



Dr. Bodhisatva Acharya
ARBITRATOR

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

Case No. Of 2012

ARBITRATION AWARD: DISPUTED DOMAIN NAME : < interflora.co.in >

In the matter of:

INTERFLORA BRITISH UNIT

Interflora House

Sleaford

Lincolnshire

England NG 34 7TB

Filed by its authorized representative attorney -

DePenning & DePenning

Patents Trademarks Designs Copyright

120 Velachery Main Road

Guindy

Chennai-600 032

India

..... Complainant.

BL

Vs.

Smita Kapur
D 5/12 Vasant Vihar
New Delhi
India
Postal Code: 110057
Phone: +91 9810730353
Email- smitskapoor007@gmail.com

.....Respondent.

A W A R D

1. The Parties:

The complainant in this arbitration proceeding is INTERFLORA BRITISH UNIT, Interflora House, Sleaford, Lincolnshire, England NG 34 7TB filed by its authorized representative attorney DePenning & DePenning, Patents Trademarks Designs Copyright, 120 Velachery Main Road, Guindy, Chennai-600 032, India .

Respondent in this arbitration proceeding is Smita Kapur, D 5/12 Vasant Vihar, New Delhi, India, and Postal Code: 110057
Email- smitskapoor007@gmail.com

2. The Domain Name, Registrar & Registrant:

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



3. Procedural History:

The complainant, through its authorized representative, filed this complaint to NIXI regarding the disputed domain name www.interflora.co.in following the clause 4 of the policy of .IN Registry and .IN Registry appointed Dr. 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 and the complaint was produced before the Arbitrator on August 18th, 2012 and the Arbitrator sent a notice, to the Respondent through his email for the Arbitration Proceeding on August 19th, 2012, to submit his reply in 10 days but nothing was submitted to Arbitrator till the date of award hence the AWARD is being declared on the October 17th, 2012 as Ex-parte.

4. Factual Background:

- (a) The Complainant in this administrative proceeding is INTERFLORA BRITISH UNIT which is predominantly in the business with respect to trading and retail sale of flowers. The Complainant trade mark was adopted and used in 1920 in UK. The Complainant has trademark registration for the trademark INTERFLORA for inter alia, INTERFLORA is a world renowned company engaged in the production and trading and retail sale of flowers.
- (b) The mark INTERFLORA has been extensively used in commerce worldwide since 1920. The Complainant manufactures and markets (through licensees) with respect to Natural plants and flowers, seeds, Grains, Horticultural products. The websites www.interflora.co.uk proclaim and advertise about the goods manufactured and marketed on behalf of the complainant.



- (c) The Complainant is a leading renowned company engaged in the trading and retail sale of flowers and promotes the good online, using the Internet and worldwide web through their well known Domain names www.interflora.co.uk as well as through various other country level domains (ccTLDs). The said Domain names were registered on 20 May 1996 and the associated websites were launched in subsequent years. The website also provides elaborate information about the complainant and their products. The complainant combines global expertise and operation with knowledge in each of their markets and are marketed worldwide.
- (d) In 2009-2010 the complainant had annual revenue of £ 5, 91, 7000 billion. The complainant has also spent a considerable amount of money promoting its brand INTERFLORA worldwide. The complainant has also generated a substantial and reputation and goodwill in the name of INTERFLORA. This has been possible through extensive promotion of the INTERFLORA range of products through widespread advertisement which has appeared in a number of publications. The international distributors and licensees of the complainants also undertake their own marketing and promotional activities in support of the INTERFLORA brand and Respondent registered his domain name as same to the Complainant.
- (e) Lastly the complainant filed this complaint for Arbitration proceeding and the complaint was produced before the Arbitrator on August 18th, 2012 and the Arbitrator sent a notice, to the Respondent through his email for the Arbitration Proceeding on August 19th, 2012, to submit his reply but nothing was submitted to Arbitrator till the date of award hence the AWARD is being declared on the October 17th, 2012 as Ex-parte.

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:

- (i) The Complaint is the proprietor of the mark "INTERFLORA" in India and world wide as stated herein below for the classes 1,,16,31 & 39, the applications whereof dates back to 25th January 1995. The Respondent's domain name interflora.co.in is identical to the said mark INTERFLORA and highly similar to various other domain names in which the Complainant has rights on amount of prior registrations and use all over the world. The Respondent's domain name is nothing but a blatant imitation of the Complainant's corporate name, prior and registered trademark. The Respondent has made a calculated approach wherein he has not created any content to his website. This act of the Respondent is bound to result in conflict and confusion and lead to dilution of the reputation associated with the Complainant's business. The Respondent's domain name is phonetically, visually and conceptually identical as that of the Complainant.



The existence of the Respondent's domain name would cause the public to believe that the respondent and their domain name is sponsored by or affiliated to the Complainant. The Respondent is not the bonafide, honest adopter or true/actual user of the disputed domain name interflora.co.in and has created it being fully aware of the Complainant's trademark INTERFLORA and their domain names, so as to trade and benefit under the Complainant's repute and goodwill.

- (ii) The disputed domain name was registered by the Respondent on 28th April 2010. At this time, the Complainant already had a built considerable reputation in the mark INTERFLORA and had been actively using the websites www.interflora.co.uk and which can be accessed from nay corner of the world. The complainant has also common law rights in the corporate name, which has INTERFLORA in all prominence and is the only identifiable name of the Complainant since the inception of the Complainant's predecessor title. The disputed domain name was created by the Respondent on 28th April 2010 very much after the launch of the website by the Complainant under the name www.interflora.co.uk on August 1996. The Complainant believes that the Respondent is not or has never been known by the name INTERFLORA or by any confusingly similar name and assuming but not admitting that even if the Respondent has accrued any rights in the domain name INTERFLORA.CO.IN since its registration, any such rights would be significantly predated by the Complainant's rights. The Respondent's registration and used of the disputed domain name is a clear case of cyber squatting, whose intention is to take advantage of the Complainant's substantial reputation and its prominence presence on the internet in order to confuse the public by offering similar services and goods as that of the Complainant, divert business, tarnish the repute and goodwill of the Complainant and the said marks and unduly gain in all aspects to the detriment of the Complainant.



- (iii) The Respondents have not been authorized, licensed or otherwise consented by the Complainant to use the mark INTERFLORA or to seek my sort of registration incorporating the said marks and domain name of the Complainant. Being aware of the Complainants mark, domain names, the reput, recognition and goodwill that the Complainant have achieved worldwide, the respondents have subsequently in all malafide intention adopted the disputed domain name incorporating the said marks of the Complainant. To the best of Complainant's knowledge, Respondent did not use or register the mark or name INTERFLORA or any variation thereof prior to the date upon which the disputed domain name was registered. Neither does it appear that the Respondent is/was commonly know by the mark or name INTERFLORA or any variation thereof prior to the disputed name registration.

7. Decision:

Hence the Arbitrator decides, 'the Disputed Domain Name www.interflora.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.interflora.co.in shall be transferred to the Complainant with immediate effect.


Dr. BODHISATVA ACHARYA
SOLE ARBITRATOR
NIXI

DATED: October 17TH, 2012,
PLACE: NEW DELHI,
INDIA.