

महाराष्ट्र MAHARASHTRA

2015

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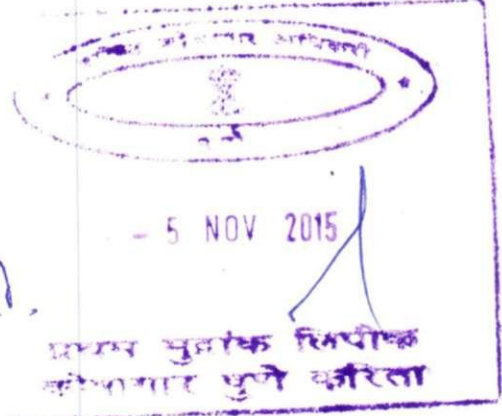
दस्तावा प्रकार काबीडेशन वगैर

दस्त नोंदणी मिळवली आहे विरीण चिंतामणी बेनामदा

मुद्रांक दि. २७४ शनिवार पेठ, पुणे.

पत्ता दुसऱ्या पक्षा निव्वर

हस्त व्यक्तीय एडिशन जलिनंदर माने - अजय मुखनवरी, पिकेगुख पुणे



मुद्रांक विकत घेणाऱ्याची सही ४२५ ब, शनिवार पेठ, पुणे-३०

AWARD
IN ARBITRATION
'AIRTEL.BANK.IN'

BHARTI AIRTEL LTD.
1 Nelson Mandela Road
Vasant Kunj, Phase - II,
New Delhi. 110070. India.

THE COMPLAINANT

AND

APARNA SOMASUNDARA
Mallapuram
Kerala, India.
676505.

**THE RESPONDENT /
THE REGISTRANT**

**IN THE MATTER OF DISPUTED DOMAIN NAME: - 'AIRTEL.BANK.IN'
BEFORE MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.**

SOLE ARBITRATOR

**DELIVERED ON THIS 7th DAY OF NOVEMBER TWO THOUSAND
FIFTEEN AT PUNE, INDIA.**

SUMMARISED INFORMATION ABOUT THE DISPUTE: -

**01. Names and addresses
Of the Complainant: -**

**Bharti Airtel Limited
1 Nelson Mandela Road
Vasant Kunj, Phase - II
New Delhi. 110070. India**

Through its authorized
representative

Mr.Vaibhav Vutts & Mr.Vihan Dang
Vutts & Associates LLP., A-1/232
LGF, Safdarjung Enclave,
New Delhi. 110029.

**02. Name and address of
The Respondent: -**

**Aparna Somasundaran
Mallapuram, Kerala.
India. 676505.**

03. Calendar of Major events:

Sr. No.	Particulars	Date (Communications in electronic mode)
01	Arbitration case referred to me & acceptance given by me	19.10.2015
02	Hard copy of complaint received & Notice of Arbitration issued with the instructions to file reply latest by 8.11.2015	28.10.2015
03	Registrant / Respondent submitted her reply	05.11.2015
04	Notice of closure of arbitration	05.11.2015
06	Award passed	07.11.2015

II PRELIMINARY: -

1. Bharti Airtel Ltd. is a company organised and incorporated under the Companies Act, 1956, having its principal place of business at 1, Nelson Mandela Road, Vasant Kunj, Phase - II, New Delhi, 110070. (**The Complainant**). The Complainant is engaged in the business, inter-alia, of providing telecom and other related services.

2. **The Complainant** has filed complaint with National Internet Exchange of India (NIXI) disputing the registration of domain name **AIRTELBANK.IN** (**the disputed domain name / domain name**), through its authorized representative **Mr.Vaibhav Vutts & Mr.Vihan Dang, Vutts & Associates LLP, A-1/232, Safdarjung Enclave, New Delhi, 110029, India.**

3. The Complainant has disputed registration of domain name '**AIRTELBANK.IN**' in the name of **Aparna Somsundaran, Mallapuram, Kerala, India, 676505. (The Respondent / Registrant).**

1) Major events took place as enumerated in the above table.

III PROCEDURE FOLLOWED IN ARBITRAION PROCEEDINGS: -

01. In accordance with INDRP read with INDRP Rules of Procedure, notice of arbitration was sent to the Respondent on 28th October, 2015 with the instructions to file his reply / say latest by 8th November, 2015.

02. The Registrant / Respondent filed her reply / say on 5th November 2015 and in view of her submission / confirmation of willingness to transfer the domain name to the Complainant, on 5th November 2015 notice of closure of arbitration procedures was issued.

03. No personal hearing was requested / granted / held.

III SUMMARY OF THE COMPLAINT OF THE COMPLAINANT: -

The Complaint is based on the following points / issues in brief: - -

(A) OWNER OF REGISTERED TRADEMARKS AND DOMAIN NAMES:

1. The Complainant states that the domain name registered by the Respondent includes the word AIRTEL which is both similar and identical to 'AIRTEL' trademarks, of which it is the registered owner. A list of such trademarks registered in many countries is provided in Annexure to the Complaint, by the Complainant. Among other registered trademarks, the Complainant also holds Indian Trademark under Registration No.766272 for AIRTEL since 21.07.1997 and NO.648684 for 'airtel' since 18.04.1995.
2. The Complainant is one of the renowned and leading telecommunication company with operations in over 20 countries from Asia and Africa, rendering 2G, 3G, 4G wireless services, mobile commerce, fixed line services, DSL broadband services, IPTV, DTH, etc.

3. The Complainant's name includes the word 'AIRTEL' prominently and is therefore noticeable by everyone.
4. The Complainant also owns various websites like www.airtel.com, www.airtel.in and so on.
5. In view of long standing of the company and its reputation in the country as also abroad, registration / use of the disputed domain name by any other person would lead to confuse the potential customers and internet users. Similarly it would be detrimental to its credibility, market standing and reputation which is harmful to its business.

(B) REMEDIES SOUGHT BY THE COMPLAINANT: -

On the background of the Complaint and reasons described therein the Complainant has requested for transfer of the Registrant's domain name to it.

VI] REPLY TO THE COMPLAINT / STATEMENT OF DEFENSE: -

In reply the Registrant / Respondent has filed her say on 5th November 2015, well within the stipulated period. In her reply she states as follows: -

' Dear Sir,

Please refer to your mail relating to domains www.airtelbank..in

I deny prior knowledge of your clients mark while registering the names. The charges levelled are baseless and misrepresentation of facts.

I understand that your client is interested in the domains . In view of the same , I have decided to transfer the domains in your clients name. Please provide details of the transferee to instruct transfer of the domains.

I here by authorise NIXI Registry to transfer the domain airtelbank.in in their name on receipt of the transferee details
Yours Sincerely

Aparna somasundaran'

In view of very categorical willingness to transfer the disputed domain name without any expectation of consideration / costs for registration, this Arbitration Panel thought it fit to close arbitral proceedings and pass this award.

Submission of reply well within the stipulated period and no expectation of even registration expenses are considered as the merits of the Registrant / Respondent and therefore no costs have been awarded to the Complainant.

VI] REJOINDERS OF THE PARTIES: -

In view non-filing of any reply by the Registrant no rejoinders were called for.

VIII MERITS OF THE COMPLAINANT: -

Though the arbitral proceedings have been closed summarily based on the unequivocal acceptance to transfer the disputed domain name, this Arbitration panel wants to bring it on record the following: -

(a) The Complainant has several registered trade marks, websites and its corporate name, all including the word 'airtel', AND all of them have been in use for several years and much before the registration of disputed domain name by the Registrant.

(b) This panel has reached the following conclusions: -

i. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights according to the requirement of para 4(a)(i) of the INDRP Rules

ii. The Registrant / Respondent has no rights or legitimate interests in respect of the domain name as required by Para 4(a)(ii) of the Rules.

iii. Use of disputed domain name by the Registrant / Respondent, if any in future, would lead to creation of confusion in the minds of internet users regarding its ownership.

From all above findings, it can be concluded that the Complainant has proved its credentials to the entitlement to the disputed domain name.

On the basis of my findings on issues and foregoing discussion I pass the following award: -

01. The Complainant is entitled to the disputed domain name – 'AIRTELBANK.IN' and hence the same be transferred to the Complainant.

Dated: - 07.11.2015
Place: - Pune


(S.C. INAMDAR)
SOLE ARBITRATOR