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**BEFORE THE SOLE ARBITRATOR UNDER THE  
.IN DISPUTE RESOLUTION POLICY**

**IN THE MATTER OF:**

Inter-Continental Hotels Corporation  
Three Ravinia Drive  
Atlanta, Georgia 30346  
USA

(Complainant)

Versus

Jaswinder Singh  
SCO 823, NAC, Manimajra,  
Chandigarh - 1601010

(Respondent)

**The Parties:**

The Complainant in this proceeding is Inter-Continental Hotels Corporation, a company incorporated in USA, having its address Three Ravinia Drive, Atlanta, Georgia 30346, USA.

The Complainant is represented through their authorized representative:

Mr. Sanjay Chhabra of

Archer & Angel,

K-4, South Extension – II,

New Delhi – 110049

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(E): [schhabra@archerangel.com](mailto:schhabra@archerangel.com)

The Respondent in this proceeding is Jaswinder Singh, SCO 823, NAC, Manimajra, Chandigarh- 1601010

**THE DOMAIN NAME AND REGISTRAR:**

The domain name in dispute is [hotelintercontinental.in](http://hotelintercontinental.in). According to the WhoIs Search utility of .IN Registry, the Registrar of the disputed domain name [hotelintercontinental.in](http://hotelintercontinental.in), with whom the disputed domain name [hotelintercontinental.in](http://hotelintercontinental.in) is registered is Jaswinder Singh.

**PROCEDURAL HISTORY:**

I was appointed as Arbitrator by .IN Registry, to adjudicate upon the complaint by the Complainant, regarding the dispute over the domain name [hotelintercontinental.in](http://hotelintercontinental.in).

.IN Registry has supplied the copy of the Complaint and Annexures to the Arbitrator.



No formal response was received from the Respondent and as such he has been proceeded ex-parte and the Arbitration proceeding have been conducted in his absence.

That I have perused the record and Annexures / document.

**Factual Background:**

The following information is derived from the Complaint and supporting evidence is submitted by the Complainant.

The Complainant in this proceeding is Inter-Continental Hotels Group, one of the companies predominantly engaged in well-recognized and respected hotel brands including InterContinental Hotels & Resorts, Crowne Plaza Hotels & Resorts, Holiday Inn Hotels and Resorts. Complainant has prevailed in numerous proceedings under the Uniform Domain-Name Dispute-Resolution Policy, including the largest UDRP complaint ever filed, which resulted in a decision ordering the transfer of 1,519 domain names to Complainant.

The Complainant adopted the mark INERCONTINENTAL in the year 1970 for premium services in the hotel business and has been exclusively and extensively using the same. The Complainant's trademark INTERCONTINENTAL is also its trading name and it promotes hotels and related services online, using the Internet and worldwide web through the domain name [www.intercontinental.com](http://www.intercontinental.com) as well as through various other country level domains. Additionally, the Complainant has the trademark INTERCONTINENTAL registered and/or pending registration in more than 100 countries around the world which had definitely helped the company in gaining international repute in class 16, 42 and 43.

The Complainant's use of the well-known trademark has been extensive, exclusive and continuous all around the world. As a result, the Complainant's marketing and promotion of its services under its trademark 'INTERCONTINENTAL', the mark has gained worldwide recognition and goodwill and has become very well-known. Moreover, the Complainant's trade mark has firmly been associated with the Complainant.

The Complainant has spent huge sums of money towards advertisement and promotion of its brand, InterContinental Hotels Group globally and has done so even on the internet, *inter alia*, through its website [www.intercontinental.com](http://www.intercontinental.com), accessible anywhere in the world.

Respondent in this proceeding is an individual named Jaswinder Singh, who has not filed any response and submissions to the complaint despite being given an adequate notification and several opportunities by the Arbitrator.

**Parties Contentions:**

(a) Complainant

The Complainant contends as follows:

1. The Respondent's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has the rights.
2. The Respondents has no rights and legitimate interest in respect of the domain name.
3. The Respondent has registered and is using his domain name in bad faith.

(b) Respondent

The Respondent has not filed any response and submissions to the complaint despite being given an adequate notification and several opportunities by the Arbitrator.

**Discussions and Findings:**

As previously indicated; the Respondent has failed to file any reply to the Complaint and has not rebutted the submission put forth by the Complainant, and the evidence filed by him.

Rule 8 (b) of the INDRP Rules of Procedure provides that *"In all cases, the Arbitrator shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case"*.

As mentioned above enough chances have been provided to the Respondent to file a reply but no response was received. Therefore, the Respondent has been proceeded against, exparte and the Arbitration proceeding have been conducted in his absence.

Rule 12 (a) of the INDRP Rules of Procedure provided that *"An Arbitrator shall decide a Complaint on the basis of the statements and documents submitted to it and in accordance with the Arbitration and Conciliation Act, 1996, Dispute Resolution Policy, the Rules of Procedure and any bye-laws, rules and guidelines framed thereunder and any law that the Arbitrator deems to be applicable"*





In these circumstances, the decision of the Arbitrator is based upon the Complainant assertions and evidence and inference drawn from the Respondent's failure to reply.

A perusal of the submissions and evidences placed on record by the Complainant, it is proved that it has statutory and common law rights in the mark INTERCONTINENTAL.

Further, the Arbitrator is of the view that the Complainant has satisfied all the three conditions outlined in the paragraph 4 of .IN Domain Name Dispute Resolution Policy, viz.

- (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.

**The Domain name is identical or confusingly similar to a name, trade mark or service mark in which Complainant has rights - (Policy, para. 4 (i); Rules, paras. 3 (b) (vi) (1))**

The Complainant has stated that its trademark INTERCONTINENTAL was adopted in the year 1970 and the Complainant is the registered user of the same in about 160 countries around the world.

The Complainant has further stated that the disputed domain name is identical to the Complainant's trademarks and domain name and a very distinctive feature of the disputed domain name is the incorporation of the Complainant's trademarks, as it is. At the time of registration of the disputed domain name hotelintercontinental.in, the Complainant had already been using the mark INTERCONTINENTAL as its trademark and domain name with firmly established rights in the same. Also, at the time of registration, the Complainant's trademark had already acquired the status of a well-known mark. The Respondent can neither show any rights superior to that of the Complainant in the trademark INTERCONTINENTAL nor can the Respondent state that it was unaware of the Complainant's mark while registering the disputed domain name. Given the prima facie fact that the Respondent has incorporated the Complainant's trademark in its entirety in the Disputed Domain Name, there is no



doubt left that the Disputed Domain Name is identical or confusingly similar to Complainant's registered mark. The Disputed Domain Name consists of the trademark preceded by the generic term 'hotel', which is an attempt by the Respondent to deceive the public as well as a feeble attempt to distinguish the Disputed Domain Name and its services from the Complainant's Marks and services. Such an attempt by the Respondent has actually rendered the Dispute Domain Name much more confusingly similar to the Complainant's trademark INTERCONTINENTAL

The Complainant has further stated that registration of the disputed domain name in this case, is nothing but a blatant imitation with a malafide intention of earning upon the name and fame of the Complainant.

The above mentioned contentions of the Complainant have not been rebutted by the Respondent as such, they are deemed to be admitted by him.

**The Registrant has no rights or legitimate interests in the respect of the domain name - (Policy, para. 4 (ii); Rules, paras. 3 (b) (vi) (2))**

The Complainant has stated that the Complainant's marks are so well known and it has gained rights purely based upon prior use and registration of the mark, that there can be no legitimate use by the Respondent. Therefore, the use of the disputed domain name without any permission from the Complainant is an act done in bad faith, in itself.

Further, the Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the INTERCONTINENTAL trademark. It is thus clear that the only purpose behind registration of the Disputed Domain Name is to offer to sell the same for commercial gain.

The Complainant has further stated that the 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 INTERCONTINENTAL Trademark, and therefore, has no rights or legitimate interests in the Disputed Domain Name.

The above mentioned contentions of the Complainant have not been rebutted by the Respondent as such, they are deemed to be admitted by him.





**The Registrant domain name has been registered or is being used in bad faith** - (Policy, para. 4 (iii), 6; Rules, paras. 3 (b) (vi) (3))

The Complainant has stated that bad faith of the Respondent is apparent from the fact that he 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.

The Complainant has further stated that a another indication of bad faith under the Rules is the fact that Complainant's rights in the INTERCONTINENTAL trademark pre-dates Respondent's registration of the Disputed Domain Name by approximately 60 years. Therefore, mere registration of such a well-known trademark would be an evidence of the Respondent's bad faith.

The above mentioned contentions of the Complainant have not been rebutted by the Respondent as such, they are deemed to be admitted by him.

### **Decision**

In the view of the above facts and circumstances it is clear that the Complainant has succeeded in his complaint. The Respondent has got registered and used the dispute domain name in bad faith. Therefore, .IN Registry of the NIXI is hereby directed to transfer the domain name of the Respondent i.e. <hotelintercontinental.in> to the Complainant. The Award is accordingly passed on this day of 11<sup>th</sup> December, 2012.



**Rajeev Singh Chauhan**  
**Sole Arbitrator**  
**Date: 11.12.2012**