



हरियाणा HARYANA

L 757556

RANJAN NARULA

ARBITRATOR

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

In the matter of:

Standard & Poor's Financial Services LLC
55 Water Street,
New York 10041
USA

.....Complainant

Gao Gou
Suite 1100 South Tower
Toronto M4W 3R8
Canada

..... Respondent

Disputed Domain Name: www.capitaliq.in

AWARD

1) The Parties:

The Complainant in this arbitration proceeding is Standard & Poor's Financial Services LLC of 55 Water Street, New York 10041, USA. The Complainant is represented by its authorized representatives ALG India Law Offices of 30 Siri Fort Road, New Delhi-110049, India.

The Respondent in this arbitration proceeding is Gao Gou, Suite 1100 South Tower, Toronto M4W 3R8, Canada 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.capitaliq.in. The Registrar is Webiq Domains Solutions Pvt. Ltd. (R131-AFIN)

The Registrant is Gao Gou, Suite 1100 South Tower, Toronto M4W 3R8, Canada.

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 28th 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 January 21, 2014, and the notice was issued to the Respondent on January 22, 2014 at his email address with a deadline of 10 days to submit his reply to the arbitration. The Respondent did not submit any response. The Arbitrator granted further opportunity to the Respondent to submit its response on or before February 13, 2014. 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, Standard & Poor's Financial Services is a 100% owned subsidiary of McGraw Hill Financial Inc., which in turn acquired the company Capital IQ, Inc. in 2004. Capital IQ Inc., founded in the year 1998, provided highly detailed information on public companies, private companies, private capital firms, transactions and executives worldwide, as well as a wide range of tools for financial analysis, idea generation, relationship development and workflow management. Capital IQ Inc. was known in the financial industry for its scope of information, quality of data, powerful functionality, and ease of use, all supported by a client-focused and innovative team.
- b) In the year 2011, the Complainant launched its division in the name of 'S&P Capital IQ' combining its brands Standard & Poor's, which has a long history in the global capital markets and Capital IQ which is known for its outstanding customer service, its nimbleness and being product savvy. The Complainant has significant goodwill and reputation in the mark 'CAPITAL IQ' as well as 'S&P CAPITAL IQ'. The



Complainant thus submits that the mark 'CAPITAL IQ' has been in continuous use since 1998 and 'S&P CAPITAL IQ' since 2011.

- c) In India, the Complainant operates through its subsidiary, Capital IQ Information Systems (India) Private Limited, an entity incorporated under the Companies Act, 1956 since November 9, 2011.
- d) The Complainant submits that the mark 'CAPITAL IQ' is a well-known mark having international prominence and reputation. The Complainant has worldwide enforceable and exclusive trademark rights in the mark 'CAPITAL IQ'. The mark 'CAPITALIQ IQ' is registered in a number of countries including USA (registration no. 2840643, 3403392, 3124541), UK (registration no. EU009351214), Australia (registration no. 1380550), etc. Through years of standing, marketing, advertisement and promotion, CAPITAL IQ has acquired distinctiveness and is perceived to be trademark owned exclusively by the Complainant.
- e) The Complainant has a triumphant record of enforcing the mark CAPITAL IQ in earlier domain name disputes such as:
 - i) capitaliq-iq.com: Capital IQ, Inc. v. Bincom ICT Solutions, Case No. D2012-0809 (WIPO 18 July 2012)
 - ii) capitaliq.org: Capitaliq IQ, Inc. v. Zhao Ke, Case No. D2013-1543 (WIPO 23 October, 2013)

In both the cases the disputed domain names were transferred in favour of the Complainant recognizing its rights over the mark CAPITAL IQ.

- f) The Complainant owns several, top level as well as ccTLDs, domain names such as capitaliq.com since September 17, 1999; capitaliq.co.uk since May 29, 2009; capitaliq.net since November 7, 2002; capitaliq.biz since July 12, 2007, capitaliq.co.in since July 13, 2004; capitaliq.mobi since March 20, 2007; capitaliq.us since July 12, 2007, capitaliq.tw since June 11, 2009, capitaliq.ru since March 14, 2007. An active common website displaying the Complainant's mark CAPITAL IQ has been hosted on capitaliq.com since atleast January 24, 2001.
- g) The disputed domain name incorporates the Complainant's mark along with the ccTLD ".in" which makes it identical to the Complainant's registered mark 'CAPITAL IQ'. It is, therefore, concluded that the Complainant has rights in the mark 'CAPITAL



IQ' and the domain name www.capitaliq.in is identical and confusingly similar to the Complainant's mark 'CAPITAL IQ'.

- h) Respondent does not have any rights or legitimate interest in respect of the disputed domain name. The Complainant has never authorized or licensed the Respondent to use the mark CAPITAL IQ. The Respondent does not have any association with the Complainant and the Complainant has no past dealing with the Respondent.
- i) The disputed domain name has been made available by the Respondent for sale with the message '*the domain capitaliq.in is listed for sale. Click here to inquire about this domain name*' which shows that the Respondent has no rights or interests in respect of the disputed domain name. Further, the webpage hosted at the domain name www.capitaliq.in carries sponsored listings/advertisements, which redirects internet users to various other websites. Use of the disputed domain name by the Respondent using the Complainant's well-known trademark to redirect internet users to other website is not a bonafide use and does not confer rights or legitimate interests upon the Respondent.
- j) The disputed domain name is also listed for sale on third party websites like BODIS (www.bodis.com) and SEDO (www.sedo.com), which further establishes the bad faith of the Respondent.
- k) Respondent is generating internet traffic to derive income; and such use if not recognized as bonafide use under the Policy. The Respondent is not commonly known by the domain name and has not acquired any trademark rights to the knowledge of the Complainant. The Respondent is not making any legitimate non-commercial and fair use of the domain name.
- l) Respondent through the webpage hosted at the disputed domain name, is offering the disputed domain name for sale, which further establishes that the Respondent does not have any rights or legitimate interest in the domain name and intends to make unjust commercial profits.
- m) Bad faith is implicit in the registration of the disputed domain name. The Respondent registered the disputed domain name on July 18, 2013 while the Complainant had been trading under the mark CAPITAL IQ for almost 13 years.



- n) In view of the Complainant's registered and common law rights in the mark CAPITAL IQ; the use of the mark by Complainant for several years prior to Respondent's registration of the disputed domain name; the Complainant's prior use of CAPITAL IQ mark on the internet and in other domain names; the significant fame, goodwill and reputation associated with this mark; and the content of the Respondent's website, it is arduous to conceive of any circumstance in which the Respondent could have registered the disputed domain name in good faith or without knowledge of Complainant's rights in the mark CAPITAL IQ.
- o) The fact that the Respondent is using the disputed domain name in relation to a parked page, shows that the Respondent has registered the disputed domain name in bad faith. It is evident from the website hosted at www.capitaliq.in that the Respondent is making money by luring customers to the website and deceiving them by diverting them to advertisements, etc. which are also relevant factors in presuming or judging the intention of Respondent of selling, renting or transferring etc. of domain name and his intention to prevent the owner of trademark from reflecting the mark in corresponding domain name.
- p) In light of the above contentions, it is apparent that the registration and use of the domain name www.capitaliq.in by the Respondent is not bona fide and the Respondent is prima facie using the domain name in bad faith.

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 'CAPITAL IQ' leads to the conclusion that the Complainant has superior and prior rights in the mark 'CAPITAL IQ'. Thus it can be said a) the web users associate the word 'CAPITAL IQ' 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.capitaliq.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 policies which are listed below. Further the Respondent has not contested the claims therefore deemed to have admitted the contentions of the Complainant. In addition, the Respondent by providing a wrong address at the time of registration, which is evidence from non-delivery of courier containing the Complaint (as per the report provided by NIXI dated January 31, 2014 from Blue Dart Express), violated clause 3 (a) of .IN Domain Dispute Resolution policy.

- (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 'CAPITAL IQ'. The Complainant has in support submitted substantial documents. The disputed domain name contains or is identical to Complainant's 'CAPITAL IQ' 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 'CAPITAL IQ' 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 above leads to the conclusion that Respondent has no right or legitimate interest in respect of the disputed domain name 'www.capitaliq.in'.

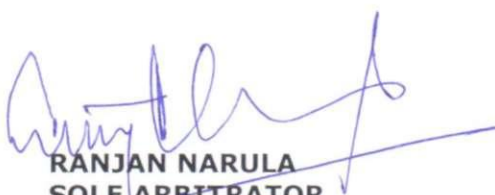
- (3) the domain name has been registered in bad faith.

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 is offering the domain for sale, thus it can be inferred that registration of the domain name is in bad faith.

Based on the documents filed by the Complainant, it can be concluded that the domain name/mark 'www.capitaliq.in' is identified with the Complainant's products/services, 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.capitaliq.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.capitaliq.in be transferred from Respondent to the Complainant.


RANJAN NARULA
SOLE ARBITRATOR
NIXI
INDIA

March 05, 2014