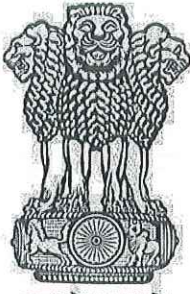


INDIA NON JUDICIAL



सत्यमेव जयते

Government of National Capital Territory of Delhi

₹100

e-Stamp

Certificate No. : IN-DL43240029205198V
Certificate Issued Date : 06-Jan-2023 03:12 PM
Account Reference : IMPACC (IV)/dl859003/ DELHI/ DL-DLH
Unique Doc. Reference : SUBIN-DL85900360249579341662V
Purchased by : ROBIN R DAVID
Description of Document : Article 12 Award
Property Description : Not Applicable
Consideration Price (Rs.) : 0
(Zero)
First Party : ROBIN R DAVID
Second Party : Not Applicable
Stamp Duty Paid By : ROBIN R DAVID
Stamp Duty Amount(Rs.) : 100
(One Hundred only)

सत्यमेव जयते



₹100

Please write or type below this line IN-DL43240029205198V

BEFORE THE .IN REGISTRY OF INDIA

INDRP CASE NO. 1682

IN THE MATTER OF AN ARBITRATION UNDER THE .IN DOMAIN NAME
DISPUTE RESOLUTION POLICY; THE INDRP RULES OF PROCEDURE
AND THE ARBITRATION AND CONCILIATION ACT, 1996

FINAL AWARD

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App 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 THE .IN REGISTRY OF INDIA
INDRP CASE NO. 1682
IN THE MATTER OF AN ARBITRATION UNDER THE .IN DOMAIN
NAME DISPUTE RESOLUTION POLICY
THE INDRP RULES OF PROCEDURE
AND THE ARBITRATION AND CONCILIATION ACT, 1996**

IN THE MATTER OF:

Radisson Hospitality Belgium BV/SRL
Avenue du Bourget 44,
B-1130, Brussels,
Belgium

...Complainant

Versus

Liu Jing
1560 Nanjing Rd. E,
Shanghai, Shanghai, 200001
China (CN)

...Respondents

A DISPUTE RELATING TO THE DOMAIN NAME RADISSON.IN

FINAL AWARD

Dated: June 09, 2023

Venue: New Delhi, India

**ROBIN RATNAKAR DAVID
SOLE ARBITRATOR**

Table of Contents

I. PARTIES TO THE ARBITRATION.....	4
II. APPLICABLE LAW AND JURISDICTION.....	4
III. THE DOMAIN NAME, REGISTRAR & REGISTRANT	5
IV. PROCEDURAL HISTORY	6
V. COMPLAINANT'S CONTENTIONS	6
VI. RESPONDENTS' CONTENTIONS	7
VII. DISCUSSIONS AND FINDINGS.....	8
VIII. DISPOSITIONS	11

I. PARTIES TO THE ARBITRATION

1. The Complainant

The Complainant is Radisson Hospitality Belgium BV/SRL, Avenue du Bourget 44, B- 1130, Brussels, Belgium, represented by K & S Partners, Chimes, 61, Sector 44, Gurugram, Haryana-122 003, National Capital Region, India.

2. The Respondents

The Respondent is Liu Jing of 1560 Nanjing Rd. E, Shanghai, Shanghai, 200001, China, email- domainexpert@163.com, Phone (+86)21565688 is the registrant of the disputed Domain Name <radisson.in>.

II. APPLICABLE LAW AND JURISDICTION

The .IN Domain Name Dispute Resolution Policy

1. The present arbitration proceeding is under and in accordance with the .IN Domain Name Dispute Resolution Policy (the Policy) which was adopted by the National Internet Exchange of India (NIXI) and sets out the legal framework for the resolution of disputes between a domain name registrant and a Complainant arising out of the registration and use of an .IN Domain Name. By registering the domain name <radisson.in> with the NIXI accredited Registrar, the Respondent has agreed to the resolution of disputes under the .IN Dispute Resolution Policy and Rules framed thereunder. The Policy and the .IN Domain Name Dispute Resolution Rules of Procedure posted 2020(the Rules) were approved by NIXI in accordance with the Arbitration and Conciliation Act, 1996.

Filing of the Complaint and Constitution of the Arbitral Tribunal

2. The Complainant filed the Complaint under the .IN Domain Name Dispute Resolution Policy against the Respondents, seeking transfer of the Domain Name <radisson.in> to the Complainant. Following this, the .IN Registry sought the consent of Mr Robin Ratnakar David (the undersigned), who is a listed .IN Dispute

Resolution Arbitrator under 5 (a) of the Rules, to act as Arbitrator in the said matter.

3. On 29th March 2023, the Arbitral Tribunal comprising of the said Mr. Robin Ratnakar David, as Sole Arbitrator was constituted under 5(b) of the Rules in respect of the Complaint filed by Radisson Hospitality against Liu Jing the Respondent.
4. On 30th and 31st March 2023, the Arbitral Tribunal noted that the Complaint was incomplete and directed the Complainant to file the Complaint complete in all respects with annexures within one week. The Complaint was refiled on 5th April 2023. The Complaint complete with annexures through Dropbox was again sent by the Complainant to the Arbitral Tribunal, Respondent and Registry on 19th April, 2023.
5. Thereafter, on 20th April 2023, the Arbitral Tribunal issued the Notice of Arbitration under 5 (c) of the Rules.
6. The Arbitral Tribunal has been constituted properly and in accordance with the Arbitration and Conciliation Act, 1996, the INDRP Policy and the Rules as amended from time to time. No party has objected to the constitution and jurisdiction of the Arbitral Tribunal and to the arbitrability of the dispute.

III. THE DOMAIN NAME, REGISTRAR & REGISTRANT

- Domain ID: ROID- D414400000003639279-IN
- Creation Date: 2017-03-20T20:00:42Z
- Expiration Date: 2023-03-20T20:00:42Z
- Registrar Name: 1APi GmbH
- Registrant Name: Liu Jing
- Registrant Address: 1560 Nanjing Rd. E, Shanghai, Shanghai, 200001, China
- Registrant Phone: 86.21565688
- Registrant Email: domainexpert@163.com
- Registrant Client ID- BHK23214341-ISPI
- Registrant ROID- C10920780-IN
- Registry Admin ID- BHK23214341-ISPI
- Registry Tech ID- BHK23214341-ISPI

IV. PROCEDURAL HISTORY

1. On 20th April 2023, the Arbitral Tribunal issued the Notice of Arbitration to the Respondent, and the Complainant was directed to effect service on the Respondent. The Respondents were given an opportunity to file a response in writing in opposition to the Complaint, if any, along with evidence in support of its stand or contention on or before 5th May 2023.
2. Service of the Notice of Arbitration dated 20th April 2023 was effected by the Complainant as per the email dated 21st April 2023 from seema@knspartners.com the representative of the Complainant. The Complaint (with annexures) was sent to the email address of the Respondents shown in the WHOIS details and also to the postmaster of the contested domain name consequently, the service of the Notice of Arbitration on the Respondents was done in accordance with Rule 2(a) of the Rules.
3. The Respondent did not respond to the Notice of Arbitration dated 20th April 2023.
4. All emails from the Arbitral Tribunal were copied to the Complainant, Respondents and NIXI.

V. COMPLAINANT'S CONTENTIONS

1. The Complainant, Radisson Hospitality Belgium BV/SRL avers that it is a part of the well-known and recognised Radisson Hotel Group. The Complainant asserts ownership and rights in its registered trademark 'RADDISON' and brand name "RADISSON" and logo. The Complainant has been using the Radisson Marks for its business operations in over 120 jurisdictions including India. The Complainant requests that the disputed domain name registration be transferred in its favour.
2. As regards the disputed domain name ("DDN") <radisson.in> the Complainant states that is identical and confusingly to the Complainant's domain names <radisson.com>, radisson.co.in and several other Radisson domain names and well-known RADISSON labels.

3. The Complainant alleges the Respondent has no rights or legitimate interest with respect to the DDN <radisson.in>. The Respondent is a Chinese national and is not connected or affiliated with the Complainant in any manner whatsoever. The Complainant has not authorised or permitted the respondents to apply for, register or use the DDN which contains the Complainant's registered trademark RADISSON in its entirety.
4. The Complainant also alleges that the Respondent is a cyber squatter as the DDN has not yet resolved to any website making a bonafide offering of goods or services. Rather the DDN resolves to a parking page offering the domain for sale, making the bad faith of the respondent clear.
5. Further to the best of the knowledge of the Complainant, the respondent is not known by the DDN and the respondent does not have any trademark or service mark rights in the mark RADISSON.
6. The Complainant avers that the Respondent cannot possibly have any justification whatsoever for the adoption and use of the Complainant's mark "RADISSON" because despite its adoption in 2017, to Complainant's knowledge, the Respondent's domain has not resolved to any website other than generic parking pages offering the domain for sale. Further, the Respondent's offer for the sale of the disputed domain name is clearly with an unlawful intention to commercially gain and take undue advantage of the intellectual property rights of the Complainant as well as the reputation and goodwill enjoyed by the Complainant in its mark RADISSON.

VI. RESPONDENT'S CONTENTIONS

1. The Respondent has not filed any response to the Notice of Arbitration dated 20th April 2023. The Respondent has not replied to the contentions of the Complainant even though the Respondents have been served as required by the Rules. However, the Respondents' default would not automatically result in a decision in favour of the Complainant.
2. Supreme Court of India in *Sudha Agrawal v Xth Additional District Judge and others* (1996) 6 SCC332 held that even in an uncontested

matter the petitioner's case must stand on its own legs and it cannot derive any advantage by the absence of the defendants. Therefore, the Complainant must still establish each of the three elements required by Paragraph 4 of the Policy.

VII. DISCUSSIONS AND FINDINGS

1. A Complainant who alleges that the disputed domain name conflicts with its legitimate rights or interests must establish the following three elements required by Paragraph 4 of the Policy namely:
 - a) The Respondent's domain name is identical and confusingly similar to the trademark or service mark in which the Complainant has rights.
 - b) The Respondent has no rights or legitimate interests in respect of the domain name; and
 - c) The Respondent's domain name has been registered or is being used in bad faith.
2. Accordingly, the Arbitral Tribunal shall deal with each of the elements as under:
 - a) Whether the Respondent domain name <radisson.in> is identical and/or deceptively similar to the domain name and trademarks of the Complainant?
 - i. The Complainant provided evidence to establish that the Disputed Domain name is identical or confusingly similar to the Complainant's registered and distinctive trademark since the disputed domain name by the Respondent was acquired long after the 'RADISSON' trademark was recognised.
 - ii. The Complainant holds 'RADISSON' trademark registrations in India and several other jurisdictions. Further, on account of the extensive use and promotion of the 'RADISSON' trademark, the brand has gained recognition. A perusal of the trademark registration certificates and WHOIS records shows that the Complainant is the owner of the trademark registrations in India and other jurisdictions.

- iii. The Arbitral Tribunal notes the decision of Fendi S.r.l. v. Ndiaye Therese, WIPO Case No. D2018-0179; Birdies, Inc. v. Registration Private, Domains By Proxy, LLC / Fu Li, WIPO Case No. D2019-2134, which states that domain extensions such as “.com” and “.in” are to be ignored while assessing whether a domain name is identical or confusingly similar to a trade mark, the disputed domain name is regarded confusingly similar to that mark for the purposes of UDRP standing.
- iv. After taking into consideration the facts of the present case and the settled law on the issue, it can be said that the disputed domain name registered by the Respondent establishes a likelihood of confusion with the Complainant's trademark and this would mislead the internet users as it is confusingly similar. Accordingly, the Arbitral Tribunal holds that the requirement of the first element in the INDRP Policy Paragraph 4(a) is satisfied as the domain name is confusingly similar to Complainant's registered and distinctive 'RADISSON' trademark.

b) Whether the Respondent has no rights or legitimate interests in respect of the domain name?

- i. To pass muster under Paragraph 4(b) of the Policy, the Complainant has to show that the Respondent has no rights and legitimate interests in the disputed domain name under Paragraph 6 of the Policy.
- ii. The Respondent is not affiliated with Complainant in any way and has never been authorised or licensed by the Complainant to use or register its trademarks, or to seek registration of any domain name incorporating the trademark in question. Furthermore, the Respondent is not commonly known by the Disputed Domain Name or the name 'RADISSON'. The Respondent does not operate a legitimate business under the 'RADISSON' trademark. Additionally, the 'RADISSON' trademark was registered years before the disputed domain name was registered.

- iii. Accordingly, the Arbitral Tribunal finds that the Complainant has made out a prima facie case that the Respondent has no rights and legitimate interests in respect of the disputed domain name <radisson.in> as the Complainant has never assigned, granted, licensed, sold, transferred, or otherwise authorised Respondent to register or use the Disputed Domain Name or the RADISSON trademark and the same is also not used for making legitimate non-commercial use. Thus, it satisfies the second element under Paragraph 4 (b) of the Policy.
- c) Whether the Respondent's domain name was registered or is being used in absolute bad faith?
- i. The Complainant has provided ample evidence to demonstrate its ownership and rights in the RADISSON trademark, trade name and service mark. The Complainant has established that the Radisson Hotel Group is globally recognised and has a strong presence in India.
 - ii. The Complainant's rights RADISSON predate the acquisition of the DDN by the Respondent. Respondent used the 'RADISSON' trademark and tradename without the consent of the Complainant. The Respondent impersonated the Complainant's domain name <radisson.com>, which demonstrates his purpose to deceive users for commercial benefit by infringing the domain name.
 - iii. On careful consideration of the above findings, Arbitral Tribunal holds that the Respondent domain name <radisson.in> has been registered with an opportunistic intention and is being used in bad faith. Therefore, the third element in paragraph 4(c) of the Policy has been satisfied.

VIII. DISPOSITIONS


The Arbitral Tribunal holds that the Respondent domain name <radisson.in> is identical and confusingly similar to the name, trademark and brand name 'RADISSON' Power owned by the Complainant. The Respondent has no rights or legitimate interests in the domain name <radisson.in> and the same has been registered in bad faith. The three elements set out in paragraph 4 of the INDRP Policy have been established by the Complainant.

The Arbitral Tribunal directs that –

The disputed domain name <radisson.in> be transferred to the Complainant, Radisson Hospitality Belgium BV/SRL, Avenue du Bourget 44, B- 1130, Brussels, Belgium.

Place of Arbitration: New Delhi, India

Date: June 09, 2023


Robin Ratnakar David
Sole Arbitrator
The Arbitral Tribunal