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RANJAN NARULA

ARBITRATOR

Appointed by the .In Registry – National Internet Exchange of India

In the matter of:

**Quinstreet Inc.**  
950 Tower Lane, 6<sup>th</sup> Floor  
Foster City,  
California - 94404  
USA

.....Complainant

**Jack Sun**  
SuperNames, Inc.  
Tanggou Zhen Xibei Zu 3 Hao,  
Shuyang, Jiangsu - 223611  
China

.....Respondent

Disputed Domain Name: [www.quinstreet.co.in](http://www.quinstreet.co.in)

## **AWARD**

### **1) The Parties:**

The Complainant in this arbitration proceeding is **Quinstreet Inc.** of 950 Tower lane, 6<sup>th</sup> Floor, Foster City, California - 94404, USA. The Complainant is represented by its authorized representatives Remfry & Sagar, Remfry House at the Millennium Plaza, Sector-27, Gurgaon - 122009, India who have submitted the present Complaint.

The Respondent in this arbitration proceeding is Jack Sun SuperNames, Inc. of Tanggou Zhen Xibei ZU 3 Hao, Shuyang, Jiangsu- 223611, China as per the details available in the whois database maintained by National Internet Exchange of India (NIXI).

### **2) The Domain Name, Registrar & Registrant:**

The disputed domain name is [www.quinstreet.co.in](http://www.quinstreet.co.in). The Registrar is Directi Internet Solutions Pvt. Ltd.

### **3) Procedural History:**

This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28<sup>th</sup> June, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

As per the information received from NIXI, the history of the proceedings is as follows.

In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed Ranjan Narula as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.

The complaint was produced before the Arbitrator on June 20, 2012 and the notice was issued to the Respondent on July 03, 2012 at his email address with a deadline of 10 days to submit his reply to the arbitration. The Respondent did not submit any response. On July 20, 2012 the Arbitrator granted further opportunity to the Respondent to submit its response on or before July 30, 2012. However, no response was submitted by the Respondent within the stipulated time of thereafter. In the





circumstances the complaint is being decided based on materials submitted by the Complainant and contentions put forth by them.

**Grounds for administrative proceedings:**

- A. The disputed domain name is identical with or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- B. The Respondent has no rights or legitimate interests in respect of the impugned domain name;
- C. The impugned domain name was registered and is being used in bad faith.

**4) Summary of the Complainant's contentions:**

**The Complainant in support of its case has made the following submissions**

- a) The Complainant Quinstreet Inc., a United States corporation organized in the states of Delaware, is a world leader in vertical marketing and media on the internet.
- b) The Complainant is one of the most widely known and respected internet marketing and media companies in the world. In February 2006, Niesen/Net Ratings recognized the Complainant as one of the top ten advertisers on the Internet. The Complainant promotes clients on websites in a wide array of industries, including education, home services, financial services, business-to-business (B2B), medical/health, brand advertising, and career services. The Complainant features in the top five online media buyers and manages one of the largest proprietary networks on the Internet. The Complainant's expertise extends to every major form of online traffic, including self owned and operated destination sites, pay-per-click (PPC) search, third-party publishers, opt-in email and newsletters. The Complainant's innovative technologies match targeted segments of website visitors with clients and products of probable interest.
- c) The Complainant owns numerous high traffic websites, including MoneyRates.com and Insure.com, managed by teams of dedicated editors, publishers and staff writers who generate unique and useful information from proprietary surveys and data research, also managed by dedicated internal teams of experts. The Complainant's original content has been widely syndicated or cited on websites including CNN Money, USA Today, New York Times, Wall Street Journal, CBS Money Watch, Fox Business, HuffingtonPst.com, MSN Money, Forbes, NASDAQ, Bloomberg Business Week and others.
- d) The Complainant's presence in India dates back to July 13, 2004 when the Complainant's India office was incorporated as Quinstreet Software India Pvt. Ltd., with a registered office at 6<sup>th</sup> Floor, Commer Zone, Survey no. 144-145, Samrat Ashok Path; off Airport road, Yerwada, Pune. Quinstreet Software India Pvt. Ltd. offers products/services using latest technologies such as Web 2.0, Java/J2EE, Spring, Hibernate, PHP, MVC Frameworks, CodeIgniter,



CakePHP, Oracle 10g, PL/SQL etc. Subsequently, another company was incorporated under the name 'Quinstreet India Marketing and Media Pvt. Ltd. on December 9, 2011, with a registered office at 604, A.J. Avenue, Near Suvarnaratna Garden, Karve Nagar, Pune. The offices set up in Pune, with employee strength of about 51-100, have become a vital part of the Complainant's ongoing business and play a vital role in the Complainant's success in IT-software services.

- e) The Complainant enjoys loyal patronage amongst the relevant public in India. A copy of a brochure pertaining to the Complainant's business in India has been filed as **Annexure-A**. Copies of documents filed with the Registrar of Companies pertaining to QuinStreet Software India Pvt. Ltd. evidencing incorporation and affiliation with the Complainant have been filed as **Annexure-B**. Copies of documents filed with Registrar of Companies pertaining to Quinstreet India Marketing and Media Pvt. Ltd. evidencing incorporation and affiliation with the Complainant have been filed as **Annexure-C**.
- f) The Complainant submits that success attained by them in respect of its services is also reflected by the host of awards received by the websites it manages and has acquired over the years. The Complainant received an advertisement award at the 7<sup>th</sup> annual WebAwards for one of its long-standing clients. Two flagship websites of the Complainant received awards at the Web marketing Association's 2011 WebAward Competition for "Financial Services Standard of Excellence" and 'Outstanding Website' in the insurance industry category. While one of the Complainant's website was named as the "Best Blog of 2011" by Time.com, another website was ranked among "Top 10 Most Useful Websites, 2011" and was recognized as the "Best Technology Website" in the Web Marketing association's 2012 WebAwards.
- g) The Complainant's company 'QUINSTREET', commands tremendous popularity and reputation world over. Since its inception, the Complainant's growth has been steady, averaging well over 50% for the past 7 years. As of 2009, despite the economic downturn, the company continuously grew boasting of 450 employees across the globe and \$261 million in annual revenue. Complainant's Annual reports for the years 1999-2000, 2004-2005 and 2008-2009 have been filed as **Annexure-D (Colly.)**.
- h) The Complainant has invested years of time, capital, efforts and resources in advertising and promoting its company under the trade mark 'QUINSTREET' across the globe through both print and digital media having circulation throughout the world. The Complainant also uses its success to give back to the community. For example, in the year 2009 the Complainant volunteered its services in promoting the inaugural "Bloody Rose" mountain bike endurance race planned by Galena Fest, LLC, a Reno, Nevada-based non-profit organization. The Complainant worked to support online marketing efforts for Galena Fest 2009, assisted in the development of the website [www.RenoGalenaFest.com](http://www.RenoGalenaFest.com) and the maintenance of online social media accounts for the event. A copy of the press release pertaining to this event has been filed as **Annexure-E**.





- i) The trademark 'QUINSTREET' forms an integral part of the Complainant's corporate name and serves as its principal trade mark and domain name, [www.quinstreet.com](http://www.quinstreet.com). Since the trade mark 'QUINSTREET' is its most valued intellectual property, the Complainant has taken utmost care to secure statutory rights in the same through trade mark registrations in numerous countries of the world including India.
- j) The Complainant is the registered proprietor of the trade mark 'QUINSTREET' in several jurisdictions, with the registrations dating back to the years 2000 and 2001 in the UK and USA, respectively. Besides these, the Complainant's mark 'QUINSTREET' enjoys trade mark protection in countries such as Argentina, Australia, Brazil, Canada, Chile, China, European community, France, Germany, Israel, Japan, Mexico, Republic of Korea and South Africa. A list of the Complainant's registrations in respect of the trade mark 'QUINSTREET' in the aforementioned countries is attached herewith and marked as Annexure-F. Also attached and marked as Annexure-G (Colly.) are copies of registration certificates in respect of the Complainant's said trade mark in these countries.
- k) In India, the Complainant's trade mark 'QUINSTREET' is registered under No. 1290221 in classes 35, 36 and 42, since June 15, 2004. Copies of certified extracts from the Registrar of Trade marks pertaining to Registration No. 1290221 have been filed as **Annexure-H (Colly.)**
- l) Further, the Complainant has registered numerous top level domain names (TLDs) and country level domain names (ccTLDs), some of which are listed below:

Domain Name	Date of Registration
quinstreet.org	December 16, 1999
quinstreet.net	December 16, 1999
quinstreet.net	December 16, 1999
quinstreet.co.uk	February 18, 2000
quinstreet.biz	December 19, 2001
quinstreet.in	July 02, 2007
quinstreet.info	July 02, 2007
quinstreet.la	July 02, 2007
quinstreet.md	July 02, 2007
quinstreet.me.uk	July 02, 2007
quinstreet.mobi	July 02, 2007
quinstreet.be	July 02, 2007
quinstreet.us	July 02, 2007
quinstreet.vc	July 02, 2007
quinstreet.bz	July 02, 2007
quinstreet.am	July 03, 2007
quinstreet.co.nz	July 03, 2007
quinstreet.co.cn	July 03, 2007
quinstreet.com.tw	July 03, 2007
quinstreet.net.cn	July 03, 2007
quinstreet.net.nz	July 03, 2007

quinstreet.org.cn	July 03, 2007
quinstreet.org.nz	July 03, 2007
quinstreet.org.tw	July 03, 2007
quinstreetadvertisment.com	August 15, 2007
quinstreet.com	April 23, 2008

- m) A list of domain names registered by the Complainant along with the WHOIS details in respect of a few of the said domains has been filed as **Annexure-I (Colly.)**
- n) The websites of the Complainant is extremely popular and are a valuable source of knowledge with respect to the Complainant and its services under its corporate name and trade mark 'QUINSTREET'. The website '[www.quinstreet.com](http://www.quinstreet.com)' records a significant number of hits every month and, therefore, it is apparent that the goodwill and reputation of the Complainant as regards the trademark 'QUINSTREET' pervades both the real world as well as cyberspace.
- o) The Complainant has submitted that upon reviewing the impugned website [www.quinstreet.co.in](http://www.quinstreet.co.in), the Complainant was surprised to note that the same is being offered for sale. Printouts from the website operated by the Registrant under the domain name 'quinstreet.co.in'. Further, the said domain is parked on Sedo.com, a well known site for trading in domain names. Sedo allows Registrants to simply 'park' the registered domain names without having to develop any website. Relevant printout reflecting that the domain is parked for sale at Sedo.com has been filed as **Annexure-L**. It is evident that the Registrant is blocking the Complainant from registering the said domain name with a view to reap illegitimate profits. The Registrant is unduly using as part of the disputed domain name, the mark 'QUINSTREET' which is identical to the Complainant's corporate name and trade mark. The registrant has no rights or legitimate interests in respect of the said domain name and is operating with a view to make unjust pecuniary gains by offering the said domain for sale.
- p) The Complainant mentions that the Registrant has registered several other domain names comprising various third party trade marks/names such as 'luxottica.co.in' (a leader in premium fashion, luxury and sports eyewear), urbanoutfitters.info (an apparel retail company), giorgiofedon.com (eyewear products), 'spanco.in' (overhead cranes & services) and Seagate.co.in (manufacturers of hard drives and storage solutions) among many others. All the domains resolve into webpages featuring sponsored listings. A list of such domain names owned by the Registrant, the WHOIS details in respect thereof and printouts from the websites being operated are filed as **Annexure-M (Colly.)**. Thus Complainant has alleged that the Registrant is a habitual cyber squatter who is set out at making illicit gains by registering domain names identical to well-known trade/services marks, corporate names/ trading styles, domain names, etc.



## 5) Respondent

The Respondent has not filed any response to the Complaint though they were given an opportunity to do so. Thus the complaint had to be decided based on submissions on record and analyzing whether the Complainant has satisfied the conditions laid down in paragraph 3 of the policy.

## 6) Discussion and Findings:

The submissions and documents provided by Complainant in support of use and registration of the mark 'QUINSTREET' leads to the conclusion that the Complainant has superior and prior rights in the mark QUINSTREET. Thus it can be said a) the web users associate the word QUINSTREET with the goods and services of the Complainant b) the web users would reasonably expect to find Complainant's products and services at the [www.quinstreet.co.in](http://www.quinstreet.co.in) and c) they may believe it is an official website of the Complainant and the services being offered/ advertised are associated or licensed by the Complainant.

Based on the elaborate submission and documents, I'm satisfied that the Complainant has established the three conditions as per paragraph 4 of the policy which are listed below. Further the Respondent has not contested the claims therefore deemed to have admitted the contentions of the complainant.

- (1) the Respondent's domain name is identical or confusingly similar to the trademark in which he has rights;

It has been established by the Complainant that it has trademark rights, and rights on account of prior and longstanding use of the mark 'QUINSTREET'. The Complainant has in support submitted substantial documents. The disputed domain name contains or is identical to Complainant's 'QUINSTREET' trademark in its entirety. The mark is being used by the Complainant to identify its business. The mark has been highly publicized by the Complainant and has earned a considerable reputation in the market.

- (2) the Respondent has no rights or legitimate interests in respect of the domain name;

The Complainant has not authorised the Respondent to register or use the 'QUINSTREET' trademark. Further, the Respondent has never used the disputed domain name for legitimate business services and their purpose for registration appears to be purely for monetary gain.

The Respondent has not rebutted the contentions of the Complainant and has not produced any documents or submissions to show his interest in protecting his own rights and interest in the domain name. Further, the Respondent has not used the domain name or a name corresponding to the disputed domain name in connection with a bonafide offer of goods or services. The Respondent has simply parked its domain for sale.



The above leads to the conclusion that Respondent has no right or legitimate interest in respect of the disputed domain name 'quinstreet.co.in'


(3) the domain name has been registered in bad faith.

It may be mentioned that since the Respondent did not file any response and rebut the contentions of the Complainant, it is deemed to have admitted the contentions contained in the Complaint. As, the Respondent has not established its legitimate rights or interests in the domain name, an adverse inference as to their adoption of domain name has to be drawn. Further the Respondent appears to have copied other well known brand names and registered them as domain names.

Based on the documents filed by the Complainant, it can be concluded that the domain name/mark 'QUINSTREET' is identified with the Complainant's products, therefore its adoption by the Respondent shows 'opportunistic bad faith'.

#### **7. Decision:**

In view of the foregoing, I am convinced that the Respondent's registration and use of the domain name [www.quinstreet.co.in](http://www.quinstreet.co.in) is in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name. In accordance with the Policy and Rules, the arbitrator directs that the disputed domain name [www.quinstreet.co.in](http://www.quinstreet.co.in) be transferred from the Respondent to the Complainant.



**RANJAN NARULA**  
**SOLE ARBITRATOR**  
**NIXI**  
**INDIA**

**11 August, 2012**