

ఆంధ్ర ప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH

Sl. No. 7726 Dt. 21/11/14
Sold to Harini Narayanswamy
No. D/o, W/o B. Narayanswamy R/o And
To Whom: Self

K. Geetha Rani
BH 322728

KODALI GEETHA RANI
Licenced Stamp Vendor
Licence No 16-04-1/2013
8-3-191/132 167/C Behind E-Seva
Kangal Rao Nagar, Hyderabad (South)
Cell 94920 25252

BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA

ARBITRATION AWARD

In The Matter Between

Crown Worldwide Holdings Limited
Address Suite 2001, 20 / F
Mass Mutual Tower
38 Gloucester Road, Wanchai
Hong Kong

Complainant

Versus.

Sandeep
Optimum Digital Media
Delhi 110085
India

Respondent

Harini Narayanswamy

1. The Parties

The Complainant is *Crown Worldwide Holdings Limited of Hong Kong*, represented in these proceedings by Rosita Li of Mayer Brown JSM, Hong Kong. The Respondent is Sandeep, Optimum Digital Media, Delhi, India.

2. The Domain name, Registrar and Policy

The present Arbitration proceeding pertains to a dispute regarding the domain name <crowndindiarelocation.in> (hereinafter referred to as disputed domain name). The registrar for the disputed domain name is Webiq Domains Solutions Pvt. Ltd. The Arbitration proceeding is conducted in accordance with the Arbitration and Conciliation Act of 1996 (India), the .IN Domain Name Dispute Resolution Policy (the "INDRP Policy" or "Policy"), and the INDRP Rules of Procedure (the "Rules").

3. Procedural History

The sole arbitrator appointed in the case is Mrs. Harini Narayanswamy. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, in compliance with the Rules. The Arbitrator received the Complaint from the .IN registry on April 30, 2015 and on May 1, 2015 transmitted by email a notification of commencement of the arbitration proceedings to the Respondent. Under the INDRP Rules, copies of the said notification were sent to other interested parties to the dispute. The Respondent was given twenty-one days time from the date of the notification to file a response in these proceedings.

Harini Narayanswamy

Factual Background

The Complainant is in the business of relocation and international removals. The present dispute is based on the Complainant's trademarks CROWN and CROWN RELOCATIONS. The Complainant has provided details of its numerous registered marks along with copies of some registration certificates for the said marks. Details of three of its registered marks are:

Sr. No	Trademark	Trademark No and Date	Class	Status
1.	CROWN (Device)	Indian Trademark 658129 March 9, 1995	16	Registered
2.	CROWN RELOCATION (Device)	Indian Trademark 1237736 23 MAY 2006	39	Registered
3.	CROWN RELOCATION (Device)	China (PRC) 6936691 August 21, 2012 to Aug 20, 2022	39	Registered

Havir Naragunny

The Respondent registered the disputed domain name <crowndiarelocation.in> on December 11, 2012.

The Parties Contentions

A. Complainant's Submissions

The Complainant asserts it is a globally renowned company that was established in 1978, and is one of the largest privately owned companies in the business of international removals. The Complainant states its business has six main operating divisions, these are: Crown Relocations, Crown World Mobility, Crown Records Management, Crown Logistics, Crown Fine Art and Crown Wine Cellars.

The Complainant states it is an integral subsidiary of the renowned Crown Worldwide Group of companies. The Complainant states that its offices are also the Crown group's headquarters. The Crown group was established in 1965 and adopted the CROWN mark around 1975 and has used it extensively in over 265 locations in about 60 countries. The Complainant states the Crown Group's revenues in 2012 was about USD 766 million and it holds assets worth USD 656 million.

Since around 1998, the Complainant states it has continuously and extensively used the marks throughout the world. The Complainant has provided as evidence, screen shots of country pages of the CROWN RELOCATION website and the domain name record of <crowndiarelo.com>, that was registered in 1998. The Complainant has also filed excerpts of its

Havin Narayana

marketing and promotional material and asserts the evidence filed with the Complainant, shows its protectable reputation in the marks.

The Complainant requests for transfer of the disputed domain name based on the three elements of the Policy. The Complainant argues the disputed domain name is identical or confusing similar to its mark CROWN RELOCATIONS which is the distinctive part of the disputed domain name. The disputed domain name incorporates the mark in its entirety except for the omission of the letter "s" at the end. The Complainant further argues inclusion of the word "India" has no effect as it is merely indication of location and the domain extension ".in" should be disregarded for purposes of finding confusing similarity.

The Complainant states that the Respondent has no rights or legitimate interests in the disputed domain name, as the Respondent is not authorized or licensed to use the Complainant's mark. The Respondent is not known by the disputed domain name, as the record show the Respondent's name is Sandeep and registrant organization is "Optimum Digital Media". The disputed domain name is being used by the Respondent to pass off as the Complainant's business and create customer confusion.

The Complainant states that the disputed domain name has been registered and is being used in bad faith, as the Respondent ought to have been aware of the Complainant's rights in the mark. The Respondent is using the disputed domain name and the corresponding website to advertise and sell services of packing, moving and storage, which are the same services offered by the Complainant. Further, Respondent has displayed on the

Havin Naragunny

website, a mark confusingly similar to the Complainant's device mark, with an intention is to create a false association and make illicit gains and to disrupt the Complainant's business. The Complainant also states that the Respondent has provided incomplete details in the Whois records for the disputed domain name registration, giving only a first name and no surname and an incomplete address in Delhi. However, the Respondent's website has a full address in Bangalore and refers to a moving co-coordinator named Mr. Sunil with a different email address. The Complainant states the Respondent has adopted an uncooperative and unresponsive attitude as both the Respondent and the contact provided on the website did not respond to the cease and desist letters sent by the Complainant on February 23, 2015.

B. Respondent's Submissions

The Respondent has not submitted a response. The Arbitrator notes from the material on record, that the notices sent to the Respondent have been returned un-served, as the Respondent has provided incomplete or incorrect contact details for the registration of the disputed domain name.

Discussion and Findings

Under the INDRP Policy the Complainant has to establish the following three elements to succeed in the proceedings:

- (i) The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, and

Havini Narasimhan

- (ii) The Respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) The Respondent's domain name has been registered or is being used in bad faith.

Identical or Confusingly Similar

The first element requires the Complainant to prove that the disputed domain name registered by the Respondent is identical or confusingly similar to a mark in which the Complainant has rights.

The Complainant has submitted evidence that demonstrates its rights in the CROWN and CROWN RELOCATIONS trademarks. The Complainant has filed a list of over hundred pages showing details of its trademark applications and registrations for the CROWN and CROWN RELOCATIONS marks in several countries. The Complainant has also filed copies of its registered trademarks in India, China and Hong Kong.

The Arbitrator finds the disputed domain name incorporates the Complainant's mark CROWN in its entirety and a confusingly similar variant to the CROWN RELOCATIONS mark. The inclusion of the country code Top Level Domain (ccTLD) extension ".in" and country name "India", as argued by the Complainant are not significant in determining confusing similarity. See *AB Electrolux v. GaoGou*, INDRP 630 (<zanussi.in>) October 19, 2014. (Domain extensions are generally not relevant in determining confusing similarity of the domain name with the trademark), and See *Perfetti Van Melle Benelux BV vs. Jing Zi Xin*, INDRP Case No.665

Havini Narayana

May 5, 2015 (Finding that only a person who was familiar with the mark could have registered a confusingly similar domain name, and the domain name <mentosindia.co.in.> was found confusingly similar to the MENTOS mark despite the geographic term "India".)

Accordingly, the disputed domain name is found to be confusingly similar to a mark in which the Complainant has established rights. The Complainant has satisfied the first element under paragraph 4 of the Policy.

Rights and Legitimate Interests

The second element requires the Complainant to put forward a *prima facie* case that the Respondent lacks rights and legitimate interests in the disputed domain name. Once the Complainant has made a *prima facie* showing that the Respondent lacks rights, the Respondent has the opportunity to rebut the Complainant's contention and demonstrate any rights and legitimate interests in the disputed domain name.

The Respondent has not responded^d or provided any evidence to establish any rights or legitimate interests in the disputed domain name in these proceedings. The Arbitrator finds there is no evidence on record that shows the Respondent uses the disputed domain name in a *bona fide* manner or that the Respondent has been commonly known by the disputed domain name for any legitimate use.

The Complainant has categorically stated that no authorization has been given to the Respondent to use its trademarks or any variant of its marks.

Havini Naragunny

Under such circumstances, the un-refuted allegations of the Complainant prevail, and the Respondent is found to have no legitimate rights in the disputed domain name.

Accordingly, for the reasons discussed, the Arbitrator finds the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has established the second element under paragraph 4 of the Policy.

Bad Faith

The third element of paragraph 4 of the INDRP Policy requires the Complainant to establish the domain name was registered in bad faith or is being used in bad faith.

The Complainant has urged that the Respondent has registered the disputed domain name to exploit its trademark and has filed screen shots of the website linked to the disputed domain name as evidence of bad faith use of the disputed domain name. Facts and evidence presented in case show: (i) The marks CROWN and CROWN RELOCATIONS are known and associated with the Complainant and its business due to long extensive use by the Complainant (ii) The evidence also shows the marks are being used by the Respondent, who is not authorized to use the marks (iii) Circumstances of the case indicate there is no possible good faith reason for the Respondent to register and use the disputed domain name except to gain from the goodwill associated with the Complainant's mark.

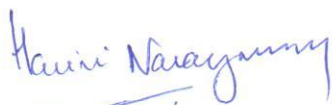
Hanin Narayana

Under Paragraph 6 (iii) of the Policy, if the registrant of a domain name has used the domain name to intentionally attract Internet users to the Registrant's website or other online location by creating a likelihood of confusion with the trademark of another, it is considered evidence of bad faith. The Arbitrator finds, based on the evidence and all that has been discussed that the Respondent has registered the disputed domain name and uses it in a manner that is considered bad faith registration and use under Paragraph 6 of the Policy, namely to attract Internet traffic to the Respondent's website, by misleading Internet users as to the source.

Based on all the facts and circumstances of the case the Arbitrator finds that the disputed domain name was registered in bad faith and has been used in bad faith. The Arbitrator finds the Complainant has satisfied the third requirement under paragraph 4 of the Policy.

Decision

In light of all that has been discussed, it is ordered that the disputed domain name <crowndindiarelocation.in> be transferred to the Complainant.



Harini Narayanswamy

(Arbitrator)

Date: May 25, 2015