



उत्तर प्रदेश UTTAR PRADESH

Dr. Bodhisatva Acharya
ARBITRATOR

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

Case No. Of 2012

ARBITRATION AWARD: DISPUTED DOMAIN NAME : <saharaforceindia.in>

In the matter of:

Leslie Ross
Force India Formula One Team Limited
Dadford Road
Silverstone
Northampton
NN 12 8TJ
E-mail: Leslie.Ross@forceindiafl.com

Filed by its authorized representative attorney –

Deborah Lincoln
Travers Smith
10 Snow Hill
London
EC1A 2AL
E-mail: Deborah.Lincoln@traverssmith.com

.....Complainant.

Vs.

**Mr Mandeep Singh Dhingra
8-2-402/B 1
Road No 4
Banjara Hills
Hyderabad
Andhra Pradesh 500034
India
Email- Mandeep_dhingra@hotmail.com**

.....Respondent.

A W A R D

1. The Parties:

The complainant in this arbitration proceeding is Leslie Ross, Force India Formula One Team Limited, Dadford Road, Silverstone, Northampton, NN 12 8TJ with E-mail: Leslie.Ross@forceindiafl.com **filed by its authorized representative attorney** Deborah Lincoln, Travers Smith, 10 Snow Hill, London, EC1A 2AL with Email:Deborah.Lincoln@traverssmith.com

Respondent in this arbitration proceeding is Mr Mandeep Singh Dhingra,8-2-402/B 1, Road No 4, Banjara Hills, Hyderabad , Andhra Pradesh 500034, India with Email-Mandeep_dhingra@hotmail.com

2. The Domain Name, Registrar & Registrant:

The disputed domain name is www.saharaforceindia.in



3. Procedural History:

The complainant, through its authorized representative, filed this complainant to NIXI regarding the disputed domain name www.saharaforceindia.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 on and the complaint was produced before the Arbitrator on July 7th, 2012 and the Arbitrator sent a notice to the Respondent through his email for the Arbitration Proceeding on July 10th, 2012, to submit his reply and on August 6th, 2012 Arbitrator received an e-mail to give the time for submitting reply sent by Mr. Karthik, Director, Domain Name Dispute India on behalf of Respondent and the Arbitrator allowed the request by giving one week time to file the reply and later on the reply was filed on August 14th, 2012 and hence on September 8th, 2012 the award has been declared.

4. Factual Background:

- (a) The Complainant is the registered proprietor of a large number of trademarks, registrations and applications for the mark "Force India", in a wide range of classes and in many jurisdictions world wide. The earliest registration dates from 9 may 2008 and the mark has been in constant use since 2008. A print out of a selection of the registration details of these marks is attached as Annex 4 to this Complaint. The Complainant is a company that owns and runs a Formula One racing team, based in Silverstone, England. The team was formed in 2007 and was known by the name "Force India Formula One Team" until 2011 when an Indian company that forms part of the Sahara Group, Sahara Adventure Sports Limited, purchased 42.5% of the shares of Orange India Holdings S.A.R.L., the parent company of the Complainant, and the team was then renamed "Sahara Force India F1 Team". The Complainant uses the url www.forceindiaf1.com as its website address. The Sahara element of the Sahara Force India name is owned by Sahara India, and Indian Company which controls the Sahara Group, as described above. The name "Sahara" has been used by it since 1987. It is a very well known brand in India, in relation to a wide range of business interests conducted by Sahara India, which is a substantial conglomerate company headquartered in Lucknow, India.
- (b) Lastly the complainant filed this complaint for Arbitration proceeding and the complaint was produced before the Arbitrator on July 7th, 2012 and the Arbitrator sent a notice to the Respondent through his email for the Arbitration Proceeding on July 10th, 2012, to submit his reply and on August 6th, 2012 Arbitrator received an e-mail to give the time for submitting reply sent by Mr. Karthik, Director, Domain Name Dispute



India on behalf of Respondent and the Arbitrator allowed the request by giving one week time to file the reply and later on the reply was filed on August 14th, 2012 and hence on September 8th, 2012 the award has been declared.

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 response and produced reply properly.

6. Discussion & Findings:

- (i) The domain name that is the subject of this Complaint is identical or confusingly similar to a trademark in which the Complainant has rights, as described above. The Domain name contains the mark "Sahara Force India", which contains the "Force India" trademark that is the subject of the trademarks registrations owned by the complainant, as described above. The domain name reproduces the composite mark "Sahara Force India" in which the complainant has substantial goodwill and related rights deriving from its use of this name since 2011. The Complainant's rights are thereby being infringed by the registration and use by the Respondent of the domain name that is the subject of the complaint.
- (ii) As at the date of this Complaint there is no evidence that the Complainant has been able to find of any use by the Respondent, or any preparations to use the domain name in question, or any name corresponding to the domain name in connection with a bona fide offering of any goods or services. As per the knowledge of the Complainant, the Respondent has not been known by the domain name in question and has not acquired, or attempted to acquire, any corresponding trademark or service mark rights in or relating to it. The



Respondent is not making any legitimate non-commercial or fair use of the domain name, but rather seems to have registered it solely with the intention of making commercial gain out of its sale to the Complainant.

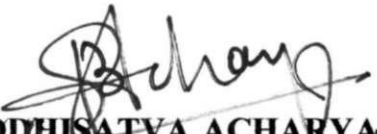
- (iii) On 14 October 2011 the Complaint discovered that two domain names www.saharaforceindia.com and www.saharaforceindiafl.com (which are the subject of a Complaint which is being heard by the World Intellectual Property Organization (WIPO) Arbitration and Mediation Centre pursuant to the Uniform Domain Name Dispute Resolution Policy (UDRP) had been registered to the Respondent. The Complainant contacted the Respondent to determine how the Complainant could acquire the domain names from the Respondent. An offer of 8,000 INR (Indian Rupees) was made by the Complainant to the Respondent, which was refused. Further investigations led the Complainant to discover that in addition to the two .com domain names (above) the Respondent had also registered the domain name that is the subject of this Complaint and three similar .IN domain names which are the subject of three additional Complaints with NIXI. On 15 November 2011 further offers to the Respondent in the form of (i) a pair of free domestic return tickets on Kingfisher airlines and (ii) all expenses trip to attend one of the international Grand Prix's scheduled for 2012, initially for one and for two people were also made by the Complainant and were refused by the Respondent.
- (iv) In November 2011 the Respondent was again contacted by the Complainant and was asked what he wanted to receive in order to agree to transfer all of the six domain names describe above to the Complainant, but no reply was received. In December 2011 the Respondent stated that he would transfer the domain names if the Complainant would pay USD3, 500 per domain. The Complainant then made an offer of USD10, 000 for all of the domain names. The Respondent indicated that he was prepared to accept this offer, but then failed to co-operate in finalizing formal written documentation confirming this agreement. On 22 March 2012, a lower offer for USD4, 000 for all of the domain names was made as a final offer by the Complainant, which was not accepted by the Respondent. This has resulted in the Complainant commencing these proceedings against the Respondent. In view of the above, it is clear that the domain name was registered primarily for the purpose of selling or otherwise transferring the domain name to the Complainant for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the domain name.
- (v) The Complainant thus has satisfied the Arbitrator on all the parameters as mentioned in the Paragraph 4 of the Policy (INDRP).



7. Decision:

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


Dr. BODHISATVA ACHARYA
SOLE ARBITRATOR
INDIA.

DATED: September 8th, 2012,
PLACE: NEW DELHI, NIXI