



INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

सत्यमेव जयते

Certificate No.

Certificate Issued Date

Account Reference

Unique Doc. Reference

Purchased by

Description of Document

Property Description

Consideration Price (Rs.)

First Party

Second Party

Stamp Duty Paid By

Stamp Duty Amount(Rs.)

: IN-DL19891032533154S
 : 05-Feb-2020 12:21 PM
 : IMPACC (IV)/ dl921303/ DELHI/ DL-DLH
 : SUBIN-DL92130348386411520240S
 : SANJAY KUMAR SINGH ARBITRATOR
 : Article 12 Award
 : Not Applicable
 : 0
 : (Zero)
 : SANJAY KUMAR SINGH ARBITRATOR
 : Not Applicable
 : SANJAY KUMAR SINGH ARBITRATOR
 : 100
 : (One Hundred only)



Please write or type below this line.....

BEFORE SH. SANJAY KUMAR SINGH ARBITRATOR
IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

IN RE:

INDEED, Inc

Complainant

vs

INDEED INDIA

Respondent

Sanjay Kumar Singh
18/02/2020

Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

BEFORE SHRI SANJAY KUMAR SINGH ARBITRATOR
IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

IN RE:

Indeed, Inc.,
 6433 Champion Grandview Way Building 1 Austin,
 Texas 78750, United States of America

Through its Authorized Representatives

Mr. Sanjay Chhabra and Mr. Bidyut Tamuly,
 Archer & Angel Advocates and Legal Consultants,
 Counsels for the complainant
 5B, 5th Floor, Commercial Towers,
 Hotel J W Marriot, Aerocity,
 New Delhi-110037, India
 E-mail: schhabra@archerangel.com
 & btamuly@archerangel.com

Complainant

Versus

Indeed India
 H 56, Nae Dillee
 Delhi-110067, India
 E-mail: indeedindia99@gmail.com

Respondent

I. PARTIES

A. THE COMPLAINANT:

Indeed, Inc., 6433 Champion Grandview Way Building 1 Austin, Texas 78750, United States of America through its Authorized Representatives Mr. Sanjay Chhabra and Mr. Bidyut Tamuly, Archer & Angel Advocates and Legal Consultants, counsels for the complainant 5B, 5th Floor, Commercial Towers, Hotel J W Marriot, Aerocity, New Delhi-110037, India, E-mail: schhabra@archerangel.com & btamuly@archerangel.com

Sanjay K. A.P.L.
 18/02/2020

THE RESPONDENT:

Indeed India, H 56, Nae Dillee, Delhi-110067, India, E -mail: indeedindia99@gmail.com

II. THE DISPUTED DOMAIN NAME AND REGISTRAR:

The dispute domain name <indeedindia.in>

The Disputed Domain Name is registered with the domain registrar GoDaddy.com, LLC (hereinafter referred to as the 'Registrar'). The Registrar's contact information is as under:

Godaddy.com, LLC

14455 N Hayden Rd Ste 226.

Scottsdale, AZ 85260-6993.

Phone: (480) 505-8877

Fax Numbers (480) 624-2546

Email: udrpdisputes@godaddy.com

III RELEVANT TRADEMARKS OF THE COMPLAINANT:

Trademark	Application No.	Application Date	Used Since	Class & Specification of Services	Status
Indeed	2044682	October 27, 2010	November 29, 2004	Class 35: Dissemination of advertising for others via the Internet Class 42: Computer services, namely, providing a search engine for obtaining job listings,	Registered

Laugay K. Singh
18/02/2020

				resume postings, and other job search information via the Internet	
Indeed	2044681	October 27, 2010	November 29, 2004	Class 35: Dissemination of advertising for others via the Internet Class 42: Computer services, namely, providing a search engine for obtaining job listings, resume postings, and other job search information via the Internet	Registered

IV FACTUAL AND LEGAL GROUNDS:

A. This Complaint is based on the following grounds:

The Disputed Domain Name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights.

Lawyer for Dgh
18/02/2020

About the Complainant:

1. The Complainant that Indeed, Inc., provides the world's largest job site in 28 languages, with over 250 million unique visitors every month from over 60 different countries. Indeed owns and has used its corporate website www.indeed.com as an employment related search engine since at least the year 2004, and continues to do so. The Complainant has relied on the Extracts of webpages highlighting information about Indeed and its services and goods and has annexed the same as **Annexure 3**.
2. The Complainant with specific reference to India, has ensured significant presence of its brand and trademark INDEED in the market through various promotional and advertising activities. In 2017, the Complainant had sponsored the 'Talent Acquisition Summit' in Mumbai during which talks were organized by top industry leaders on next generation digital skills. The Complainant has submitted that more recently, the Complainant entered into an agreement with Yash Raj Films, a leading Indian film production company, to integrate its brand and trademark INDEED in a film (released in India in March 2018) wherein the Complainant's brand was central to the premise. The Complainant has relied on the extracts of relevant web articles in support of the above submissions and has annexed it as **Annexure 4**.
3. The Complainant as a direct result of its impeccable quality, the Complainant's business has been recognized for its consistency in providing outstanding services. The Complainant has submitted that the Complainant has been rated as the top source of external hires and interviews by the Human Capital Management Company, SilkRoad, for 6 years in a row. The Complainant has relied on the extracts of a report in support of the above submission and has annexed it as **Annexure 5**.

Lawyer per Lgl
18/02/2020

The Complainant's **INDEED Marks**

4. The Complainant has submitted that Indeed owns and has used the brand and trademark INDEED and variations thereof (collectively referred to as 'INDEED Marks') for over a decade in relation to its highly successful job websites and search engines, as well as related goods and services such as mobile applications and online advertising services.
5. The Complainant has submitted that INDEED Marks are a distinctive identifier associated with the Complainant and its services and goods. In addition to its extensive common law rights, the Complainant owns trademark registrations for the INDEED Marks in different countries worldwide, including but not limited to the following:

Trademark	Jurisdiction	Registration No	Registration No	Specification of Goods & Services
Indeed	United States of America	3141242	September 12, 2006	Class 35: Dissemination of advertising for others via the Internet (first use since November 29, 2004) Class 42: Computer services, namely, providing a search engine

Sanjay K. Singh
18/02/2020

				for obtaining job listings, resume postings, and other job search information via the Internet (first use since November 29, 2004)
Indeed	United States of America	3984951	June 28, 2011	Class 35: Dissemination of advertising for others via the Internet (first use since November 29, 2004) Class 42: Computer services, namely, providing a search engine for obtaining job listings, resume postings, and other job search information via

Sanjay K. Singh.
18/02/2020

				the Internet (first use since November 29, 2004)
Indeed	United States of America	4282756	January 29, 2013	Class 09: Application software for mobile computing devices, namely, providing an internet search engine for obtaining job listings, resume postings, and other job search information (first use since November 29, 2004)
Indeed	India	2044682	October 27, 2010	Class 35: Dissemination of advertising for others via the Internet (first use since November 29,

Sanjay K. Singh
18/02/2020

				2004) Class 42: Computer services, namely, providing a search engine for obtaining job listings, resume postings, and other job search information via the Internet (first use since November 29, 2004)
Indeed	India	2044681	October 27, 2010	Class 35: Dissemination of advertising for others via the Internet (first use since November 29, 2004)

The Complainant has submitted that its trademark registrations are duly renewed, valid and subsisting. The Complainant has relied on the copies of Registration Certificates for the United States' marks along with extracts of the online records of the Indian Trade Marks Registry

Sanger K. Singh
18/02/2020

for the Indian registrations in support of the above and has enclosed the same as **Annexure 6**.

The Complainant's Domain Name and Website:

6. The Complainant has submitted that it owns the domain name <indeed.com> and operates its corresponding primary website at www.indeed.com, through which it conducts a significant portion of its business and where information about Indeed and its business is easily accessible and available to millions of internet users, who may be current or potential consumers. The Complainant has submitted that its domain name in its entirety incorporates its registered trademark INDEED, thus further augmenting its proprietary rights in the said mark.
7. The Complainant has submitted that the aforementioned domain name <indeed.com>, as evident, is based on the corporate name of the Complainant's company, Indeed, Inc., and was created / registered on and has been regularly renewed since March 30, 1998. The Complainant has relied on extract from the WHOIS database supporting the aforementioned date and has annexed the same as **Annexure 7**. By virtue of the said domain's association with the Complainant for over two decades now, it has become synonymous with the Complainant and its business.
8. The Complainant has submitted that it is also the owner of the India specific domain <indeed.co.in>, which was created / registered on and has been regularly renewed since December 14, 2006. The Complainant has relied on extract from the WHOIS database supporting the aforementioned date and has annexed the same as **Annexure 8**. It is pertinent to note that Indian users are redirected from the Complainant's website at www.indeed.com to www.indeed.co.in.
9. The Complainant has submitted that to leverage its internet-based business model, the Complainant has also set up several other dedicated country-specific domain names and websites in major markets such as Canada <indeed.ca>, Columbia <indeed.com.co>,

Sangar K. Singh
18/02/2020

France <indeed.fr>, Hong Kong <indeed.hk>, Japan <indeed.jp>, New Zealand <indeed.co.nz>, Peru <indeed.com.pe>, Quebec <indeed.quebec>, South Africa <indeed.co.za>, Taiwan <indeed.tw>, Turkey <indeed.com.tr>, Ukraine <indeed.com.ua> and United Kingdom <indeed.co.uk> through which it lists specific job opportunities in these markets. The Complainant has relied on the relevant extracts from the WHOIS database in support of the above submission and has annexed the same as **Annexure 9**.

10. The Complainant has submitted that it is also the owner of several other domain names containing its registered trademark INDEED viz. <indeed.net>, <indeed.online>, <indeed.org>, <indeed.career> and <indeed.jobs>. The Complainant has relied on the relevant extracts from the WHOIS database in support of the above submission and has annexed the same as **Annexure 10**.

Onset of the Present Dispute:

- 11 The Complainant has submitted that it recently received a complaint from a bonafide consumer and learnt that the Respondent via its impugned email ID info (q) indeedindia.in is contacting innocent job seekers and conning them into paying money to secure interviews. The Complainant has submitted that the corresponding website of the Disputed Domain Name, i.e. www.indeedindia.in, directs visitors to a page with the message 'Account Suspended'. Thus, it is apparent that the Respondent is using the Disputed Domain Name solely for the purpose of phishing sensitive information of the Complainant's unsuspecting customers and extracting money from them illegally. The Complainant has relied on the Screenshots of a consumer complaint received by the Complainant and that of an email with invoice indicating use of the name 'Indeed India Pvt. Ltd.' and logo 'indeed' the Respondent, along with an extract of the webpage at www.indeedindia.in, have been collectively enclosed by the complainant as **Annexure 11**.

Sangeeta K. Singh
18/02/2020

The Disputed Domain Name's Similarity to the Complainant's Rights:

12. The Complainant has submitted that the Disputed Domain Name is identical with and/or confusingly similar to the Complainant's INDEED Marks. The Complainant has submitted that the Disputed Domain Name incorporates the Complainant's registered trademark INDEED in its entirety along with the descriptive and non-distinctive word 'india' as a suffix, which, for the reasons outlined below, is insufficient for differentiation.
13. The Complainant has submitted that it has well-established rights in respect of the INDEED Marks which have been recognized and confirmed by NIXI (National Internet Exchange of India). The Complainant has submitted that as recently as in February, 2019, the Learned Arbitrator, in its order directing transfer of the disputed domain to the Complainant in *Indeed, Inc. v. Indeedworld <indeedonline.in>* (INDRP/1059), held that:

"In my opinion, owing to the worldwide presence of the Complainant's business, the term 'online' in the disputed domain name could make Internet users to believe that such domain name and the contents originating therefrom belongs to the Complainant."

The Complainant has submitted that a few other recent disputes where the Complainant has received favorable orders from the present forum are *Indeed, Inc. v. Gulf Talant <indeedglobal.co.in>* (INDRP/1126) in September, 2019; *Indeed, Inc. v. Akshay Kapoor <indeedjobs.ind.in>* (INDRP/1051) in January 2019; *Indeed, Inc. v. Rahul Kumar <indeedcareers.co.in>* (INDRP/1012) and *Indeed, Inc. v. Dinesh Sarang <indeedjob.ind.in>* (INDRP/1011) in August 2018; and *Indeed, Inc. v. Deepak Singh <indeedjob.org.in>* (INDRP/987) and *Indeed, Inc. v. Deepak Singh <indeedjob.net.in>* (INDRP/973) in May 2018. In February, 2018, the Learned Arbitrator, in its order directing transfer of the disputed domain to the Complainant in *Indeed, Inc. v. Josh Mathews <indeedjob.co.in>* (INDRP/948), observed that:

Sanyar K. D. S.
18/02/2020

"While the Registrant's domain name contains the term INDEED' in its entirety, he has just added generic term 'JOB' to this term. It is noteworthy that the term so added 'JOB' is directly concerned with the main business activity of the Complainant, in which it has gained long standing reputation. By adding such word to the registered trademark, the Registrant has cleverly coined the term INDEEDJOB', thereby compelling the internet user to think that it is official website of the Complainant".

The Complainant has submitted that in the INDRP order Indeed, Inc. v. Indeedworld <indeedworld.in> (INDRP/931) passed in January 2018, the Learned Arbitrator in its decision stated:

"... It is well settled proposition that when the relevant trademark is recognizable within the disputed domain name, the addition of any generic or common language term would not prevent a finding of confusing similarity under the first element of UDRP Policy.

The Complainant's rights to the INDEED Marks have also been upheld in several Forum arbitration proceedings (formerly the National Arbitration Forum or NAF - an approved Dispute Resolution service provider under ICANN domain name disputes), namely Indeed, Inc. v. Dinesh Sarang / Indeed / Josh Mathews <indeedjobs.live> and <indeedjob.co> (Case No. 1749207); Indeed, Inc. v. Rina Lay <Indeed.co> (Case No. 1693112); Indeed, Inc. v. Grace Phillips <Inbeed.com> (Case No. 1727609); Indeed, Inc. v. Ankit Bhardwaj / Recruiter <indeedjobz.com> (Case No. 1739470); Indeed, Inc. v. Zhiteng Sun <indeed.net> (Case No. 1751940); Indeed, Inc. v. Josh Mathews <indeedjob.online> (Case No. 1757559); Indeed, Inc. v. Javeed Khan <indeedjob.info> (Case No. 1763184); Indeed, Inc. v. Rina Lay <indeed.us.com> (Case No. 1763393) and Indeed, Inc. v. Rina Lay <Indeed.com.co> (Case No. 1765495).

The Complainant has submitted the copies of the above-mentioned orders and has collectively annexed them as **Annexure 12**.

Sanyal K. Singh,
18/02/2020

14. As per the complainant it is indisputable that the Disputed Domain Name comprises the Complainant's registered trademark INDEED in its entirety. It was held in *Six Continent Hotels, Inc. v. The Omnicorp*, WIPO Case No. D2005-1249 that "the fact that a domain name wholly incorporates a complainant's registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy ") (quoting *Oki Data Americas, Inc. v. Asd, Inc.com*, WIPO Case No. D2001-0903). Similar lines of reasoning have been adopted in the following cases:
- *Britannia Building Society v. Britannia Fraud Prevention*, WIPO Case No. D2001-0505
 - *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS)* - WIPO Case No. D2003-0696;
 - *Hoffmann-La Roche AG v. Andrei Kosko*, WIPO Case No. D2010-0762;
 - *Farouk Systems, Inc. v. QYM*, WIPO Case No. D2009-1572;
 - *Orange Personal Communications Services Ltd. v. Luttringer Alexander*, WIPO Case No. D2008-1979
15. The Complainant has submitted that the addition of the word 'india' as a suffix to the Complainant's registered trademark INDEED is incapable of lending the Disputed Domain Name any distinctiveness or reduce its similarity with the Complainant's INDEED Marks. The word 'india' simply indicates the geographical location where the impugned services are being offered by the Respondent - which are in fact identical to those being offered by the Complainant under the INDEED Marks around the world, including in India as well. The Complainant has submitted that it is known globally as an employment / job search engine since early 2000s and hence use of the Disputed Domain Name will, in all likelihood, make internet users believe that it originates

Sanjay Kumar Singh
18/02/2020

from the Complainant, when that is not the case. Therefore, the term 'india' as a suffix to the prior and registered trademark INDEED is not sufficient to avoid confusion between the Disputed Domain Name and the INDEED Marks of the Complainant. The Complainant has further submitted that a mere search for the words contained in the Disputed Domain Name, i.e. 'INDEED INDIA', on the popular search engine Google.com leads to the Complainant's genuine websites. The Complainant has relied on the extracts of the Google search in support of the above submission and has annexed the same as **Annexure 13**. This result establishes beyond doubt that the two concerned words are associated with the Complainant alone and none else.

16. The Complainant has submitted that the Complainant has been continuously and extensively using the registered trademark INDEED in commerce since its adoption in 2004 - both internationally as well as in India - and thus its rights in the INDEED Marks are beyond reproach. Moreover, since the Disputed Domain Name has only been registered since October, 2019, it is vastly subsequent to the Complainant's adoption, usage and statutory rights in the INDEED Marks globally and in India.
17. The Complainant has submitted that the condition in Paragraph 4 (i) of the INDRP is fully met by the Disputed Domain Name.

B. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

- 1 The Complainant has submitted that Under Paragraph 7 of the INDRP, the following conditions (in particular but without limitation) must be met for the Registrant to have rights or legitimate interests in the disputed domain name:
 - Before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bonafide offering of goods or services;

Sangar K. Singh.
18/02/2020

- The Registrant has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or
- The Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has submitted that the Respondent in the present case has not fulfilled any of the aforementioned conditions for it to have demonstrable rights or legitimate interests in the Disputed Domain Name.

The Complainant has submitted that mere fact that the Disputed Domain Name is registered does not imply that the Respondent has any rights or legitimate interests in them. The Complainant has relied on *Deutsche Telekom AG v. Phonetic Ltd.* (WIPO Case No. D2005-1000), it has been held that "Registration of a domain name in itself does not establish rights or legitimate interests for purposes of paragraph 4(a) (ii) of the Policy".

- 2 The Complainant has submitted the Respondent has not used, nor made any demonstrable preparations to use, the Disputed Domain Name in connection with a bonafide offering of services or goods. It has been submitted by complainant that the Respondent's use of the Disputed Domain Name is for fraudulent purposes, namely, to imitate a legitimate, well-reputed and trustworthy entity, i.e. the Complainant, so as to deceive job seekers into purchasing services that are never provided - which in no manner constitutes a bonafide offering of services or goods.
3. The Complainant has submitted to the Complainant's knowledge, the Respondent has never been commonly known by the Disputed Domain Name and has never acquired any trademark or service mark rights in the Disputed Domain Name. The Complainant has submitted that as seen in Annexure 13, a general Google search of the string 'INDEED INDIA' does not reveal the impugned website or any site that leads to

Sanjay K. Singh
18/02/2020

information on the Respondent or reflects its association with the mark 'INDEED' - again clearly signifying that the Respondent is not known by the Disputed Domain Name. The Complainant has submitted that as held in Alpha One Foundation, Inc. vs. Alexander Morozov, NAF Case No. 766380, "This fact, combined with the lack of evidence in the record to suggest otherwise, allows the Panel to rule that Respondent is not commonly known by the disputed domain name or any variation thereof pursuant to Policy 4(c) (ii)".

4. The Complainant has submitted in William Grant & Sons Limited v. Ageesen Sri, Locksbit Corp. / WhoisGuard Protected, WhoisGuard, Inc. (WIPO Case No. D2016-1049), the Administrative Panel observed that "There is no evidence that Respondent was making a bona fide use of the disputed domain names before receiving notice of this dispute, or that Respondent has been commonly known by <balvenie.xyz> or <glenfiddich.xyz>. Rather, Complainant asserts that Respondent is not licensed or otherwise permitted to use Complainant's marks and that Respondent has no trademarks that incorporate the BALVENIE or GLENFIDDICH marks and has not traded as BALVENIE or GLENFIDDICH. These allegations make out a prima facie case of lack of rights or legitimate interests..."
5. The Complainant has submitted that the Respondent neither has rights or legitimate interests in the Disputed Domain Name nor has the Complainant assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or make use of its registered trademark INDEED. The Complainant has relied on the case of Six Continents Hotels, Inc. v. Patrick Ory, WIPO Case No. D2003-0098 wherein it was held "There is no evidence of any commercial relationship between the Complainant and the Respondent which would entitle the Respondent to the mark. Consequently, the Panel concludes that the Respondent has no rights nor legitimate interests in the Domain Name given there exists no relationship between the Complainant and the Respondent that would give rise to any license,

Sanjay Kumar Singh
18/02/2020

permission or authorization by which the Respondent could own or use the Domain Name".

6. The Complainant has submitted that the inclusion of the word 'INDEED' (registered trademark of the Complainant) and 'india' (a geographical name simply indicating the area of concerned service - where the Complainant has already been providing identical services for many years) in the Disputed Domain Name, together with the blatant mis-appropriation of the INDEED Marks in the course of its business as evident from Annexure 11 above, amply reflects that the intention of the Respondent is to deceive the public into believing that some association or commercial nexus exists between the Complainant and the Respondent and cash-in on such deception. The Complainant has submitted that as held in *The Dow Chemical Company v. Hwang Yiyi*, WIPO Case No. D2008-1276, use of a disputed domain name in connection with a website that is "very similar to the Complainant... intends to mislead the consumers into thinking that the Respondent has some kind of business relationship with the Complainant or it is the Complainant" and, therefore, is not legitimate.
7. The Complainant has submitted that the Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name. The Complainant has submitted that use of the Disputed Domain Name by the Respondent is an attempt to pass itself off as the Complainant in furtherance of a possible phishing scheme (refer paragraph 10.11; Annexure 11). The Complainant has further submitted that use of the Disputed Domain Name in this manner can neither be termed as a bonafide offering of services or goods and nor as a legitimate non-commercial or fair use. The Complainant has further submitted that the Disputed Domain Name has been registered for commercial gain by misleading and diverting consumers and/or tarnishing the Complainant's brand and INDEED Marks, and therefore also the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant has relied on "*The Sports Authority Michigan, Inc. v. Internet Hosting*, NAF Case No. 124516"

Sanjay Kumar Singh
18/04/2020

wherein it was held "It is neither a bona fide offerings of goods or services, nor an example of a legitimate non-commercial or fair use under Policy 4(c) (i) and (Hi) when the holder of a domain name that is confusingly similar to an established mark uses the domain name to earn a profit without approval of the holder of the mark". Also, in Orange Brand Services v. Fayaz/ Exuberant Services and Solution Pvt. Ltd. <orangeinfosolutions.in> INDRP/522, the Learned Panel held that "Complainant is well-known with its trademark. Due to the strong reputation of the trademarks ORANGE, Internet users will apparently and reasonably expect it an offer of the Complainant or authorized or affiliated enterprises under 'orangeinfosolutions.in. '".

8. The Complainant has submitted that it enjoys exclusive rights in the word 'INDEED' qua its specific services and products. The word 'INDEED' per se, when considered along with its descriptive / dictionary meaning (as an adverb) does not indicate in any manner services or goods relating to the employment industry and accordingly the Complainant's registered trademark INDEED in Class 42, 35 and 09 is an inherently distinctive trademark. In fact, a general search for the mere word 'INDEED' on the popular search engine Google.com does not throw any result on the generic meaning of the said word but rather directs to websites which either belong to the Complainant or to third-parties providing information on the Complainant's business and services under the INDEED Marks, thereby augmenting the indisputable association between the Complainant and its said Marks. The Complainant has relied on extracts of the Google search in support of the above submission and has annexed the same as **Annexure 14**. The Complainant has submitted that it is protected against all use of its mark INDEED (including by the Respondent herein) that dilutes and tarnishes its rights therein.
9. The Complainant has submitted that there is no justification for the Respondent's registration and/or use of the Disputed Domain Name. The Complainant has further submitted that by virtue of a dishonest adoption and malafide intent of the Respondent, as established in the

Sangeeta M. Singh
18/02/2020

preceding paragraphs of this Complaint, together with its brazen usage of the Complainant's INDEED Marks, there is no scenario wherein the Respondent can claim to make legitimate non-commercial or fair use of the Disputed Domain Name.

10. The Complainant has submitted that in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0"), the consensus view has been adopted that "While the overall burden of proof rests with the complainant, panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. The Complainant has submitted that complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. The Complainant has further submitted that once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. The Complainant has submitted that if the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP...". The Complainant has further submitted that in this present case, the Complainant has amply established a prima-facie case for the absence of rights or legitimate interests in the Disputed Domain Name in favour of the Respondent.

C. The Registrant's domain name has been registered or is being used in bad faith:

1. The Complainant has submitted that it is vested with worldwide statutory and common law rights in its INDEED Marks since the year 2004. The Complainant has further submitted that the Respondent's usage of the Complainant's trade name and mark INDEED in conjunction with the non-distinctive word 'india', is of concern as it is fraught with the likelihood of creating confusion in the minds of public

Sanyal for Lgl.
18/02/2020

at large. The Complainant has submitted that it is highly probable that consumers looking for the Complainant's INDEED branded services may perceive the Disputed Domain Name to be another domain name of the Complainant for providing jobs in India specifically. The Complainant has submitted that this misconception is highly likely to be amplified when such unwary consumers would receive fraudulent communications from the Respondent which would prominently bear the impugned name 'Indeed India Pvt. Ltd.' and logo 'indGGCI'. The Complainant has further submitted that the collective use of which would lull such consumers into a false sense of security, leading to the incorrect assumption that the Respondent's communication is genuine and originating from the Complainant itself. The Complainant has further submitted that it is exactly this sort of scenario that the Respondent is seeking to create and is in itself evidence of its bad-faith and malafide intentions.

2. The Complainant has submitted that it has acquired significant reputation and substantial goodwill in the employment industry since 2004 and the Respondent, being in an identical industry and dealing with same or similar services, is bound to have knowledge of the world-renowned repute of the Complainant herein. The Complainant has further submitted that it has no cause of adoption of an identical trademark or domain name, except in bad faith and with malafide intention. The Complainant has submitted that moreover, the Disputed Domain Name was registered in October, 2019, i.e. post 9 years of filing of trademark applications by the Complainant in India for registration of its INDEED Marks and 15 years of the Complainant actually using its said Marks in commerce. The Complainant has submitted that the Respondent, therefore, again cannot escape the liability of knowledge of the Complainant and its business - and by extension, its INDEED Marks - since no level of coincidence can lead to the Respondent adopting a name / trademark identical to the Complainant's much prior adopted, used and registered INDEED Marks. In *Compagnie Generale des Etablissements Michelin v.*

Sanjay K. J. L.
18/02/2020

Terramonte Corp, Domain Manager (WIPO Case No. D2011-1951), it was held that "it is clear in this Panel's view that, at the time the disputed domain name (<mchelin.com>) was registered, Respondent had actual knowledge of Complainant's preexisting rights in the MICHELIN trademark. The Complainant has submitted that the Panel concluded that Complainant has established that Respondent registered the disputed domain name in bad faith". The Complainant has submitted that in the present case, at the time of registration of the Disputed Domain Name <indeedindia.in>, the Complainant had been known by its business / corporate / trade name INDEED for much over a decade and had already enforced its rights against several infringers. The Complainant has submitted that even so, the Respondent chose to register the Disputed Domain Name so as to misappropriate the Complainant's INDEED Marks in an unabashed and unauthorized manner. The Complainant has submitted that a finding of bad-faith registration of the Disputed Domain Name is irrefutable and must follow.

3. The Complainant has submitted that there can be no doubt that the Respondent was aware of the Complainant's INDEED Marks when it registered the Disputed Domain Name, which clearly suggests "opportunistic bad faith" in violation of the Policy. The Complainant has relied on Morgan Stanley v. M/s Keep Guessing, INDRP/024 ("Complainant is very well known and has been using his mark for a very long period, in his commercial/business activities.... The respondent must have known about complainant's mark at the time of registration of his domain name.") as well as on Orange Brand Services Limited v. Anshul Agarwal / Orange Electronics Pvt. Ltd. <orangeindia.in> INDRP/579 ("Given the fame of the Complainant's trademark and domain name, it is not possible to conceive a use of the same by the Respondent, which would not constitute an infringement of the Complainant's rights in the trademark"). The Complainant has submitted that INDEED is a well-known, internationally recognized and renowned mark, registered across several territories worldwide.

Sergey K. Lyl.
18/02/2020

This suggests that the Respondent must have not only been aware of the Complainant's INDEED brand but should also have known of the Complainant's related domain names and reach of its services worldwide, which constitutes strong evidence of bad faith - Marriott International, Inc. vs. Momm Amed IA, NAF Case No. FA95573.

4. The Complainant has submitted that in the case of Amazon.com Inc., Amazon Technologies, Inc. v. Giovanni Laporta / Yoyo.Email (WIPO Case No. D2015-0009), while directing the transfer of the domain name <amazonsupport.email> to the Complainant, the Administrative Panel held that:

"A further indication of Respondent's bad faith under the Policy is the fact that the AMAZON Mark predates Respondent's registration of the Disputed Domain Name by twenty (20) years.

From the paucity of evidence presented by Respondent on its prospective business plan, the Panel can see no other reason than the desire of Respondent to trade on the well-known, if not famous, AMAZON Mark.

Therefore, based upon the evidence submitted in this proceeding, the Panel finds that Complainant has shown sufficient facts to support a finding that the Disputed Domain Name was registered and used in bad faith pursuant to the Policy paragraph 4 (a) (Hi) "

The Complainant has submitted that in the present case also the adoption of the trademark INDEED by the Complainant precedes the registration of the Disputed Domain Name by over a decade. Therefore, it is clear that the Respondent intended to trade on the reputation of the Complainant and its rights in the INDEED Marks.

5. The Complainant has submitted that the Respondent appears to be using the Disputed Domain Name for the purpose of illegitimately extracting money from innocent job seekers as evident from Annexure 11 above, who believe the Respondent to be the Complainant or at least affiliated with it. The Complainant has submitted that the

Sauger 12/18/20
18/02/2020

Respondent's bad-faith intentions due to use of the Disputed Domain Name are thus lent further credence. The Complainant has further submitted that in Skype Limited v. SADECEHOSTING.COM Internet Hizmetleri San Tic Ltd Sti (WIPO Case No. 1059477) it was observed that "Respondent is using the ... domain name in order to gain access to personal and financial information of Internet users. Such use of the disputed domain name in connection with a phishing scheme qualifies as bad faith registration and use under Policy \ 4(a) (iii).

6. The Complainant has submitted that even if the Respondent were offering actual recruiting services through the Disputed Domain Name, such use would still support a finding of bad faith use and registration, as these are the same services offered by the Complainant under its famous and registered INDEED Marks. The Complainant has submitted that the same was upheld in Kingston Technology Corp. v. c/o Asiakingston.com (WIPO Case No. FA1464515) where the Panel observed that "finding use of domain name incorporating Complainant's trademark in connection with the sale of competing products to constitute bad faith".

The Complainant has submitted that the Disputed Domain Name was registered and is being used in bad faith. If the Respondent is not restrained from using the Disputed Domain Name and the same is not transferred to the Complainant, loss and hardship will be caused to the Complainant.

7. The Complainant has submitted that necessary directions be issued for transferring the Disputed Domain Name to the Complainant.

ARBITRAL PROCEEDINGS & AWARD:

1. This arbitral proceeding commenced in accordance with IN Dispute Resolution Policy (INDRP) and rules framed there under.
2. The complainant submitted his complaint in the registry of NIXI against the respondent in respect to the respondent's Domain name <indeedindia.in>.

Singh
18/02/2020

3. I was appointed as Sole Arbitrator in the matter by NIXI.
 4. The complainant submitted the said complaint under In Domain Name Dispute Resolution Policy (INDRP).
 5. A copy of complaint was sent to me by the NIXI for arbitration in accordance with Dispute Resolution Policy (INDRP). The copy of the complaint along with annexures/exhibits was forwarded to me and to the respondent by .In Registry of NIXI.
 6. The complainant has stated in his complaint that the respondent has no legitimate right or interests in the disputed domain name. The complainant further submitted that the respondent's Domain name <indeedindia.in> is confusingly similar to complainant's several other dedicated country-specific domain names and websites in major markets such as Canada <indeed.ca>, Columbia <indeed.com.co>, France <indeed.fr>, Hong Kong <indeed.hk>, Japan <indeed.jp>, New Zealand <indeed.co.nz>, Peru <indeed.com.pe>, Quebec <indeed.quebec>, South Africa <indeed.co.za>, Taiwan <indeed.tw>, Turkey <indeed.com.tr>, Ukraine <indeed.com.ua> and United Kingdom <indeed.co.uk> through which it lists specific job opportunities in these markets.
 7. The complainant as such has prayed for an award in the above matter for transfer of the domain name <indeedindia.in> in favour of the complainant.
 8. On 11-01-2020 I informed the respective parties to the complaint, about my appointment as an arbitrator. Accordingly, I called up on the parties to file their counter/ reply and rejoinder with the supportive document/evidence.
 9. On 21-01-2020 I again served notice and informed the respondent to submit his reply and documents in his support.
- However, the respondent has neither submitted his reply nor filed any documents in his support.

Sayar K. Singh
18/02/2020

10. On 28-01-2020 I again served notice and informed the respondent to submit his reply and documents in his support.

However, the respondent has neither submitted the reply nor filed any documents in his support.

11. In the facts and circumstance stated above the award is hereby passed ex parte on the merits of the complaint and as per law of the land.

OPINION & FINDING:

The para no.4 of the IN Domain Dispute Resolution Policy (INDRP) is as follows:-

TYPES OF DISPUTES

Any person who considers that a domain name conflicts with his legitimate rights or interest may file complaint to .IN Registry on 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 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."

The para no.6 of the IN Domain Dispute Resolution Policy (INDRP) is as follows:

6. EVIDENCE OF REGISTRATION AND USE OF DOMAIN NAME IN BAD FAITH

The following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:

- "i) Circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name

Sanyukta K. Bhat -
18/02/2020

registration to the complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that complainant, for valuable consideration in excess of the Registrant's documented out of pocket costs directly related to the domain name; or

- ii) the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or
- ii) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other online location, by creating a likelihood of confusion with the complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location."

The para no.7 of the IN Domain Dispute Resolution Policy (INDRP) is as follows:-

7. REGISTRANT'S RIGHTS TO AND LEGITIMATE INTERESTS IN THE DOMAIN NAME

Any of the following circumstances, in particular but without limitation, if found by the Arbitrator to be proved based on its evaluation of all evidence presented, shall demonstrate the Registrant's rights to or legitimate interests in the domain name for the purpose of paragraph 4 (ii):

- "i) before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bonafide offering of goods or services;
- ii) the Registrants (as an individual, business, or other organization) has been commonly known by the domain

Jayraj K. S. S.
18/02/2020

name, even if the Registrant has acquired no trademark or service mark rights; or

- iii) the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The other fact, which is to be dealt with before going into merit is, that, as to whether, the cases decided by WIPO- Administrative Panel could be considered, while deciding the present controversy. Moreover these cases throw light upon various important aspects of controversy. As such they would be considered, while deciding the present controversy, in so far as they do not conflict with INDRP.

8. OPINION AND FINDINGS ON MERITS

A) Whether the domain name is identical or confusingly similar to a trademark in which complainant has right.

It has been held in Indian decision **M/s Satyam Infoway Ltd. Vs. M/s Sifynet Solution (P) Ltd. JT. 2004 (5) SC 541**, that Domain name has all characteristics of trademark. As such principles applicable to trademark are applicable to domain names also. In the said case the words, "Sify" & "Siffy" were held to be phonetically similar and addition of word 'net' in one of them would not make them dissimilar.

It is held in the above referred case, that in modern times domain name is accessible by all internet users and thus there is need to maintain it as an exclusive symbol. It is also held that it can lead to confusion of source or it may lead a user to a service, which he is not searching.

Thus conclusion is that domain name and trademark, which may be used in different manner and different business or field, or sphere can still be confusingly similar or identical.

Thus the conclusion is that the domain name of the respondent is identical and confusingly similar to the trademark of complainant.

Satyam Infoway Ltd.
18/02/2020

Now the other important aspect that needs consideration is, as to whether the complainant has right in the trademark. It is important to mention here that as per the claim of the complainant the respondent has no trademark right on the said domain name.

This principle is settled in many above Indian case **JT 2004(5) SC 541 and 2004(5) SCC 287** and other cases referred by the complainant.

The Complainant has submitted that in the INDRP order *Indeed, Inc. v. Indeedworld <indeedworld.in>* (INDRP/931) passed in January 2018, the Learned Arbitrator in its decision stated:

"... It is well settled proposition that when the relevant trademark is recognizable within the disputed domain name, the addition of any generic or common language term would not prevent a finding of confusing similarity under the first element of UDRP Policy.

The complainant has made submission that he has legitimate trademark and he is using the said trademark for many years.

Thus the conclusion is that the domain name <indeedindia.in> is identical and confusingly similar to the trademark of complainant '**INDEED**' and the complainant has established that he has right in the trademark.

B) Whether the respondent has no right or legitimate interest in the domain name got registered by him:

It is pertinent to mention here that paragraph 4 (ii) of INDRP is to be read with paragraph no.7.

As already stated that paragraph 4 (ii) and 7 of INDRP are to be read together. Their combined effect is that, onus to prove the ingredients of these paras is prima facie on complainant. The onus is not very weak and prima facie, but it heavily shifts on respondent. Respondent can discharge the onus by direct congest and positive evidence which are in his special knowledge and power. The complainant has made positive assertions that respondent has no legitimate right in domain name and the respondent has no trademark on the domain name. The complainant has made positive assertions regarding the fact that

Sayur Ku by
18/04/2020

respondent has got registered the disputed domain name in the .IN Registry for which the respondent has no right or trademark. As such in above circumstance it is clear that the complainant has prima facie discharged the initial onus cast upon him by virtue of paragraph 4(ii) and 7 of INDRP.

The respondent on other hand has not come forward in spite of repeated notices to file any reply / counter or to provide any positive, cogent and specific evidence that it is known or recognized by domain name. The respondent has neither put forth any reply nor provided such evidence.

Thus the conclusion is that respondent has no right or legitimate interest in the domain name.

Whether the respondent's domain name has been registered or is being used in bad faith:

It is to be seen as to whether the domain name has been got registered in bad faith. The paragraph no.4 (iii) and 6 are relevant and as already stated, the onus is primarily upon complainant.

Keeping in view above facts and circumstances and the case laws relied upon by the complainant it is thus clear that the respondent has registered the disputed domain name and in spite of notices, he has neither come forward to submit any response to the complaint of the complainant nor has provided any evidence in its support.

Thus the conclusion is that the respondent has got registered his domain name <indeedindia.in> in bad faith.

RELIEF

The domain name of the respondent is identical and confusingly similar to trademark of complainant. The respondent also does not have right or legitimate interest in the domain name. He has got it registered in bad faith; as such he is not entitled to retain the domain name. The complainant is entitled to transfer of domain name <indeedindia.in> to him, as complainant has established bonafide


Sanyal Kar Singh
18/02/2020

rights in trademark as per law discussed above. Hence I direct that the Domain name be transferred to the complainant by registry.

No order as to costs.

Delhi

Date: 18-02-2020.


(Sanjay Kumar Singh)
Arbitrator