



उत्तर प्रदेश UTTAR PRADESH

AU 425256

16 AUG 2011

BODHISATVA ACHARYA
ARBITRATOR

(Appointed by . IN Registry-National Internet Exchange of India)

Case No. Of 2011.

ARBITRATION AWARD: DISPUTED DOMAIN NAME: www.flipkart.co.in

In the matter of:

Jigna Karnik
Company Secretary
1st Floor, No.447/C, 1st A Cross,
12th Main, 4th Block,
Opp. BSNL Telephone Exchange,
Koramangala,
Bangalore-560034
Karnataka, India.
Email: jignak@flipkart.com

....Complainant

Vs.

Li Xiaozhou

Anyang

Henan

Postal Code:455000

CN

E-mail: domain110@gmail.com

..Respondent.

A W A R D

1. The Parties:

The complainant in this arbitration proceeding is Jigna Karnik Company Secretary 1st Floor, No.447/C, 1st A Cross,12th Main, 4th Block,Opp. BSNL Telephone Exchange, Koramangala, Bangalore-560034, Karnataka, India. with email address as jignak@flipkart.com

Respondent in this arbitration proceeding Li Xiaozhou, Anyang, Henan, Postal Code:455000,CN with email addressdomain110@gmail.com

2. The Domain Name, Registrar & Registrant:

The disputed domain name is www.flipkart.co.in

3. Procedural History:

The complainant, through its authorized representative, filed this complainant to NIXI regarding the disputed domain name www.flipkart.co.in following the clause 4 of the policy of .IN Registry and .IN Registry appointed Mr. Bodhisatva Acharya (The Arbitrator) as Sole Arbitrator under clause 5 of the policy. The Arbitrator submitted his statement of acceptance and declaration of



Impartiality and the Independence on July 7th, 2011 and the complaint was produced before the Arbitrator on July 9th, 2011.

4. Factual Background:

Arbitrator sent a notice to the Respondent through his email on July 11th, 2011 for the Arbitration Proceeding with a 10 days deadline to submit his reply but the Respondent to submit her reply but nothing was neither filed nor replied by the Respondent. On July 12th, 2011 Complainant sent an email to Arbitrator to submit the copy of a email sent by Respondent to Complainant in which Respondent indicate about the solution of this matter by way of demanding money from Complainant but Respondent has never replied and never filed to Arbitrator Hence the Award is giving as Ex-parte on September 1st, 2011.

5. Parties Contentions:

(a) Complainant contends that

- (i) The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights:
- (ii) The Registrant has no rights or legitimate interests in respect of the domain name: and
- (iii) The Registrant's domain name has been registered or is being used in bad faith, and the domain name be transferred to the Complainant.

(b) Respondent contends that

The respondent gave no response and produced no reply.

6. Discussion & Findings:

Under the Paragraph 4 of the Policy (INDRP) 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:

- (i) The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has right.
- (ii) The Registrant has no rights or legitimate interests in respect of the domain name; and
- (iii) The Registrant's domain name has been registered or is being used with bad faith

After having gone through the records, documents, produced by the Complainant, Arbitrator's findings are:

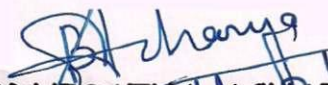
- (i) That the Respondent's performance was clearly *ab initio* in bad faith because Respondent filed no reply to Arbitrator at any stage of proceeding and Respondent want to settle the dispute by getting money from Complainant which shows the bad intention of Respondent and it clearly shows that the Registrant's domain name has been registered or is being used in bad faith, and the domain name be transferred to the Complainant.
- (ii) The Complainant produced many evidences in his favour and the Arbitrator is satisfied by them.
- (iii) The complainant has proved all the aforesaid premises as mentioned in paragraph 4 of Policy in his favor and he is has produced all the documentary proof in his favor.



7. Decision:

Hence the Arbitrator decides, the Disputed Domain Name www.flipkart.co.in is identical or confusingly similar to registered trademark of the Complainant and Respondent has no right to use the disputed domain name and the Respondent domain name has been registered in bad faith.

The Arbitrator further decides and orders that the domain name www.flipkart.co.in shall be transferred to the Complainant with immediate effect.


BODHISATVA AGHARYA
SOLE ARBITRATOR
INDIA.

DATED: September 1st, 2011,
PLACE: NEW DELHI, NIXI