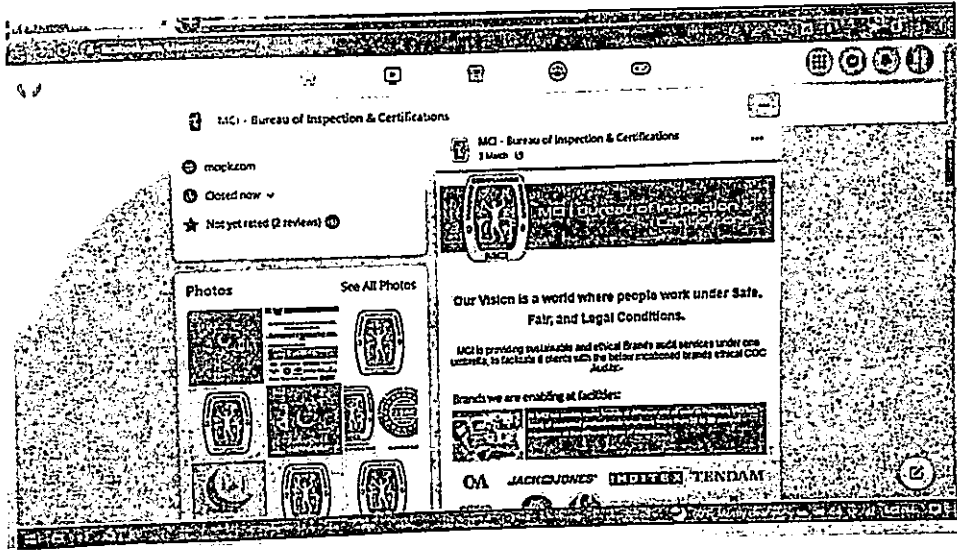


5.18 Below are the images of Respondent No. 1's advertisement material submitted by the Complainant as evidence to prove that Respondent No. 1 is fraudulently using its trademark/logo:

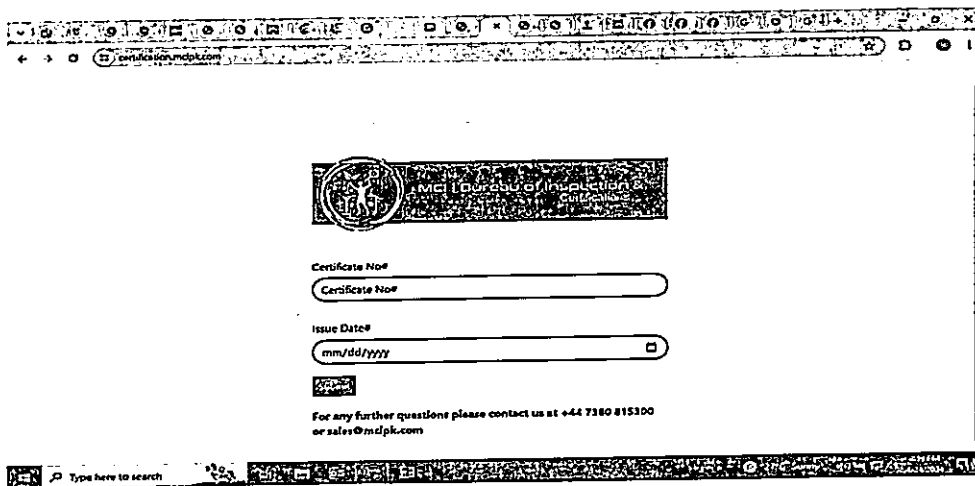


<sup>1</sup> <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03133.html>



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5.19 The Enquiry Committee has also visited the website of Respondent No. 1 and captured the screenshot which is depicted below:



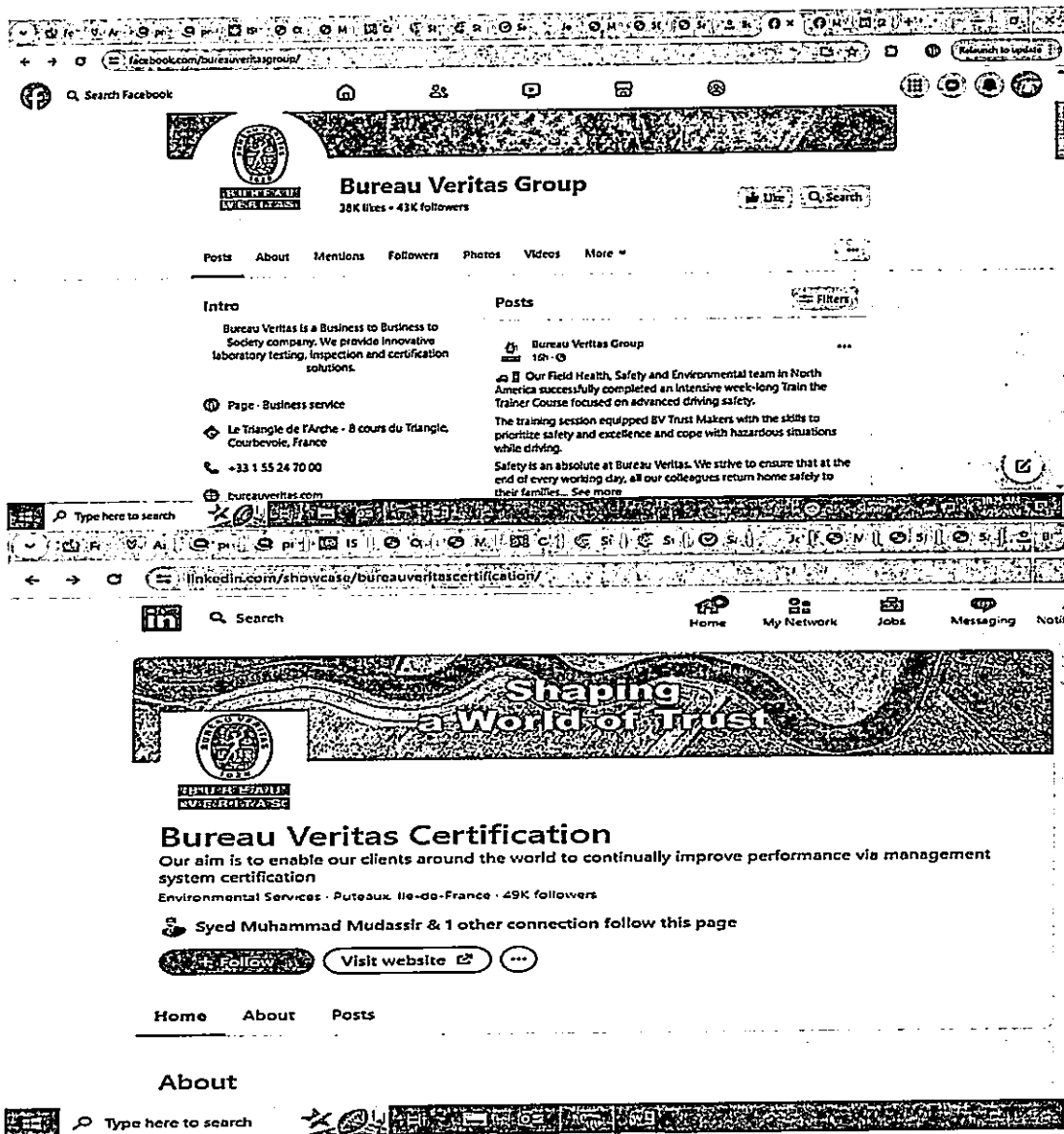
5.20 The overall net general impression which one gathers from the social media advertisement is that CI - Bureau of Inspection & Certification, with the graphical representation of MCI-trademark/logo, has advertised its services and the potential clients have been informed regarding the audit, inspection and certification services of Respondent No. 1 in Pakistan and United Kindom. In the same marketing material it has also been informed to the potential clients that Respondent No. 1 has been duly accredited by USAC. The Complainant has

alleged that the trademark/ logo  used by Respondent No. 1 is deceptively similar to that of its registered trademark/logo  . However, to establish the fraudulent adoption of

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trademark by the Respondent No. 1, we now see the advertisements of the Complainant to draw a comparison between two trademarks/logos. They are as follows:



5.21 From the above advertisements of the Complainant and Respondent No. 1, one thing is evident that the graphic representation of both the Complainant's and Respondent No. 1's logos, depicted on their marketing material, are similar. Further, the certificate issued by the Complainant clearly states that 'Complainant's UK branch certifies the management system of the above mentioned organization', since the UK branch of the Complainant has duly been accretiated by the UKAS to issue this certificate. On the other hand the Respondent No. 1 is itself accredited and authorized to issue this certification. Futhermore, the Respondent No. 1 has also adopted identical color combinations, i.e., Maroon & White, for its certificates. The Respondent No. 1, in its reply, has submitted that it has no association with the business of Respondent No.2 which is located in the United Kingdom, however, the LinkedIn profile of the Respondent No. 1 clearly states its international presence in the United Kingdom.

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5.22 Upon looking at the Respondent No. 1 marketing material in juxtaposition with the trademark/logo and marketing material of the Complainant, the overall net general impression is that Respondent No. 1 is somehow affiliated with the Complainant as their services, i.e., inspections and certification are identical in nature, and the advertisement also bears a similar trademark/logo on it.

5.23 As has been discussed in the proceeding paragraphs, using of similar trademark/logo by the Respondent No. 1 gives the consumers an impression that either the services offered by the Respondent No. 1 are the services of the Complainant or the Respondent No. 1 is somehow associated or affiliated with the Complainant. Further, the false claim about international presence in the United Kingdom in the marketing material of social media profiles can also confuse the consumers about the origin of the service provider. In their response, the Respondent No. 1 has failed to provide any evidence which substantiates that the Respondent No. 1 is associated with the Complainant. Further, the use of a similar trademark/logo along with its international presence in the marketing material seems to be an attempt by the Respondent to capitalize on the goodwill and standing of the Complainant.

5.24 During the course of enquiry, the Respondent No. 1 has made amendments in its website and changed its trademark/logo style, however no change is observed in the main or dominant features of the trademark. The modified trademark/logo is still similar to that of the Complainant's trademark/logo. A screenshot of the website is depicted below:



5.25 Such uniquely developed trade or service marks are created and adopted by undertakings to assist consumers in quick identification of their brands of varied products/services. One of the major purposes of these trade/service marks is also to distinguish them from those of its competitors.

5.26 These creative works then represent a certain perception about the respective products/services in terms of the status, price, unique characteristics, method or place of production/origin of service providers, properties, quality, etc., of the relevant goods and services. These creative works, hence, become a prominent aspect of the brand image and goodwill of their owners, as

they not only represent the producers/providers of these products/services but also symbolize the unique features and quality of the said products/services.

5.27 The Commission, in its past orders, has established the fact that the protection of trademarks is necessary to secure brand equity and is an important marketing factor that can affect the perception and consequently sales of a good or service. Therefore, it also holds significance in light of the Section 10 of the Act.

5.28 The discussion above proves that Respondent No. 1 has fraudulently adopted a similar trademark/logo that closely resembles the Complainant's registered trademark/logo. This conduct is, *prima facie*, in violation of Section 10(1) and specifically Section 10(2)(d) of the Act.

**II. WHETHER THE CONDUCT OF THE RESPONDENT IS CAPABLE OF HARMING THE BUSINESS INTEREST OF THE COMPLAINANT IN, PRIMA FACIE, VIOLATION OF SECTION 10 (2) (A) OF THE ACT?;**

5.29 Now turning to Section 10(2)(a) of the Act, according to which 'the distribution of false or misleading information that is capable of harming the business interests of another undertaking' constitutes a deceptive marketing practice. In this regard, the Respondent No. 1 has failed to provide any evidence which substantiates that the Respondent No. 1 is directly or indirectly associated with the Complainant. Further, the use of a similar trademark/logo along with its international presence in the marketing material seems to be an attempt by the Respondents to capitalize on the goodwill and standing of the Complainant.

5.30 The Complainant, in its complaint, has submitted that a fraudulent adoption of another's trademark is in clear contravention of the Act. In fact, the said adoption by the Respondents is to cause grave injury to the Complainant's established reputation in the market. Hence the unauthorized and blatant use of the Complainant's trademark/logo by the Respondents is in violation of Section 10 of the Act and clearly has the potential to further harm the business interest of the Complainant in violation of Section 10(2)(a) of the Act.

5.31 The Complainant relied upon the precedents laid down by the Commission that a mere potential harm to the business interests of the Complainant suffices to constitute a violation of the provision of Section 10(2)(a) of the Act (2022 CLD 1343).

5.32 Keeping in view of the above, the Complainant, vide letter dated March 19, 2024, was directed to provide evidence of any direct or express harm caused by the Respondent's deceptive marketing practices as alleged in the complaint.

5.33 The Complainant, vide letter dated March 27, 2024, has submitted that the Complainant's business rests upon its reputation and goodwill within the industry and the potential clients (consumers) rely upon the name and associated logo as a symbol of quality. These intangible assets are invaluable and play a paramount role in shaping consumer trust, fostering strategic partnerships, and maintaining market position.

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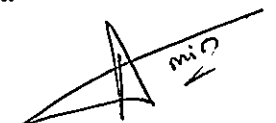
- 5.34 The Complainant further submits that they are unable to furnish direct evidence at this juncture, they implore the Commission to recognize the gravity of the situation and the profound impact it has had on the Complainant's business.
- 5.35 In the instant matter, it seems that the Respondent No. 1 made a misrepresentation concerning its own products/services by fraudulent adopting a similar trademark/logo to that of the Complainant to take advantage of the reputation (goodwill) of the products/services of the Complainant, not concerning the products/services of the Complainant to cause the express or direct harm to the business interests of the Complainant.
- 5.36 Therefore, it can be concluded that Respondent No. 1 has not violated the provision of Section 10(2)(a) of the Act.


### III. Whether there is a spillover effect of the Respondent's conduct?

- 5.41 The products/services of Respondent No. 1 are advertised on its official webpage and social media pages, including LinkedIn and Instagram, which are accessible across the globe. This also led the original owner of the trademark/logo, i.e., the Complainant, to file a complaint under the Competition Law.
- 5.42 Therefore, the act of the Respondent No. 1 is not contained within jurisdictional boundaries and has a spillover effect.

### **6. CONCLUSION AND RECOMMENDATIONS.**

- 6.1 The businesses spend a substantial amount of resources to build their brand identity, distinguish their products/services from competitors, and build a reputation in the market. The Respondent's marketing of its product/services by using a similar trademark/logo to that of the Complainants' certainly would not only affect the consumer's capacity to make an informed choice and cause deception but would also hinder competition as it would be no longer based on honesty and fairness. One of the main aims of the Act is to ensure that competition is fair and not distorted.
- 6.2 In view of the above, it has been concluded that the act of the Respondent appears to be in violation of Section 10 of the Act, in particular, Section 10 (2)(d) which prohibits *fraudulent use of another's trademark, firm name, or product labeling or packaging*.
- 6.3 It is, therefore, proposed that these, *prima facie*, violations under the Act, warrant initiation of proceedings against M/s MCI-Bureau of Inspection & Certifications, under Section 30 of the Act.

  
Amin Akbar  
Assistant Director  
(Enquiry Officer)

  
Mehmoona Allauddin  
Management Executive  
(Enquiry Officer)