

1. The Parties

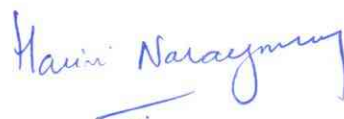
The Complainant is Mozilla Foundation United States of America, represented in these proceedings by DePenning & DePenning of Chennai, India. The Respondent is S. Kathirvel of Tirupur, Tamilnadu, India.

2. The Domain name, Registrar and Policy

The present Arbitration proceeding pertains to a dispute regarding the domain name <firefox.org.in> (hereinafter referred to as disputed domain name). The registrar for the disputed domain name is Webiq Domain 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 July 11, 2015 and on July 12, 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.



Factual Background

The Complainant is a non-profit company that supports open software and owns the FIREFOX trademarks. The present dispute is based on the Complainant's FIREFOX trademarks.

The Complainant has provided details of its registered marks. FIREFOX trademark registration details in three countries are provided below:

Country	Trademark	Number	Class	Date
INDIA	FIREFOX	1698245	9, 38	Registered renewed till June 12, 2018
USA	FIREFOX	2974321	9,21,23,26,36,38	Registered and renewed till Dec 23, 2023
UK	FIREFOX	EU003888617	9,38,42	Registered and

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				renewed till Jun 21, 2024
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The Respondent did not file a response, hence there is no information about the Respondent except the information provide in the Whois domain name registration record. The Respondent registered the disputed domain name <firefox.org.in> on February 2, 2015.

The Parties Contentions

A. Complainant's Submissions

The Complainant states it was established in the year 2003 as a non- profit corporation in California, and is dedicated to public benefit. Mozilla Corporation was established in 2005 as a wholly owned subsidiary of the Complainant. Mozilla Corporation is a licensee of the Complainant, and its main objective is to co-ordinate the development of Internet related applications by a global community of software developers.

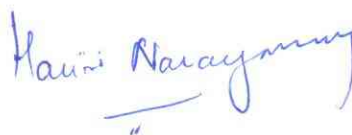
The Complainant states that its subsidiary Mozilla Corporation developed and launched FIREFOX, an efficient web browser. In 2008, more than 6.88 million people had downloaded the web browser and about 5000 million people the world over are using it. The FIREFOX web browser is available for Linux, Mac, Windows and hand held devices in more than 70 different languages. The Complainant states it controls and regulates a software

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community of individuals throughout the globe that uses, develops, spreads and supports Firefox products, and promotes free software and open standards, with only minor exceptions. The community is supported and overseen by the Complainant and its subsidiary, the Mozilla Corporation. The Mozilla Foundation controls the source code repository and regulates the membership within the community on meritocracy.

The Complainant further states that Mozilla Corporation also manages “Firefox Marketplace”, an online market of applications that work with computers running the desktop or android versions of the Firefox browser as well as Firefox OS devices. The Mozilla Foundation maintains the primary responsibility for managing the open source project, stewarding and distributing the source code, setting policies and organizing relationships between participants in the project. The foundation also focuses on project governance, infrastructure and source code as well as on educating the public about the virtues and importance of an open Internet.

Mozilla Corporation focuses on the development, promotion and delivery of end user products including marketing sponsorships and distribution activities. The Complainant states it has earned immense reputation and goodwill and has won several awards that it has received over the years and has provided a list of these awards. These include, Meffy’s Innovation in Technology Firefox OS 2013, LAPTOP Magazine Best Innovation, Best of MWC, Firefox OS 2013, CHIP Top Download Firefox 2013, and PC Magazines Editors Choice 2008 Award among others.


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The Complainant states that the FIREFOX marks are well known and further, it is a prior adopter and has taken steps to prevent third party use of its marks. The Complainant states its trademark policy has the goals of: (1) ensuring Mozilla marks remain reliable indicators of quality, source and security and (2) to permit community members, software distributors and others who work with the Complainant to accurately describe their affiliation with the Complainant.

The Complainant further states the global Mozilla community called Mozillians comprise of technologist, thinkers and builders and has about 10554 active Mozillians worldwide and the community conducts hundreds of events to encourage human collaborations across an open platform. Mozilla India, the Complainant states, promotes events offering assistance, knowledge and resources to the Mozilla community in India and seeks to introduce the Complainant to educational institutions, government organizations and corporate entities in India.

The disputed domain name is confusingly similar to its trademark FIREFOX states the Complainant. The mark is a coined word, which makes it inherently distinctive. The Complainant states it has registered trademark rights in several countries including India and also has domain name registrations such as <firefox.com> from October 6, 1998. Due to reputation and goodwill of its mark, the Complainant states the use of its mark by unrelated third parties may lead to user confusion, dilution and infringement of its mark. The Complainant further argues that the Respondent is not a *bona fide* adopter or actual user and has no rights and legitimate interests in the disputed domain name. The Complainant adopted the mark in 1998

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whereas the Respondent registered the disputed domain name in February 2015, almost 17 years after the Complainant's adoption of the mark.

The Complainant argues the Respondent has not been known by the disputed domain name or any name similar to FIREFOX. The disputed domain name has been registered and is being used in bad faith asserts the Complainant, as it already has a well-established business presence globally prior to the registration of the disputed domain name. The Respondent's intention is to take advantage of the Complainant's reputation, to confuse the public and tarnish the reputation of the Complainant. The disputed domain name is parked on WEBSITEWELCOME.COM and has pay per click links to make unjust gains through advertisement. The Respondent is not authorized, licensed or allowed by the Complainant to use the mark. The Complainant requests for transfer of the disputed domain name.

B. Respondent's Submissions

The Respondent has not submitted a response despite having received notice of the case. The Arbitrator notes from the material on record, that the Complainant has sent the case documents to the Respondent at the contact address provided by the Respondent in the registration records.

Discussion and Findings

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

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- (i) The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights, and
- (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 filed details of its trademark applications, registrations and renewals for the FIREFOX marks in India, USA and the UK. Based on the evidence filed by the Complainant, it is found that the Complainant has demonstrated its rights in the FIREFOX trademarks.

The disputed domain name incorporates the Complainant's mark FIREFOX in its entirety, along with the extension ".org.in". The disputed domain name when compared with the mark is found virtually identical to the trademark and is confusing similar with the mark, except for the ccTLD extension.

Accordingly, it is found the Complainant has satisfied the first element under paragraph 4 of the Policy.

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Rights and Legitimate Interests

The INDRP Policy requires the Complainant to put forward a *prima facie* case that the Respondent lacks rights and legitimate interests in the disputed domain name. The Policy provides the Respondent the opportunity to rebut the Complainant's contention and demonstrate any rights and legitimate interests in the disputed domain name by filing a response. The Respondent has not availed the opportunity to file a response in these proceedings.

The Arbitrator finds there is no evidence on record that shows the Respondent has used the disputed domain name in a *bona fide* manner or that the Respondent has been commonly known by the disputed domain name in connection with any legitimate use. The Complainant has stated that no authorization has been given to the Respondent to use its trademarks or any variant of its marks. Under such circumstances, the un-refuted allegations of the Complainant prevail.

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 is found to have 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.

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The Complainant has argued that the Respondent has registered the disputed domain name to exploit its trademark. The evidence on record shows: (i) The FIREFOX trademarks are associated with the Complainant and has been extensively used by the Complainant (ii) The Complainant exercises quality control over products offered under the FIREFOX marks (iii) Awards pertaining to the FIREFOX mark demonstrate the reputation, fame and popularity of the mark (iv) The Respondent does not make any *bona fide* use of the disputed domain name but has parked it and has placed pay per click links on the website linked to the disputed domain name to derive gains based on the Complainant's mark.

These circumstances indicate the Respondent has used the domain name to intentionally attract Internet users to its website by creating a likelihood of confusion with the trademark of another, which is considered evidence of bad faith registration and use of the disputed domain name under the Policy. The Complainant is found to have 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 <firefox.org.in> be transferred to the Complainant.


Harini Narayanswamy

(Arbitrator)

Date: AUGUST 24, 2015