



दिल्ली DELHI

R 205606

RANJAN NARULA

ARBITRATOR

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

In the matter of:

Future Ideas Company Limited

Knowledge House, Shyam Nagar,
Off Jogeshwari-Vikhroli Link Road,
Jogeshwari (East), Mumbai-400 060,
Maharashtra, India.

.....Complainant

Prashant Thakkar

Katra, Sikandrabad-656566
Haryana, India

.....Respondent

Disputed Domain Name: www.futuregroup.org.in

AWARD

1) The Parties:

The Complainant in this arbitration proceeding is **Future Ideas Company Limited** of Knowledge House, Shyam Nagar, Off Jogeshwari-Vikhroli Link Road, Jogeshwari (East), Mumbai-400 060, Maharashtra, India. The Complainant is represented by its authorized representatives Krishna & Saurastri Associates of K.K. Chambers, Sir P.T. Marg, Off D.N. Road, Mumbai-400 001, India who have submitted the present Complaint.

The Respondent in this arbitration proceeding is Mr. Prashant Thakkar of Katra, Sikandrabad-656566, Haryana, India 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.futuregroup.org.in The Registrar is Transecute Solutions Pvt. Ltd. The Registrant is Mr. Prashant Thakkar Katra, Sikandrabad-6565, Haryana, India.

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 August 07, 2011 and the notice was issued to the Respondent on August 08, 2011 at his email address with a deadline of 10 days to submit his reply to the arbitration. The Respondent did not submit any response. On September 07, 2011 the Arbitrator notified the Respondent that in the absence of any response filed by the them within the stipulated time, the matter will be decided based on submission of the complainant and documents filed by them in support of their complaint. Therefore 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

1. The Complainant belongs to the Future Group of Companies which is engaged in multiple businesses including telecom / IT, apparels, general provisions, electronics, general merchandise, logistics, fashion, entertainment etc.
2. While retail forms the core business activity of the Complainant's Future Group, its subsidiaries are present in consumer finance, capital, insurance, leisure and entertainment, brand development, retail real estate development, retail media and logistics. The Complainant's specialty retail formats include supermarket chain Food Bazaar, sportswear retailer Planet Sports, electronics retailer E-Zone, home improvement chain – Home Town and rural retail chain, Aadhaar, among others. The Complainant also operates the popular shopping portal www.futurebazaar.com Complainant's joint venture partners include, US-based stationery products retailer,



Staples and Middle East based Axiom Communications. The affiliates/ subsidiaries of the Complainant are listed on the major Stock Exchanges of India.

3. The Complainant is the proprietor of the said trading name and mark FUTURE GROUP registered under the Trade Marks Act, 1999 under Registration No. 1424336, 1424337 dated 24th February 2006 and Registration no. 1445204 and 1445205 dated 21st April 2006 in relation to products and services falling under classes 35, 36, 37, 38, 39, 40, 41 and 42. A copy of the Registration
4. The Complainant states that owing to the diverse nature of the companies operating under the said group and the wide range of products and services provided through innovative formats under the name and style of FUTURE GROUP, the said name and mark has gained tremendous reputation and goodwill and has become well known and has also acquired a secondary meaning connoting and denoting to the members of public, the Complainant's said business and group companies alone. The said name and mark FUTURE GROUP has come to be exclusively associated and identified with the Complainant's business and group companies alone. Owing to the aforementioned reasons, the said name and mark FUTURE GROUP has become distinctive with the Complainant and its group companies and has acquired a formidable and valuable reputation, goodwill and association amongst the members of trade and public.
5. By virtue of the open and extensive use of the said name and mark FUTURE GROUP in relation to the afore-said businesses, the Complainant has acquired valuable and protectable proprietary rights including statutory rights and protectable reputation and goodwill in the said name and mark FUTURE GROUP. The Complainant contends that by virtue of the registration of name and mark FUTURE GROUP, they are entitled to the exclusive use thereof.
6. The Complainant is also the registrant and user of the domain name www.futuregroup.in from March, 2006. The said domain name / website of the Complainant attracts several potential clients and customers to the Complainant's business and is one of the most valuable business assets of the Complainant. Any use of an identical and / or deceptively similar domain name and / or trade mark is bound to divert internet traffic and cause enormous losses including pecuniary loss to the Complainant.
7. The said mark / name FUTURE GROUP has become well-known among the members of public and trade and any use thereof is instantly associated with the Complainant in course of trade. The popularity and large-scale use of the name and mark FUTURE



GROUP is apparent from the large and ever growing turnover of the Complainant and its group companies :

Year	Future Group Turnover (In lakhs) (Rs)	Pantaloon Retail (India) Limited Turnover (In lakhs) (Rs)	Other group Company (In lakhs) (Rs)
2006-07	316,112.00	303,144.00	12,968.00
2007-08	534,282.00	477,633.00	56,649.00
2008-09	700,360.00	610,335.00	90,025.00
2009-10	905,113.00	570,670.00	334,506.00

The Complainant has made tremendous efforts and has spent considerable amounts of money for the publicity and promotion of the merchandise bearing the mark / brand 'FUTURE GROUP'. The Complainant has also sponsored various important events of international significance such as cricket tournaments etc.

5) Respondent

The Respondent has not filed any response to the Complaint though they were given opportunity to do so. The e-mails sent to their address have not been returned with any delivery failure notification thus indicating that the Respondent has received the mails and elected not to file its response. 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 4 of the policy.

6) Discussion and Findings:

The submissions and documents provided by Complainant in support of use and registration of the mark 'FUTURE GROUP' alone and in combination with other words leads to the conclusion that the Complainant has superior and prior rights in the mark FUTURE GROUP. Thus it can be said a) the web users associate the word FUTURE GROUP with the goods and services of the Complainant b) the web users would reasonably expect to find Complainant's products at the www.futuregroup.org.in and c) they may believe it is an official store of the

Complainant and the goods being offered/ advertised are manufactured 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 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 (by virtue of registration under the Trademarks Act, 1999), and rights on account of prior and longstanding use of the mark 'FUTURE GROUP'. The complainant has in support submitted substantial documents. The disputed domain name contains or is identical to Complainant's 'FUTURE GROUP' trademark in its entirety. The mark is being used by the Complainant to identify its business. The mark has been highly publicized and advertised by the Complainant in both the electronic and print media.

- (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 'FUTURE GROUP' trademark. Further, the Respondent has not adduced any evidence to show that it has used the disputed domain name or any trademark similar to the disputed domain name prior to the registration of the disputed domain name in favour of the complainant.

The Respondent has not rebutted the contentions of the Complainant and has not produced any documents or submissions to show his interest in protecting 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. Further, the Respondent is not commonly known by the disputed domain name and has not made any legitimate non-commercial or fair use of the disputed domain name.

The above leads to the conclusion that Respondent has no right or legitimate interest in respect of the disputed domain name 'FUTURE GROUP'

- (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. Based on the documents filed by the Complainant, it can be concluded that the domain name/mark 'FUTURE GROUP' is identified with the Complainant's product or services. Therefore its adoption by the Respondent shows 'opportunistic bad faith'.

9. Decision:

The Respondent failed to comply with Para 3 of the INDRP which requires that it is the responsibility of the Respondent to ensure before the registration of the impugned domain name by him that the domain name registration does not infringe or violate someone else's rights.

The complainant has given sufficient evidence to prove extensive reputation and trade mark rights on the disputed domain name. Further, the Respondent's adoption and registration of the disputed domain name is in bad faith.

In view of the foregoing, I am convinced that the Respondent's registration and use of the domain name www.futuregroup.org.in is abusive and 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.futuregroup.org.in be transferred to the Complainant.



RANJAN NARULA
SOLE ARBITRATOR
NIXI
INDIA

23 SEPTEMBER 2011