

AWARD

1. THE PARTIES

The Complainant is **E*Trade Financial Holdings, LLC**, having respective offices at 671 North Glebe Road, Ballston Tower, Arlington, VA 22203, United States of America, E-mail: trademarks@sc-ip.in, by its authorized representative Sujata Chaudhri, having her office at Sujata Chaudhri IP Attorneys, 2106 Express Trade Towers-2, First Floor, B-36, Sector-132 Expressway, Noida, UP 201301, India, Mobile No. +0120 6233100, Email: trademarks@sc-ip.in.

The Respondent is Ramesh Das at E Trade Finance, New Delhi-110085, Mobile NO. +91 9155480440, E-mail: etradefinance21@gmail.com. and etradefinance.in@wix-domains.com.

2. THE DOMAIN NAME AND REGISTRAR:

This Arbitration pertains to a dispute regarding the Domain name <ETRADEFINANCE.IN>

The disputed Domain name is <ETRADEFINANCE.IN>

The abovesaid domain registered particulars in detail is provided along with the complaint.

Registrar Name: Tucows Inc.

IANA ID : 69

Date of creation: 18.10.2022

Date of Expiry : 18.10.2023

Registrant Client ID : TUO1JSPHW19DRKRB

Registrant ROID: CFOC38DA945F34F9CP69C8FEF93BD7C2C-IN

Email: etradefinance.in@wix-domains.com

Phone: (1) 4159496022

3. PROCEDURAL HISTORY

(a) The Complainant has filed a complaint on 13.01.2023 with the NATIONAL INTERNET EXCHANGE OF INDIA. The Complainant made the registrar verification in connection with the Domain name at

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issue. The annexures received with the complaint are **Annexure-1 to 13**. The exchange verified the complaint, satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the 'Policy') and the Rules framed thereunder.

(b) The NIXI has appointed Sh. R.K.Kashyap, Advocate as the Sole Arbitrator. The Arbitrator has duly submitted his Statement of acceptance and Declaration of Impartiality and Independence on 01.02.2023, as required by the Exchange.

(c) The Arbitrator, as per the INDRP Policy and the Rules, has duly issued the notice on 06.02.2023 and directed the complainant to serve the Respondent with a copy of the Complaint alongwith annexures on the given e-mail as well as on physical address. In the Notice, it has also been mentioned that the respondent to file the reply/response within 10 days from the receipt of notice. The direction of the arbitrator to serve the respondent has duly been complied with and the respondent has duly received the notice and mails. The respondent has duly replied through mail dated 12.02.2023 at 03:36 PM, which reads as under:-

“with due respect i beg to say that i got a complaint related dispute domain .in as well as trade marks copy right, so I realise its unknowing mistakes from our side, so i decided that i agree to remove your trade mark from our web site and also agree to transfer ETRADEFINANCE.IN domain to you soon”.

4. Factual Background:

The following information has been derived from the Complaint and the various supporting annexure to it, the Arbitrator has found the following facts:

Complainant's Activities

The Complainant E*Trade Financial Holding, LLC is limited liability Company incorporated under the lass of the State of Delaware, USA, the complainant including E TRADE Securities, Inc. and E*TRADE Group, Inc.

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is engaged in financial services, including, providing brokerage and related products and services for traders, investors, stock plan administrators and participants.

The Complainant originated in the 1980s as a platform that allowed retail investors to trade stocks online. The Complainant also provides a suite of digital financial services for investors, traders, financial advisors, stock plan participants, and stock plan administrators. The Complainant's suite of digital financial services includes tools and educational materials, complemented by professional advice and support, catering to the complex and unique needs of customers to help meet their near- and long-term investing goals.

In October 2020, the leading global financial services firm, Morgan Stanley, announced that it had completed its acquisition of the Complainant. As of the year 2019, the Complainant employed more than 4,100 individuals and had 30 retail branches across the United States of America.

The Complainant is the owner of marks containing or comprising E*TRADE and ETRADE. The Complainant and its predecessors-in-interest have used the E*TRADE and ETRADE marks since at least 1992 on and in relation to financial services. The Complainant continues to use these marks till date. In addition to using the E*TRADE and ETRADE marks on and in relation to financial services, the Complainant uses these marks as part of its trade name and trade names of its associated companies.

The Complainant since 1994, has also owned the domain name ETRADE.COM. The ETRADE.COM domain name resolves to the Complainant's primary website, located at www.us.etrade.com, that has, for decades, has provided information about the Complainant and its financial services. The domain name is used by the Complainant to promote its services and provide access to its services for its clients and entire detail in this regard is provided in Annexure-3.

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The Complainant has further expanded its online presence by launching separate official social media pages and accounts on Facebook, Instagram and Twitter. The Complainant has also launched separate iOS and Android Apps for mobile devices that have been downloaded by users from around the world, including India, please refer Annexure-4 in this regard.

The Complainant's success in the financial services industry detail is provided in Annexure-5. The Complainant spends large sums of money on advertising its financial services, refer Annexure-6, 7, 8 and 9.

The Complainant has registered the ETRADE Names and Marks in many countries and jurisdictions around the world, including in India. Switzerland, Mexico, Argentina, Brazil. Australia, Germany. United Kingdom, Israel, United States of America, Norway, the European Union, New Zealand, Denmark, Canada and Philippines, refer Annexure-10.

As a result of the Complainant's extensive use and promotion of its ETRADE Names and Marks, the ETRADE Names and Marks enjoy considerable goodwill, widespread recognition, such that the FTRADE Names and Marks have become associated with Complainant and its financial services. Please refer Annexure-11 in respect of registration position in India.

The disputed domain name is ETRADEFINANCE IN. The disputed domain name was registered on October 18, 2022. The details of the Registrant have been provided by National Internet Exchange of India ("NIXI"). An extract of the WHOIS records of the disputed domain name details are duly provided in Annexure- 12.

The disputed domain name resolves to an active website on which the Respondent provides information about its alleged financial services. The home page of the website refers to two alleged entities, namely, E-Trade

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Finance Company and E-Trade Financial Services Corporation.

The respondent was duly served with the notice of the complaint and sent his response through mail dated 12.02.2023, which reads as under:-

“with due respect i beg to say that i got a complaint related dispute domain .in as well as trade marks copy right, so i realise its unknowing mistakes from our side, so i decided that i agree to remove your trade mark from our web site and also agree to transfer ETRADEFINANCE.IN domain to you soon”.

5. **DISCUSSION AND FINDINGS:**

The Rules instructs this Arbitrator as to the Principles to be used in rendering its decision, in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any Rules and Principles of Law that it deems applicable”.

According to the Policy, the Complainant must prove that:-

- A) The registrant’s domain name is identical or confusingly similar to a name, trademark or service mark in which the complainant has rights;
- B) The registrant’s has no rights or legitimate interests in respect of the domain name that is the subject of complaint; and
- C) The registrant’s domain name has been registered or is being used in bad faith.

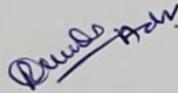
6. **DECISION**

In light of the specific admission of the respondent and his desire and agree to transfer the dispute domain name in his aforesaid mail dated 12.02.2023, it is crystal clear that the respondent was illegally and unauthorizedly, without having any legal right to use the same. Hence, the disputed Domain name is confusingly/deceptively similar to Complainant's well-known trade mark “E*Trade and ETrade” a mark in which the Complainant has rights and the Respondent has no claims, rights or legitimate interests in respect of the

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disputed Domain name and the disputed Domain name was registered in bad faith and is being used in bad faith, in accordance with the policy and the rules. Hence, the Arbitrator on the basis of respondent's mail dated 12.02.2023, orders that the disputed Domain name <ETRADEFINANCE.IN> be transferred to the Complainant.

This Award is passed at New Delhi on this 03rd Day of March, 2023.



R. K. KASHYAP
SOLE ARBITRATOR