

Bond



**Indian-Non Judicial Stamp
Haryana Government**



Date :12/01/2018

Certificate No. G0L2018A1942



GRN No. 32659575



Stamp Duty Paid : ₹ 101
(Rs. Only)

Penalty : ₹ 0
(Rs. Zero Only)

Deponent

Name: Rachna Bakhru

H.No/Floor : Na

Sector/Ward : Na

Landmark : Na

City/Village : Gurugram

District : Gurugram

State : Haryana

Phone : 0



Purpose : ALL PURPOSE to be submitted at Other

RACHNA BAKHRU

ARBITRATOR

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

In the matter of:

GoEuro Corporation
2637 E Atlantic Blvd #33734,
Pompano Beach, Florida 33062,
United States of America

....Complainant

Sandeep
Annpurna ki Bagichi, L.N. Puri
Outside Hida Ki Mori,
Jaipur-302002, Rajasthan

.....Respondent

Disputed Domain Name: <WWW.GOEURO.IN>

AWARD

1) The Parties:

The Complainant in this arbitration proceeding is GoEuro Corporation, a company registered and existing under the laws of Delaware with its registered address at 2637 E Atlantic Blvd #33734, Pompano Beach, Florida 33062, United States of America. The

Complainant is represented by its authorized representative, Rahul Beruar of Beruar & Beruar LLP.

The Respondent in this arbitration proceeding is Mr. Sandeep of Annpurna ki Bagichi, L.N. Puri outside Hida Ki Mori, Jaipur-302002, Rajasthan 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.goeuro.in>.

The Registrar is NIXI Holding Account (R189-AFIN).

The Registrant is Mr. Sandeep of Annpurna ki Bagichi, L.N. Puri Outside Hida Ki Mori, Jaipur – 302002, Rajasthan

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 Ms. Rachna Bakhru 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 April 12, 2018 and the notice was issued to the Respondent on April 16, 2018 at his email address with a deadline of 10 days to submit his reply to the arbitrator.
- The Arbitrator issued another notice to the Respondent on April 27, 2018 via email granting another opportunity to the Respondent to submit its reply on or before May 04, 2018.
- The Arbitrator received email from the Respondent on April 27, 2018 informing that he had despatched his reply to NIXI and Complainant's representative vide speedpost on April 26, 2018.
- The Arbitrator received the aforementioned reply filed by the Respondent in its office on May 14, 2018.

In view of the above, the complaint is being decided based on materials and evidence submitted by both parties and contentions put forth by them.



4) **Grounds for administrative proceedings:**

Paragraph 4 of .IN Domain Name Dispute Resolution Policy provides grounds on which INDRP complaint can be filed:

- i. the Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
- ii. the Registrant has no rights or legitimate interests in respect of the domain name; and
- iii. the Registrant's domain name has been registered or is being used in bad faith

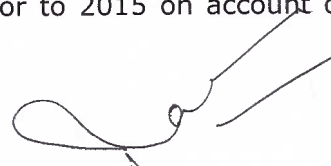
5) **Summary of the Complainant's contentions:**

The Complainant in support of its case has made the following submissions:

- a) The Complainant operates a leading online travel search engine and mobile based application for air, rail, bus and car rentals across Europe. The Complainant offers online multi-pronged travel option comparison services under the coined trade mark 'GoEuro' with the aim of making travelling, particularly within Europe, much easier for Europeans and tourists visiting Europe since the year 2013.
- b) The Complainant's primary website is at www.goeuro.com or the GoEuro mobile application which allows a customer to find the fastest, cheapest and best travel options by train, bus and flight to any city, town or village in Europe.
- c) The Complainant Corporation was founded by Mr. Naren Shaam in New York in the year 2011 and then moved to Germany to operate from Berlin. The idea behind establishing the Complainant Corporation and the metasearch engine GoEuro was conceived after his European trip wherein Mr. Shaam found it difficult to book tickets on multiple trains and bus websites.
- d) At that point, Mr. Shaam conceived the idea of creating a search engine which would cut down all the hassles and hurdles he faced and provide travel solutions for all modes of road and air transport – rail, bus and air all in one search. This led to creation of the metasearch engine under the name and mark 'GoEuro'.
- e) Mr. Shaam incorporated the Complainant company, GoEuro Corporation as well as several sister concerns in other jurisdictions.
- f) The Complainant along with its sister concerns has offices and representatives in 12 countries in Europe, caters to customers across 120 countries across the world that use Complainant's search engine and App. The Complainant serves around 80,000 rail and bus stations combined and 3100 airports in the core countries. The Complainant has already reached out to travellers from more than 120 countries, in 12 languages and has been thriving to make travelling in Europe easier than ever before – both inside countries and across borders.
- g) The Complainant has partnered and is connected directly with over 350 rail and bus companies in European countries including British Airways, Lufthansa, Germanwings, Eurolines, expedia, Eurostar, etc.



- h) The unique and advanced features of the "GoEuro" metasearch engine have lent huge popularity to the Complainant trading under the name 'GoEuro' amongst the customers internationally.
- i) Some of the prestigious awards conferred on the Complainant are the 'Best Pitch BetaHaus Berlin 2012' and 'SAP HANA Start-Up 2013'.
- j) The Complainant and its internationally well-known trade mark "GoEuro" enjoys an unparalleled and envious reputation in travel industry globally, including in India. The Complainant is the bonafide, prior, and exclusive proprietor of the mark "GoEuro" internationally.
- k) The Complainant coined or invented the "GoEuro" mark and adopted the same in complete and absolute honesty and good faith. The concept behind establishing the 'GoEuro' search engine is not to spread the idea of "come, Go(to)Europe" but rather "GoEuro, be like a European and travel as easy as possible, as the EU(RO) is supposed to work – without borders". The said trade mark or trade name represents the features of this unique and first of its kind travel (meta) search engine. The trade mark and trade name "GoEuro" is an arbitrary and novel conjunction of the words 'Go' and 'Euro' by the Complainant at a time when no other entity or individual had adopted or used the said combination of words and thus is the prior adopter and exclusive proprietor of the trade mark and trade name "GoEuro". Therefore, the adoption and use of the "GoEuro" trade mark and trade name is conceptually unique to the Complainant and hence inherently unique of the Complainant alone and none else.
- l) The Complainant's trade mark "GoEuro" has been granted registration in respect of the specified services in the United States vide Registration No. 4930017 (in 2016), in Canada vide Registration No. 1694905, in Germany vide Registration No. 302013033368 (in 2013) and in European Union vide CTM Trade Mark No. 012325726 (in 2013).
- m) The Complainant has also filed applications and secured registrations in respect of services in Classes 35, 38, 39, 42 and 43 in several other jurisdictions including Australia, China, Israel, Republic of Korea, Japan, Singapore, Russian Federation under the Madrid System originating from the International Registration No. 1239033 which was filed on September 12, 2014 where under the national phase application in India being IRDI No. 2972105 has also arisen. The said national phase application in India was 'Advertised before Acceptance' in Trade Mark Journal No. 1798-0 and Indian Trade Marks Office has also granted protection in favour of the Complainant for the trade mark 'GoEuro'.
- n) The Complainant adopted and first used its trade mark "**GoEuro**" in Berlin in 2013 and first used the trade mark directly in commerce in India on 31st August 2015 when the Complainant secured registration for the domain name goeuro.co.in.
- o) The Complainant and its services under the "GoEuro" trade mark have been known in India and to the Indian customers much prior to 2015 on account of



the international reputation enjoyed by the Complainant, especially the GoEuro App and the use of the services of the Complainant by Indian customers while travelling to and from the European countries.

- p) "GoEuro" as an essential element of the Complainant and is the trading name of several other companies incorporated in different jurisdictions and engaged in extending the services under the trade mark "GoEuro".
- q) The Complainant, through its subsidiary company GoEuro Travel GmbH, has secured registration for the domain name www.goeuro.com as early as in the year 2003 and has created a very sophisticated yet user friendly website or metasearch engine extending its travel services which can be accessed at www.goeuro.com and several other associated and country code top-level domain names such as goeuro.de, goeuro.co.uk, goeuro.es, goeuro.it, goeuro.pl, goeuro.cz, goeuro.pt, goeuro.fr, goeuro.nl, cn.goeuro.com, ru.goeuro.com, goeuro.se.
- r) The Complainant has painstakingly created the reputation and generated the goodwill for itself and its brand "GoEuro" in the travel industry and makes colossal investments into protecting and further strengthening its brand "GoEuro".
- s) "GoEuro" mobile application was launched in 2015 which enabled faster search, simpler comparison and on-the-go booking on mobile phones. The 'GoEuro' App is available on smartphones as well on iOS and can be downloaded from Google Play Store and the Apple App Store.
- t) The Complainant's search engine as well as the App under the trade mark 'GoEuro' is widely used by customers in India. The Complainant has partnered with one of the leading airlines in India – Jet Airways and helps customers in making travel arrangements within the country as well. Furthermore, customers in India can also make bookings for flights from one of the several major cities in India to another including Delhi, Mumbai, Chennai, Bengaluru, Jaipur, Ahmedabad, inter alia. Further, the App and the search engine also provide for booking flights connecting major cities in India to several cities in the world including Dublin, Munchen, Berlin, Paris, London, Amsterdam, Venice, Barcelona, Rome, Florence, Madrid and Brussels. The said search engine and App also enable customers to make bookings for cars and cabs for commuting from the airports in these major cities. The said search engine and App have acquired much popularity amongst customers and travellers in India and travelling to India as well.
- u) The Complainant is the prior and exclusive proprietor of the trade mark "GoEuro" globally. The Complainant's reputation and goodwill transcends geographical boundaries and "GoEuro" trademark has become a well-known mark and has acquired distinctiveness to the extent that no entity other than the Complainant is associated or identified with the said mark.
- v) The Complainant submits that disputed domain name registered by the Respondent is identical to the well-known trade mark "GoEuro" which has been



owned and used by Complainant continuously, extensively, uninterruptedly and openly since 2013. The disputed domain name incorporates the Complainant's trademark "GoEuro" in its entirety and does not add any distinguishing element to it.

- w) The Complainant submits that the Respondent is neither known by the name GoEuro nor carries on any trade or business under the trade mark "GoEuro". The Complainant has not authorized the Respondent to secure the registration of the disputed domain name.
- x) The Complainant further submits that in the contested opposition proceedings before Indian Trade Marks Registry, the Respondent claims to be "providing travel and tour arrangement services mostly within the local areas of Jaipur, using mark (label) 'goeuro.in' which establishes that the Respondent does not provide any service related to travelling in Europe or related to Europe and accordingly the Respondent cannot be said to have any cogent reason for adopting and using the disputed domain name.
- y) The Complainant further submits that in the contested opposition proceedings before Indian Trade Marks Registry, the Respondent claims to be "providing travel arrangement services absolutely in physical and offline mode without deploying any website, web portal, online search engine and / or mobile based app" which vitiates any ground or reason for the Respondent to hold and use the disputed domain name.
- z) The Complainant further claims that the Respondent's intention is to hoard the disputed domain name to the disadvantage of the Complainant and intending to sell the disputed domain name to the Complainant by making profits for himself and at the expense of the Complainant. In this regard, the Complainant submits that pursuant to legal notice addressed to the Respondent, the telephonic discussion ensued wherein the Respondent was willing to transfer the disputed domain name in favour of the Complainant subject to payment of 1,50,000 USD by the Complainant. The Respondent subsequently addressed an email denying the contentions of the Complainant and put forth a condition that if the Complainant is legally eager and deserves within the statutory framework of concerned laws in India to grab the trade mark "GOEURO.IN" in its own business trade to sell their products / services in India using Respondent's trade mark "GOEURO.IN" then the Respondent may consider the Complainant's eagerness subject to such terms and conditions and subject to proper compensation as may be mutually agreed upon.
- aa) The Respondent continues to hold the disputed domain name and website with no content displayed on the same purely with the malafide of preventing the Complainant from securing the registration.
- bb) The Complainant contends that the Respondent deliberately chose to register the disputed domain name goeuro.in with malafide intent of deriving undue advantage from the goodwill and impeccable reputation enjoyed by the Complainant and its business under the trade mark "GoEuro".



cc) The Complainant further submits that it is a settled law that registration of an identical or confusingly similar domain name that is patently connected with a particular trademark owned by an entity with no connection with the trademark owner is indicative of bad faith as understood in the Policy.

dd) The Respondent knowingly chose to register and use the disputed domain name goeuro.in to divert customers from the Complainant's official websites hosting the Complainant's domain names, deceive the customers into visiting the disputed domain name and adversely affecting the Complainant's goodwill and reputation and its right to use said India specific domain name.

5) **Respondent:**

The Respondent in support of its case has made the following submissions:

- a) The Respondent submits that the disputed domain name was created and registered in India on May 29, 2013.
- b) The Respondent has been carrying the business of providing services of travel arrangement including ticket booking of flights, trains, buses and cabs booking, hotel booking, tour arrangement and tour package etc. and uses the trademark in the form of label for "goeuro.in" since May 01, 2014.
- c) The Respondent claims that the mark/label "goeuro.in" has been used on its invoices, business cards, letter heads, sign/glow board, etc.
- d) The Respondent claims that he has been providing travel arrangement services absolutely in physical and offline mode without deploying any website, web portal, online search engine and/or mobile based app.
- e) The Respondent contends that he has neither developed or maintained or used any website, web portal, online travel search engine and/or mobile based app in disputed domain name or in any other name.
- f) The Respondent has filed trademark application for "goeuro.in" under no. 2842752 in class 39 on November 11, 2014 with user claim since May 01, 2014.
- g) The Respondent submits that he has been providing travel and tour arrangement services mostly within the local areas of Jaipur using the mark/label "goeuro.in" honestly and continuously since May 01, 2014 and have not been providing such services across the country or international travel services. He further submits that he has not been providing travel related services either through offline mode or through online mode in European countries or in some other foreign countries.
- h) The Respondent submits that the mark/label "goeuro.in" was never used commercially in any manner by any travel service provider in the local areas of Jaipur, Rajasthan or in India on or before May 01, 2014.



- i) The Respondent submits that an independent public search was conducted with due diligence and care by the Respondent on Trade Marks Registry's website before the date of using the mark "goeuro.in" i.e. May 01, 2014. No such similar or resembling or identical or conflicting trademark was noticed by him.
- j) That the Complainant's mark GoEuro has never been determined as well-known trademark in India and such claims by the Complainant are false and baseless and misleading to deceive the public or cause confusion in the public.
- k) That the present complaint has been filed by the Complainant to mentally harass the Respondent and the Arbitrator is requested to defer the present proceedings until final decision/order of Registrar of Trade Marks Registry is declared pertaining to contested opposition proceedings.

6) **Discussion and Findings:**

Complainant- In terms of evidence, the Complainant has produced evidence in form of website extracts (home page, etc.) marked as **Annexure D** from its global website www.goeuro.com and country specific websites like www.goeuro.de, www.goeuro.co.uk, www.goeuro.es, www.goeuro.it and various others which are shown to bear its trade mark "GoEuro". In addition, the Complainant has annexed the whois details of its domain name registrations dating back to year 2012 (www.goeuro.fr, www.goeuro.it) which are marked as **Annexure E**. Further, the Complainant has annexed pages/extracts from social media platforms Facebook, Twitter, Instagram and Pinterest in support of its popularity. It is noted that the Facebook page was created by the Complainant in 2012.

In support of its contentions, the Complainant has annexed an article dated May 29, 2013 by TechCrunch which details about the launch of GoEuro website in the UK and Germany. The Complainant has annexed worldwide registration/application details marked as **Annexure K** to substantiate its rights in the marks GOEURO in various countries including India. The Complainant's mark GoEuro was filed in European Union on November 19, 2013 and German TM application was filed on May 24, 2013 and entered into register on Nov 8, 2013.

Respondent- In terms of evidence, the Respondent has filed details of its trademark application under no. 2842752 in class 39 on November 11, 2014 which was opposed by the Complainant. Further, the Respondent has filed its response dated April 25, 2017 to the Complainant's first legal notice as **Annexure D**. The contents of such response indicate that the Respondent invited the Complainant's counsel to purchase the Respondent's trademark/label "goeuro.in" at proper compensation which may be mutually agreed upon.

The Respondent has further annexed its counterstatement to opposition marked as **Annexure F** which shows that the Respondent in para 2 of its counterstatement claims that *"...that before stating his business of providing services of travel arrangement, a unique idea was conceived and borne in the mind of the Applicant to adopt and use independent at his endeavour a charming mark (label) to attract the public in the course of trade. After metaphor, the image in the applicant's mind various independent*



marks (label) were conceived and conceptually determined with prudent intelligence and due diligence manner without copying any trademark or trade name. Some of the deserving marks (label) conceived in maind are illustrated as "gourgent.in, gomoney.in, gobharat.in, godollar.in, goweuro.in, goland.in golong.in, etc. All due precautions were taken into consideration to inter se compare and consider the above said marks (label) including the astrological support and finally it was prudently determined to adopt and use honestly the mark (label) goeuro.in in my tarde with effect from 01st May 2014...."

The Respondent has annexed its evidence in support of application marked as **Annexure G** and the Arbitrator has reviewed the exhibits relied upon by the Respondent therein. The whois details of the disputed domain name filed as Exhibit-A. The Respondent has marked as Exhibit-C photographs of inaugural event which are not dated. The date mentioned on the banner as visible in the photograph cannot be considered in the present case. The Respondent has exhibited several invoices which have been directly issued to Mr. Sandeep Sharma from vendors, travel companies, etc. As an evidence for use of the mark "goeuro.in", the Respondent has filed invoice dated April 28, 2014 raised by Krishna Advertising mentioning flex printing (goeuro.in) at serial no. 1, business card, letter heads. Further, the Respondent has filed invoices of sale which bears trade mark "goeuro.in" and are limited to providing cab services by the Respondent within the city of Jaipur.

Based on the submissions and documents submitted by both Complainant and Respondent, I now deal with the three requisite conditions laid in paragraph 4 of the .IN Domain Name Dispute Resolution Policy which is listed below:

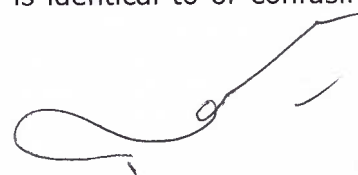
(i) The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;

The Complainant has substantiated its rights in the mark GOEURO in various jurisdictions including European Union, USA, Germany and India. The earliest registration of GOEURO trademark dates back to May 2013 in respect to Germany. The Complainant's mark GOEURO has also been granted protection in India vide international registration. Various new articles annexed by the Complainant indicate that the GOEURO services bearing the trademark GOEURO was launched/started in May 2013.

As per the Complainant, it had secured the registration of the domain name www.goeuro.com which was created in the year 2003 and the website at www.goeuro.com was launched in UK and Germany in the month of May 2013. In India, the Complainant acquired registration for the domain name www.goeuro.co.in on August 31, 2015. The complainant has filed evidence in support of its assertions.

Therefore, the Complainant has successfully established its statutory and common law rights in the mark GOEURO including in India.

For adjudicating the fulfilment of mandatory ground under paragraph 4(i) of the INDRP, it has to be ascertained if the domain name <goeuro.in> is identical to or confusingly similar with the Complainant's mark.



For test of confusingly similarity, a simple side-by-side comparison of the disputed domain name and the textual components of the Complainant's trademark make it explicitly clear that the disputed domain name is identical to GOEURO trademark, trading name and service mark of the Complainant. The disputed domain name incorporates the Complainant's trademark in identity and entirely, therefore it is confusingly similar to Complainant's trademark.

It is relevant to note that there is enhanced risk of association and affiliation of the identical domain name with the Complainant's goods and services. Any use of identical disputed domain name will make Internet user/s to believe that such domain hosts/displays the actual website of the Complainant for Indian Territory.

Since applicable ccTLD <.in> in a domain name is the standard registration requirement and cannot be regarded, I find that the second level domain name of the disputed domain name is identical to the Complainant's trademark GOEURO. Therefore, the requirement of the INDRP Policy paragraph 4(i) is satisfied.

(ii) The Registrant has no rights or legitimate interests in respect of the domain name;

In order to satisfy requirement of INDRP Policy paragraph 4(ii), the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. On making such prima facie case, the burden of proof shifts to the Respondent to provide appropriate allegations or evidence to demonstrate rights or legitimate interests in the disputed domain name.

Paragraph 7 of INDRP Policy lists three non-exhaustive factors by which the Respondent may show that it has rights or legitimate interests in the Disputed Domain Name. The relevant paragraph has been reproduced herein:

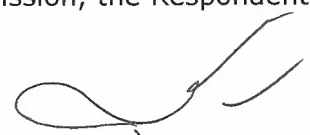
"Any of the following circumstances, in particular but without limitation, if found by the Arbitrator to be proved based on its evaluation of all evidence presented, shall demonstrate the Registrant's rights to or legitimate interests in the domain name for the purposes of Paragraph 4 (ii):

(i) before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;

(ii) the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or

(iii) the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

- The Arbitrator as on current date, the disputed domain name resolves to webpage with third party weblinks with no active use of the disputed domain name for its sets of services. Further, by his own admission, the Respondent has



submitted that he has neither developed or maintained or used any website, web portal, online travel search engine and/or mobile based app in disputed domain name. Further, he claims that he has been providing travel arrangement services in physical and offline mode only without deploying any website, web portal, online search engine and/or mobile based app.

In my opinion, the use of a domain name to host a parked page comprising third party web links does not represent a bona fide offering since these links tend to compete with or capitalize on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users.

Therefore, it cannot be assumed that the disputed domain name is being used with a bona fide offering of goods or services.

- The Respondent/Registrant's name is Mr. Sandeep with address based in Rajasthan and email address sandeepkhandal@gmail.com as per whois details. While I note that the Respondent has not filed any direct evidence establishing the use of the domain www.goeuro.in in public space, for the sake of the present complaint, I have taken into consideration, invoices filed by the Respondent as Exhibit B, D, E and H as evidence in support of its application. It is noted that all invoices annexed by the Respondent have been issued to Mr. Sandeep Sharma and not to its organization named GOEURO.IN, if any. Therefore, it cannot be presumed that the Registrant is being commonly known by the disputed domain name.
- There is no active website at the disputed domain name and the Respondent itself claims the alleged mark goeuro.in is being used honestly by him in commerce since May 01, 2014 in relation to travel arrangement services through offline mode only. Therefore, clearly it cannot be said that the Respondent is making a legitimate non-commercial or fair use of the domain name without intent for commercial gain.
- Further, I note that the Respondent has failed to provide any legible explanation for securing the domain name registration of the disputed domain www.goeuro.in. While by his own admissions, the Respondent states that he provides his services restricted to Jaipur (Rajasthan) only, it is hard to comprehend the purposes of securing domain name registration which evidently contains the identical trademark of the Complainant and essentially refers to business or domain related to Europe or Euro currency in simpler terms. Further, admitted lack of interest on part of the Respondent to develop a basic website for its domain name also negates the possibility of the Respondent having any rights to or legitimate interests in the disputed domain name.

In this case, I find that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

(iii) The Registrant's domain name has been registered or is being used in bad faith.



Paragraph 6 of the INDRP policy contains the inclusive instances which are "evidence of registration and use of domain name in bad faith". The relevant paragraph is reproduced herein:

"For the purposes of Paragraph 4(iii), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or

(ii) the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or

(iii) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location."

In my view, while there is no clear evidence of bad faith on part of the Respondent in the instant case, however based on the following circumstances, an inference can be drawn that there was no bona fide adoption of the disputed domain name by the Respondent.

- The Respondent has repeatedly admitted that **he provides travel and tour arrangement services under mark/label "goeuro.in" within the local areas of Jaipur only** and does not provide its services to rest of the country or other international countries, not even to European countries. Further, the Respondent has not mentioned about any future plans to carry out any business or travel services related to Europe. It is noted that the invoices submitted by the Respondent also confirm that his business is confined to providing taxi services for sightseeing tours within the city of Jaipur.

Therefore, in my view, for the sake of the present complaint, the Respondent should have explained the legible reason of adoption of the mark/domain name containing the term "Euro" which essentially connotes Europe or Euro currency in English language. Further, the Respondent has failed to explain the adoption of the term GOEURO for its domain name <GOEURO.IN> which is identical to the Complainant's registered trademark and domain names. In my view, this indicates bad faith in adoption of the subject mark on the part of the Respondent.

- Owing to the worldwide presence of the Complainant's business, the identical domain name will make any Internet users to believe that such domain name



and the contents belong to the Complainant. Identical domain name will definitely enhance the chances of confusion amongst the internet user/s who will believe that the website/domain www.goeuro.in is the affiliated website of the Complainant in India (www.goeuro.com). The Respondent seems to have malafidely registered the identical domain name presumably to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's GOEURO mark.

Therefore, based on aforementioned observations, it can be concluded that the disputed domain name was registered in bad faith.

7) **Decision:**

In my view, the Complainant has satisfied all the three requisite conditions laid down in paragraph 4 of the INDRP policy. In accordance with the Policy and Rules, it is directed that the disputed domain name <WWW.GOEURO.IN> be transferred to the Complainant.

However, it is clarified that the present order shall have no bearing on the other disputes between the parties pending before other forums in any adverse manner.



RACHNA BAKHRU
SOLE ARBITRATOR
NIXI
INDIA
June 12, 2018