



தமிழ்நாடு தமில்நாடு TAMILNADU 29092/4.1.16  
Sridharan, Chennai

BE 363793

R. RAGUPATHI

STAMP VENDOR, L/No. C3/4839/83  
No. 37, VILLAGE ROAD, NOW KNOWN AS  
NUNGAMBAKKAM, CHENNAI-600 034  
PHONE: 9445114347

BEFORE S SRIDHARAN, SOLE ARBITRATOR  
OF NATIONAL INTERNET EXCHANGE OF INDIA

ARBITRATION AWARD

DATED: 4<sup>th</sup> January 2016

Six Continents Hotels Inc, USA

...

Complainant

Versus

Mr.Pradeep of Crown Plaza, Coimbatore

...

Respondent

Sridharan

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**1. The Parties**

- 1.1 The Complainant, Six Continents Hotels Inc, is a Delaware Corporation, having its principal place of business at Three Ravinia Drive, Suit 100, Atlanta, Georgia – 30346, United States of America. The Complainant is represented by Douglas M.Isenberg, Esq of the Giga Law Firm at 5555 Glenridge Connector, suite 200,Atlanta, Georgia – 30342, United States of America.
- 1.2 Respondent is Mr.Pradeep of Crown Plaza at Kunnimuthur, Palagat Road, Coimbatore – 641012.

**The Domain Name and Registrar**

- 1.3 The disputed domain name <[www.coimbatorecrownplaza.in](http://www.coimbatorecrownplaza.in)> created on 6.11.2012 is registered with the registrar, Webiq Domains Solutions Pvt Ltd (R131-AFIN).

**2. Procedural History**

- 2.1 On 10<sup>th</sup> December 2015, NIXI asked me about my availability and consent to take up the Complaint for arbitration.
- 2.2 On 11<sup>th</sup> December 2015, I informed my availability and consent. I also informed NIXI that I had no conflict of interest with either of the parties and could act independently and impartially. I sent signed declaration of independency and impartiality to NIXI.
- 2.3 On 16<sup>th</sup> December 2015, I received hardcopy of the Complaint. On the same day, I issued by email a Notice to the Respondent setting forth the relief claimed in the Complaint and directing him to file his reply to the Complaint within 15 days. I also sent an email about my appointment to arbitrate the complaint to the Complainant and asked the Complainant to send a soft copy of the complaint to me.
- 2.4 On 16<sup>th</sup> December 2015, I received soft copy of the Complaint from the Complainant.
- 2.5 On 31<sup>st</sup> December 2015, the Respondent filed his response by email.
- 2.6 Email is the medium of communication of this arbitration and each email is copied to all, Complainant, Respondent and NIXI.
- 2.7 I have returned to NIXI by courier all pleadings / documents that I received from it. I have not received any pleadings / documents by courier/post from the Parties.

**3. Factual Background**

**A Complainant**

- 3.1 Complainant is one of a number of companies collectively known as InterContinental Hotels Group (“IHG”), one of the world’s largest hotel groups by number of rooms. Companies within IHG own,

*S. Sridharan*



manage, lease or franchise, through various subsidiaries, more than 4,900 hotels and 727,000 guest rooms in nearly 100 countries and territories around the world. IHG owns a portfolio of well-recognized and respected hotel brands including Crowne Plaza Hotels & Resorts, Holiday Inn Hotels and Resorts, Holiday Inn Express, InterContinental Hotels & Resorts, Hotel Indigo, Staybridge Suites, Candlewood Suites, Hualuxe and Even Hotels, and also manages the world's largest hotel loyalty program, IHG Rewards Club.

- 3.2 Complainant has prevailed in numerous proceedings under various domain name dispute policies, including the INDRP.
- 3.3 Complainant's Crowne Plaza brand was founded in 1983 and today is used in connection with 401 hotels, with 111,917 hotel rooms, worldwide. Complainant (or its affiliates) owns 330 registrations in 170 countries or geographic regions worldwide for trademarks that consist of or contain the mark CROWNE PLAZA (the "CROWNE PLAZA Trademark").
- 3.4 The Complainant has got the following registrations in the United States of America.

Mark	U.S. Reg. No.	Date of Registration	Services (partial)
CROWNE PLAZA	1,297,211	September 18, 1984	Hotel services
CROWNE PLAZA	2,329,872	March 14, 2000	Hotel and restaurant services
CROWNE PLAZA	3,761,592	March 16, 2010	Casino services

- 3.5 In India, the Complainant has obtained the following registration.

Mark	Indian Reg. No.	Date of Registration	Services (partial)
CROWNE PLAZA	1,240,890	September 30, 2003	Hotel services, motel services, provision of accommodation, hotel reservation services...

- 3.6 The Complainant has obtained a Community Trade Mark Registration under Reg. No. 001017946, registered on December 17, 2002.

**B Respondent**

- 3.7 The Respondent in his short reply stated among others that they removed the web site under the disputed domain name and they have registered a new domain name [www.hotelcp.in](http://www.hotelcp.in) for their hotel business. A further account will be given under the caption "Parties Contentions" below.

**4. Parties Contentions**

**A Complainant**

- 4.1 The Disputed Domain Name contains the CROWNE PLAZA Trademark in its entirety (absent the silent letter "e") and the geographic identifier "Coimbatore," the name of an Indian city in which Respondent's hotel is located.
- 4.2 Where, as here, the Disputed Domain Name "wholly incorporates... the prior registered trade mark of the Complainant," the disputed domain name is identical or confusingly similar to the trademark for purposes of the INDRP

*Indhuvaran*

- 4.3 The absence of the letter "e" from the CROWNE PLAZA Trademark in the Disputed Domain Name is irrelevant for purposes of confusing similarity because phonetically, the disputed domain name sounds identical to the Complainant's trademark and the absence of the silent letter 'e' does not alter the pronunciation of the trademark.
- 4.4 Where, as here, the second-level domain contains a complainant's trademark ("crownplaza") plus a geographic identifier ("Coimbatore"), previous panels under the UDRP have found confusing similarity.
- 4.5 Panels under the INDRP also have found that a domain name containing a complainant's trademark plus a geographic identifier is confusingly similar to the complainant's trademark, because by merely affixing a geographical name like that of a country's name as a prefix or suffix will not remove the distinctiveness of the trade mark.
- 4.6 Accordingly, the Disputed Domain Name is confusingly similar to the CROWNE PLAZA Trademark.
- 4.7 The Respondent has no rights or legitimate interests in the Disputed Domain Name. Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the CROWNE PLAZA Trademark in any manner.
- 4.8 Upon information and belief, Respondent has never used, or made preparations to use, the Disputed Domain Name or any name corresponding to the Disputed Domain Name in connection with a bona fide offering of goods or services. Respondent is using the Disputed Domain Name in connection with a website that falsely appears to be affiliated with Complainant and a Crowne Plaza hotel in Coimbatore, India, without permission or consent of Complainant. Such use is clearly not bona fide under the Policy and, therefore, does not confer upon Respondent any rights or legitimate interests in the Disputed Domain Name.
- 4.9 Further, by offering hotel services on its website using the Disputed Domain Name, Respondent has failed to create a bona fide offering of goods or services under the INDRP – and, therefore, Respondent cannot demonstrate rights or legitimate interests under Paragraph 7(i) of the INDRP. Specifically, as stated above, Respondent is using the Disputed Domain Name, without permission or consent of Complainant, in connection with a website that falsely purports to be a "Crown Plaza" hotel in the Indian city of Coimbatore
- 4.10 To Complainant's knowledge, 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 and, therefore, Respondent has no rights or legitimate interests in the Disputed Domain Name under paragraph 7(ii) of the INDRP. According to the Whois record, the registrant of the Disputed Domain Names is "Pradeep" – not "Crowne Plaza" or any variation thereof.
- 4.11 Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name, without intent for commercial gain misleadingly to divert consumers or to tarnish Complainant's CROWNE PLAZA Trademark, and, therefore, has no rights or legitimate interests in the Disputed Domain Name under paragraph 7 (iii) of the INDRP
- 4.12 By using Complainant's CROWNE PLAZA Trademark on a website offering hotel services via a domain name that also contains the CROWNE PLAZA Trademark, Respondent quite obviously has intentionally attempted to attract, for commercial gain, Internet users to a website, by creating a likelihood of confusion with the CROWNE PLAZA Trademark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or of a product or service on Respondent's website, in violation of paragraph 6(iii) of the INDRP. The Respondent has been using the disputed domain name in order to pass off the Website as a website of or otherwise authorised or approved by the Complainant. This is clear evidence of bad faith

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- 4.13 As numerous decisions under applicable domain name dispute policies have made clear, creating a website that appears to be a website for a complainant, as Respondent has done in the instant case, is "likely fraudulent" and "indicates an intent to deceive or, at a minimum, act in bad faith with the intent for commercial gain."
- 4.14 There can be no doubt that Respondent knew of Complainant's CROWNE PLAZA Trademark when it registered the Disputed Domain Name, leading to evidence of bad faith. As set forth above, the CROWNE PLAZA Trademark is a well-known, internationally recognized mark registered in many countries or geographic regions worldwide and Complainant's use of the Disputed Domain Name is obviously intended to create an association with Complainant.
- 4.15 A further indication of bad faith under is the fact that Complainant's CROWNE PLAZA Trademark pre-dates Respondent's registration of the Disputed Domain Name – by almost 30 years. Accordingly, 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.
- 4.16 Moreover, given Complainant's established rights in the CROWNE PLAZA Trademark in many countries or geographic regions worldwide and the fact that the Disputed Domain Name is so obviously connected with Complainant, Respondent's actions suggest "opportunistic bad faith" in violation of the INDRP.
- 4.17 In light of this long history of Complainant's trademarks and Complainant's significant international presence and brand recognition, it is likely that the Respondent knew of the Complainant's mark, and has sought to obtain a commercial benefit by attracting Internet users based on that confusion.

**B. Respondent**

- 4.18 Respondent in his short reply stated that theirs is a small budget class hotel meant for the local customers in Coimbatore. They do not have online booking provision and do not use this medium to sell their rooms. The web site provides only the telephone numbers of the Respondent to enable telephone enquiries about the availability of the rooms.
- 4.19 Further, the Respondent has changed their domain name to [www.hotelcip.in](http://www.hotelcip.in) and will inform the clients about the change in web site address shortly.
- 4.20 The Respondent did not intend to defame the complainant or to get their customers. The Respondent deals with a totally different customer base. The Respondent has removed the web site under the disputed domain name <[www.coimbatorecrownplaza.in](http://www.coimbatorecrownplaza.in)>.

**5. Discussion and Findings**

- 5.1 The Complainant in order to succeed in the Complaint must establish under Paragraph 4 of .IN Domain Name Dispute Resolution Policy (INDRP) the following elements:
- (I) Respondent's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
  - (II) Respondent has no rights or legitimate interests in respect of the domain name; and
  - (III) Respondent's domain name has been registered or is being used in bad faith.
- 5.2 Each of the aforesaid three elements must be proved by a Complainant to warrant relief.



***Disputed domain name is identical or confusingly similar to a trade mark of the Complainant.***

- 5.3 The Complainant is the proprietor of the mark Crowne Plaza. Complainant and its group companies have been using Crowne Plaza as a trade mark continuously ever since its adoption in 1983. Complainant and its group companies own 330 registrations in 170 countries or geographic regions worldwide for trademarks that consist of or contain the mark CROWNE PLAZA. In India, the registration of the Complainant under Application No. 1,240,890 dates back to 30.09.2003. The disputed domain name <[www.coimbatorecrownplaza.in](http://www.coimbatorecrownplaza.in)> was created on 6.11.2012. Obviously, the Complainant is the prior adopter of the mark Crowne Plaza. The above facts have established that the Complainant has statutory and common law rights in respect of its mark Crowne Plaza.
- 5.4 The Complainant's Crowne Plaza is famous and well known throughout India. The predominant feature of the disputed domain name is Crown Plaza. The expression Coimbatore is geographical name. Any and all doing business from Coimbatore may tend to use the expression "Coimbatore" as part of their trade mark. Therefore, we need to compare only the distinctive and predominant feature of the disputed domain name i.e. Crownplaza with the registered trade mark of the Complainant. Further, the expression .in needs to be discarded while comparing the marks with the domain names. It is obvious that the distinctive feature of the disputed domain name is phonetically similar to and wholly incorporates the prior registered mark Crowne Plaza of the Complainant. The expression .in needs to be discarded while comparing the marks with the domain names.
- 5.5 I, therefore, find that:
- (a) The Complaint has common law and statutory rights in respect of its mark Crowne Plaza.
  - (b) The distinctive feature of the disputed domain name <[www.coimbatorecrownplaza.in](http://www.coimbatorecrownplaza.in)> is phonetically similar to the Complainant's prior registered trade mark Crowne Plaza.

***Respondent has no rights or legitimate interests in respect of the disputed domain name***

- 5.6 It is already seen that:
- (a) The Complainant and its group companies are the prior adopter and user of the mark Crowne Plaza. The Complainant's Crowne Plaza mark is well known in many countries across the globe including India.
  - (b) The Complainant's Crowne Plaza mark was adopted in 1983. The Indian registration for the mark Crowne Plaza was obtained on 30.09.2003. The disputed domain name <[www.coimbatorecrownplaza.in](http://www.coimbatorecrownplaza.in)> was created on 6.11.2012.
- 5.7 Respondent did not register the disputed domain name until 6.11.2012. Complainant has adopted and used the mark Crowne Plaza well before Respondent registered the disputed domain name <[www.coimbatorecrownplaza.in](http://www.coimbatorecrownplaza.in)>. It is unlikely that the Respondent was unaware of existence of Complainant's trademark rights before registering the disputed domain name <[www.coimbatorecrownplaza.in](http://www.coimbatorecrownplaza.in)>.
- 5.8 I tried to visit the web site of the Respondent under the disputed domain name <[www.coimbatorecrownplaza.in](http://www.coimbatorecrownplaza.in)> on 30th December 2015. It did not lead to any web page. Google Chrome browser returned a snapshot of the web site as it appeared on 28 December 2015 at 17:06:55 GMT. I understand that the Respondent continued to use the disputed domain name till 28<sup>th</sup> December 2015. It is clear that the Respondent is not currently making any legitimate non-commercial or fair use of the disputed domain name <[www.coimbatorecrownplaza.in](http://www.coimbatorecrownplaza.in)>.
- 5.9 In response to the notice issued by the Arbitrator, the Respondent in his reply 31<sup>st</sup> December 2015 admitted that they stopped using the web site under the disputed domain name <[www.coimbatorecrownplaza.in](http://www.coimbatorecrownplaza.in)>.

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- 5.10 Therefore, I have no hesitation to hold, for the above reason that the Respondent has no right or legitimate interest in respect of the disputed domain name <www.coimbatorecrownplaza.in>.

*Respondent's domain name has been registered or is being used in bad faith.*

- 5.11 The Complainant is the proprietor of the mark Crowne Plaza. Complainant and its group companies have been using Crowne Plaza as a trade mark continuously since 1983. The Indian registration for the mark Crowne Plaza was obtained in 2003. The disputed domain name <www.coimbatorecrownplaza.in> was created on 6.11.2012. Obviously, Complainant's rights in the Crowne Plaza mark pre-date Respondent's registration of the disputed domain name <www.coimbatorecrownplaza.in>. The Respondent could not have ignored, rather actually influenced by, the well-known Mahindra mark of the Complainant at the time he acquired the disputed domain name <www.coimbatorecrownplaza.in>.
- 5.12 As seen above, the Respondent stopped using the disputed domain name during the course of this arbitration proceedings and is not currently making any legitimate non-commercial or fair use of the disputed domain name <www.coimbatorecrownplaza.in>. The Respondent is in no way connected with the Complainant. Respondent's adoption of the disputed domain name <www.coimbatorecrownplaza.in> is nothing but an unjust exploitation of the well-known reputation of the Complainant's prior registered Crowne Plaza mark.
- 5.13 Respondent in his reply did not state any reason and/or justification for the adoption of the Complainant's mark Crowne Plaza. Respondent's contention that they had no intention to defame the Complainant or to get the customers of the Complainant is only an afterthought and is devoid of any merits.
- 5.14 Thus it is clearly established that Respondent registered the disputed domain name <www.coimbatorecrownplaza.in> in bad faith.
- 5.15 The actions of the Respondent should not be encouraged and should not be allowed to continue. Respondent never intended to put the disputed domain name <www.coimbatorecrownplaza.in> into any fair/useful purpose. The conduct of the Respondent has necessitated me to award costs of the Complaint to and in favour of the Complainant.

## **6. Decision**

- 6.1 For all the foregoing reasons, the Complaint is allowed as below.
- 6.2 It is hereby ordered that the disputed domain name <www.coimbatorecrownplaza.in> be transferred to the Complainant.
- 6.3 Respondent is ordered to pay the Complainant a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) towards costs of the proceedings.

S.Sridharan  
Arbitrator