

தமிழ்நாடு தமில்நாடு TAMILNADU

5198
-2 MAR 2018

D. SARAVANAN
Advocate & Arbitrator
Orient Chambers", 4th & 5th Floor
No. 90/73, Armenian Street,
Chennai 600 001.

BN 657799

P.S. SHAMMOGA SUNDARAM
STAMP VENDOR
L. No. B4 / 109, 88
HIGH COURT CAMPUS
CHENNAI-600104 (TAMILNADU)

**BEFORE THE SOLE ARBITRATOR MR.D.SARAVANAN
.IN REGISTRY
(C/o. NATIONAL INTERNET EXCHANGE OF INDIA)**

Disputed Domain Name: www.ibmglobal.in

International Business Machines Corporation,
1, New Orchard Road, Armonk,
New York 10504-1722
United States of America.

.. Complainant

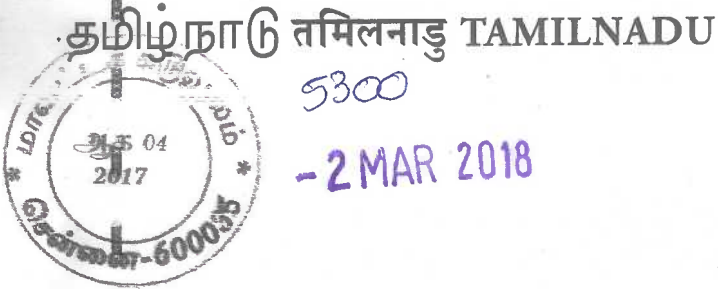
Vs.

Aditya Singh
Rampur Rd,
Adarsh Nagar,
Moradabad, Uttar Pradesh – 244001.
Email: mukulchhavra@gmail.com

.. Respondent

..2.





D. SARAVANAN
Advocate & Arbitrator
'Orient Chambers', 4th & 5th Floor
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AV 952500
[Signature]
P.S. SHANMUGA SUNDARAM
STAMP VENDOR
1 No 84 109 88
HIGH COURT CAMPUS
CHENNAI-600104 (TAMILNADU)

-2-

1. The Parties:

The Complainant is International Business Machines Corporation, 1, New Orchard Road, Armonk, New York 10504-1722, United States of America, represented by its Advocate and authorized representative, Deepak Gogia, K & S Partners, 109, Sector 44, Gurgaon 122 003.

The Respondent is Aditya Singh, Rampur road, Adarsh Nagar, Moradabad, Uttar Pradesh-244001. Neither the Respondent represented himself nor represented by any one.

2. The Domain Name and Registrar:

The disputed domain name is www.ibmglobel.in. The domain name has been registered with .IN REGISTRY through its Registrar Key-Systems GmbH.

..3.



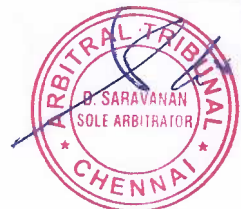
3. Procedural History:

05.03.2018	:	Date of Complaint.
09.03.2018	:	The .IN REGISTRY appointed D.SARAVANAN as Sole Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of Procedure.
09.03.2018	:	Consent of the Arbitrator along with declaration was given to the .IN REGISTRY according to the INDRP Rules of Procedure.
14.03.2018	:	.IN REGISTRY sent an email to all the concerned intimating the appointment of arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexure was sent to the Respondent by email while sending the hard copy of the same to the address of the Respondent by NIXI through post.
17.03.2018	:	Notice was sent to the Respondent by e-mail directing him to file his response within 10 days, marking a copy of the same to the Complainant's representative and .IN Registry.
27.03.2018	:	Due date for filing response.
28.03.2018	:	Notice of default was sent to the Respondent notifying his failure in filing the response, a copy of which was marked to the Complainant's representative and .IN Registry.

4. Factual Background:

4.1 The Complainant:

The Complainant is International Business Machines Corporation, 1, New Orchard Road, Armonk, New York 10505-1722, United States of America, represented by its



Advocate and authorized representative, Deepak Gogia, K & S Partners, 109, Sector 44, Gurgaon 122 003.

4.2 Complainant's Activities:

The Complainant was incorporated in the State of New York, United States of America on June 16, 1911 as Computing-Tabulating-Recording Co. (C-T-R), a consolidation of the Computing Scale Co. of America, The Tabulating Machine Co., and the International Time Recording Co. of New York. In 1924, C-T-R changed its name to "International Business Machines Corporation", which soon thereafter, led to the birth of the mark IBM, the same being an acronym for "International Business Machines". A copy of the certificate dated July 19, 2016 issued by the Department of State, State of New York, evidencing the above is annexed and marked by the Complainant as **Annexure 3**. The Complainant is one of the world's leading technology and consulting organizations with presence in over 175 countries through its wholly owned subsidiaries with over 3,80,000 employees worldwide. The Complainant has been using the trademark IBM in relation to its products and services at least since 1924. In the early days, these products included office and research equipment such as punch machines, calculating machines, clocks and scales. The year 1952 witnessed the launch of the Complainant's first large vacuum tube computer under the name "IBM 710". Over the years, the Complainant has continuously used the trademark "IBM" in relation hosts of products and services including but not limited to computers and computer hardware, software and accessories. As of today, the Complainant's major operations consist of five business segments namely:

- Cognitive Solutions - which includes solutions software and transaction processing software.
- Global Business Services (GBS) – which includes consulting and systems integration, application management services and process services.
- Technology Services & Cloud Platforms – which includes infrastructure services, technical support services and integration software.
- Systems – which includes a range of high-performance systems designed to address computing capacity, security and performance needs of businesses, hyperscale cloud service providers and scientific computing organizations; data storage products and solutions; and operating systems software.



- Global financing - which includes client financing (lease, instalment payment plan and loan financing to end users and internal clients), commercial financing, remanufacturing and remarketing.

The Complainant's revenue from its worldwide operations for the year ending 2016 was USD 79.919 billion and its net income for the said year was USD 11.872 billion. The advertising and promotional expenses incurred by the Complainant in the year ending 2016 were USD 1,327 million. The relevant extracts taken from the annual report of the Complainant for the year ending 2016 and annexed and collectively marked by the Complainant as **Annexure 4**. The revenue from operations of IBM India Private Limited for the financial year 2015-2016 was INR 230,048 million. The relevant extract taken from the Statement of Profit and Loss of IBM India Private Limited for the financial year 2015-2016 evidencing the same is annexed and marked by the Complainant as **Annexure 9**.

4.3 Complainant's Trading Name:

(i) The Complainant owns trademark registrations for its mark/logo IBM for a broad range of goods and services, including although not limited to, information technology related goods and services, in over 170, countries across the world including Argentina, Brazil, Cambodia, Canada, Europe, Hong Kong, Israel, Lao People's Democratic Republic, Phillipines, Singapore, Taiwan, Thailand, United Kingdom, Chile, Finland, India, Ireland, Japan, Latvia, Russian Federation, Slovakia, Sweden, Tonga, Turkey, United States of America and Vietnam. More particularly, the Complainant owns the following trademark registrations for the mark/logo IBM in the United States of America:

S.No	Reg.No	Filing Date	Class
1.	640,606	12.03.1956	9
2.	1,058,803	29.10.1974	1, 9, 16, 37, 41, 42
3.	1,205,090	30.04.1980	1, 7, 9, 16, 37, 41
4.	1,243,930	10.05.1982	42
5.	1,696,454	30.08.1990	36
6.	1,694,814	31.08.1990	36
7.	2,183,815	17.06.1997	1, 16
8.	3,002,164	14.12.1999	9
9.	4,181,289	21.12.2010	6, 8, 9, 11, 14, 16, 18, 20, 21, 22, 24, 25, 26, 28, 30, 35, 41



(ii) All the above-mentioned registrations of the Complainant are valid and subsisting. Print outs taken from the official website of the United States Patents and Trade Marks Office (USPTO) evidencing these registrations are annexed herewith and collectively marked by the Complainant as **Annexure 5**.

(iii) The Complainant holds trademark registrations for the mark/logo IBM in India in various classes, details whereof are as under:

S.No	Reg.No	Filing Date	Class
1.	170687	03.09.1955	16
2.	428972	25.10.1984	09
3.	428973	25.10.1984	16
4.	865158	12.07.1999	18
5.	865159	12.07.1999	16
6.	903730	15.02.2000	09
7.	903731	15.02.2000	09
8.	903732	15.02.2000	16
9.	903733	15.02.2000	16
10.	1236379	15.09.2003	37
11.	1236380	15.09.2003	38
12.	1236381	15.09.2003	42
13.	1236382	15.09.2003	41
14.	1236383	15.09.2003	35
15.	1239148	23.09.2003	35, 37, 38, 41, 42
16.	1303262	17.08.2004	36
17.	2120172	23.03.2011	06, 08, 09, 11, 14, 16, 18, 20, 21, 22, 24, 25, 26, 28, 30, 35, 41

(iv) The Complainant states that all the registrations are valid and subsisting. Copies of the registration/renewal certificates/print-outs taken from the official website of the Indian Trademarks Office evidencing the aforementioned registrations are annexed herewith and



collectively marked by the Complainant as **Annexure 6**. The Complainant states that the expression IBM also forms an integral part of the corporate/trading names of various wholly owned subsidiaries of the Companies that are operating in different countries across the world. The relevant extract of the Form 10 K submitted by the Complainant for the year ended December 31, 2016 before the United States Securities and Exchange Commission evidencing the same is annexed herewith and marked by the Complainant as **Annexure 7**. The Complainant further states that in India, the Complainant's wholly owned subsidiary "IBM Global Services India Private Limited" was incorporated in the year 1997. In the year 2006, the name of the said company was changed to "IBM India Private Limited". A copy of the certificate of incorporation of "IBM Global Services India Private Limited" together with the copy of certificate of incorporation reflecting the change of its name to "IBM India Private Limited" is annexed and marked by the Complainant as **Annexure 8**. The Complainant also owns hundreds of domain names incorporating its mark IBM, including <ibm.com>, which was created on 19.03.1986. A print-out of the Whois report pertaining to the domain name <ibm.com> is annexed and marked as Annexure 10. The Complainant states that they host an active website www.ibm.com under the domain name <ibm.com>. The print-outs of the screen-shots taken from the said website are annexed and collectively marked by the Complainant as **Annexure 11**. The Complainant also owns the domain name <ibm.in>, which was created on 14.02.2005. The said domain name redirects to the Complainant's website www.ibm.com. A print-out of the Whois report pertaining to the domain name <ibm.in> is annexed herewith and marked as **Annexure 12**. The Complainant further states that its brand IBM is one of the most reputed and iconic brands worldwide. This can be gauged from the following:

- Forbes listed IBM at 5th position in its "The World's Most Valuable Brands" rankings for the year 2015. In the 2016 list of Forbes' "The World's Most Valuable Brands" IBM was featured at 7th position. In the 2017 list of Forbes' "The World's Most Valuable Brands" IBM featured at 13th position.
- BrandZ listed IBM at 3rd position in its list of "Top 100 Most Valuable Global brands" for the year 2014. In the 2015 list of BrandZ's "Top 100 Most Valuable Global brands", IBM featured at 4th position. In the 2016 list of BrandZ's "Top 100 Most Valuable Global brands", IBM featured at 10th position. In the 2017 list of BrandZ's "Top 100 Most Valuable Global brands", IBM featured at 9th position.



- Interbrand listed IBM at 5th position in its list of "Best Global Brands", for the year 2015. In the 2016 list of Interbrand's "Best Global Brands", IBM featured at 6th position. In the 2017 list of Interbrand's "Best Global Brands", IBM featured at 10th position.
- Fortune listed IBM at 32nd position in its list of "World's most Admired Companies" for the year 2016. In the 2017 list of "World's most Admired Companies", IBM featured at 24th position. In the 2017 list of Fortune 500 Companies, IBM featured at 32nd position. In the 2017 list of Fortune Global 500 list, IBM featured at 81st position.

The print-outs of the relevant extracts/screen-shots evidencing the same are annexed and marked by the Complainant as **Annexure 13**.

(v) The Complainant further states that it actively enforces its rights in its coveted and well-known mark IBM and has succeeded in several complaints filed by it before the WIPO Arbitration and Mediation Center and .IN Registry against third parties concerning adoption of the mark "IBM" or variation thereof as part of domain names. In a July 9, 2010 Administrative Panel Decision from the World Intellectual Property Association Arbitration and Mediation Center (*International Business Machines Corporation V. Miculescu Aron Razvan Nicolae*, Case No.DRO02010-0003), the Panel concluded that the Complainant's trademark is well-known around the world. Similarly in the decision (dated February 21, 2017) rendered in Case No. INDRP/854 (*International Business Machines Corporation V. Pakki Rama Krishna Patnaik*), the Learned Arbitrator concluded that the Complainant has successfully established that its mark IBM is known all across the globe including India. Copies of few of the decisions are annexed herewith and collectively marked by the Complainant as **Annexure 14**. The Complainant states that it also has prominent social media presence, including accounts on Facebook (<http://www.facebook.com/IBM/>) ; Twitter (<http://twitter.com/IBM>) and Instagram (<http://instagram.com/IBM/>). The Complainant's social media accounts are popular, with over 9,70,000 facebook followers, over 4,00,000 Twitter Followers and over 1,90,000 Instagram followers. Print-outs of the screenshots taken from Facebook, twitter and Instagram evidencing the same are annexed and collectively marked as **Annexure 15**.

4.4 Respondent's Identity and activities:

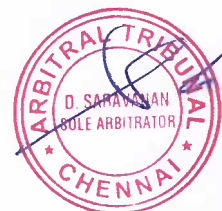


The Complainant states that the Respondent is Aditya Singh. A printout of the WHOIS record associated with the disputed domain name is marked by the Complainant as **Annexure 2**. As per the WHOIS record, the Respondent is based in Moradabad, Uttar Pradesh, India.

5. Dispute

The Complainant states that on December 23, 2017, certain employees of the Complainant's Indian subsidiary "IBM India Private Limited" received a complaint (through e-mail) by one Mr. Sandesh Shah, stating that someone with an e-mail account pawan@ibmglobal.in had defrauded and cheated him by luring him with fake job offer and taking money from him in that process. The copy of the e-mail is annexed and marked by the Complainant as **Annexure 16**. Since the complaint in question had a reference to an e-mail ID/account that was based on and/or associated with the domain name <ibmglobal.in>, the Complainant immediately did a Whois search and came to know that the domain name in question <ibmglobal.in> was registered in the name of the Respondent. Further due diligence conducted by the Complainant in that regard revealed that the Respondent was not hosting any active website under the said domain name, which was registered by the Respondent on September 04, 2017. The print-out of the page displaying an error message when one tries to access the URL [http:// www.ibmglobal.in/](http://www.ibmglobal.in/) is annexed and collectively marked by the Complainant as **Annexure 17**. The Complainant further states that thereafter, on December 28, 2017, the Complainant addressed an e-mail to the Respondent, informing him of the Complainant's rights in the mark IBM and calling upon the Respondent to disable and transfer the domain name <ibmglobal.in> to the Complainant. Considering that the Complainant did not receive any response from the Respondent to its e-mail of December 28, 2017, the Complainant sent another e-mail through its Counsel on January 16, 2018 to the Respondent, calling him upon to immediately disable and transfer the domain name <ibmglobal.in> to the Complainant and further refrain from adopting and/or using the Complainant's mark "IBM" in future in any manner whatsoever. Once again, the Complainant did not receive any response from the Respondent to the said e-mail. Print-outs of the e-mails dated December 28, 2017 and January 16, 2018 that were issued to the Respondent are annexed and marked by the Complainant as **Annexure 18**.

6. Parties contentions:



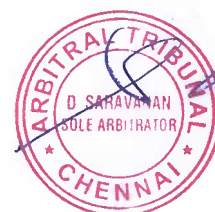
A. Complainant:

(i) The domain name www.ibmglobal.in is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights [Para 3(b)(vi)(1) INDRP Rules of Procedure to be read with para 3 of INDRP] :

The Complainant submits that the domain name in question <ibmglobal.in> subsumes the Complainant's registered mark "IBM" and is thus identical (the expression "global" being of a generic nature and of no significance) to the Complainant's registered mark IBM for which the Complainant has registrations worldwide, including India, as already stated above. Apart from statutory rights, the Complainant also enjoys common law rights in its coveted and well-known mark "IBM". Pursuant to the long, continuous and extensive use of the IBM mark both internationally and in India, the mark IBM is associated exclusively with the Complainant and its business activities.

(ii) The Respondent has no rights or legitimate interest in the domain name www.ibmglobal.in [Para 3(b)(vi)(2) INDRP Rules of Procedure to be read with Para 7 of .INDRP] :

The Complainant submits that the Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent appears to be an individual located in Moradabad, Uttar Pradesh in India. The Respondent is not connected with the Complainant in any manner and that the Complainant has no knowledge of the Respondent. The Complainant states that it has not authorized or permitted the Respondent to apply for, register, or use the disputed domain name and/ or e-mail account which incorporates the Complainant's registered mark "IBM". The Complainant further submits that the Respondent is not having any active website under the said domain name. The Respondent has registered the disputed domain name only with the sole purpose of using the e-mail account(s) based on the said domain name as a tool to defraud and cheat people by luring them with fake job prospects/ opportunities and the same is evident from **Annexure 16**. The Complainant further submits that the Respondent is not using the disputed domain name in connection with *bona fide* offering of goods or services. Further, to the best of Complainant's knowledge, a) the Respondent is not conducting any business under the name and mark IBM to warrant registration of the disputed domain name in his name. This fact also is corroborated by the Respondent's failure to reply to the Complainant's e-mails; b) the Respondent is not known by the disputed domain name; and c) the Respondent does not have any trademark or service mark rights in the expression "IBM".



(iii) The domain name was registered and is being used by the Respondent in bad faith [Para 3(b)(vi)(3) INDRP Rules of Procedure to be read with para 6 of .INDRP:

The Complainant states that the disputed domain name was registered and is being used in bad faith for the following reasons. The Respondent cannot possibly have any justification whatsoever for the adoption and use of the Complainant's well-known mark "IBM", which is an arbitrary mark, as part of the disputed domain name. It is apparent that the Respondent has registered the disputed domain name with the sole purpose of using the e-mail account(s) based on the said domain name as a tool to defraud and cheat people by luring them with fake job prospects as evidenced in **Annexure 16**. The endeavor of the Respondent is to commercially gain and take undue advantage of the reputation and good will enjoyed by the Complainant in its world famous and well known mark IBM. The Complainant further submits that anyone who comes across the domain name <ibmgloba.in> and/or an e-mail sent from an account based on the said domain name is likely to associate the same with the Complainant and is bound to entertain a belief as to possible nexus between the Complainant and the Respondent and/or sponsorship, affiliation, or endorsement of the Respondent's illegal activities by the Complainant, which is clearly not the case. In **Annexure 16**, the sender of the Complaint had addressed the same to certain employees of the Complainant's Indian subsidiary "IBM India Private Limited" thinking that the e-mail ID in question pawan@ibmgloba.in had something to do with the Complainant and/or its Indian subsidiary, which is quite clearly not the case. In the interests of the job aspirants looking towards working with IBM, the Complainant, through its Indian subsidiary, the Complainant through its Indian subsidiary "IBM India Private Limited", has published an advisory on its website [www.ibm.com](http://www.ibm.com/in/careers/stay-alert.html) (the web-link thereof being [http:// www-07.ibm.com/in/careers/stay-alert.html](http://www-07.ibm.com/in/careers/stay-alert.html)) alerting them against such fraudulent e-mails and informing them that IBM has nothing to do with such e-mails. The print-out of the said web-link is annexed herewith and marked as **Annexure 19**. This, however does not prevent the likelihood of people, and more particularly the ones who are not aware of the abovementioned advisory, associating the domain name <ibmgloba.in> and/or an e-mail sent from an account based on the said domain name with the Complainant. The Complainant submits that the Respondent's acts, in as much as they relate to adoption and



use of "IBM" as part of the disputed domain name violate statutory and common law rights of the Complainant in its coveted mark "IBM". Additionally, the Respondent's acts of using the domain name <ibmglobal.in> and/or e-mail account(s) based on the said domain name to defraud and cheat people by luring them with fake job prospects/opportunities constitutes cheating and criminal breach of trust and is actionable as such under Indian law. Accordingly, the Respondent's registration of the disputed domain name <ibmglobal.in> is contrary to and in violation of paragraph 4 of the INDRP policy.

B. Respondent:

The Respondent, in spite of notice dated March 17, 2018 and default notice dated March 28, 2018 did not submit any response.

6. Discussion and Findings:

It has to be asserted as to whether the Constitution of Arbitral Tribunal was proper and whether the Respondent has received the notice of this Arbitral Tribunal?

Having gone through the procedural history, this Tribunal comes to the irresistible conclusion that the Arbitral Tribunal was properly constituted and Respondent has been notified of the complaint of the Complainant. However, the Respondent did not choose to submit any response and that non-submission of the response by the Respondent had also been notified to the Respondent on March 28, 2018.

Under paragraph 4 of the .IN Domain Name Dispute Resolution Policy (INDRP), the Complainant must prove each of the following three elements to establish their case, that:

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



(a) Identical or confusing similarity:

- i) The Arbitral Tribunal finds that the Complainant has provided evidences that it possesses registered trademark "IBM" around the world, including in India. The same is evident from **Annexure 5 and 6** marked by the Complainant. The disputed domain name, www.ibmglobal.in, in toto, incorporates the complainant's mark, namely IBM.
- ii) In *Kenneth Cole Productions V. Viswas Infomedia* INDRP/093, it has been held that there is confusing similarity where the disputed domain name wholly incorporates the Complainant's trademark. Similarly, the domain name www.ibmglobal.in is confusingly similar to the Complainant's mark and also wholly incorporates the mark, IBM. Thus, this Arbitral Tribunal finds that the disputed domain name www.ibmglobal.in is identical or confusingly similar to the Complainant's mark.
- iii) The Arbitral Tribunal concludes that the Complainant has established paragraph 4(i) of the .IN Domain Name Dispute Resolution Policy.

(b) Respondent's Rights or Legitimate Interests:

- i) The Complainant contends that the Respondent has no legitimate interest in the disputed domain name. Paragraph 7 of the IN Dispute Resolution Policy sets out three elements, any of which shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name for the purposes of Paragraph 4 (ii) of the Policy. The Respondent had been given the opportunity to respond and to present evidence in support of the elements in paragraph 7 of the INDRP. The Respondent has not chosen to do so and has not filed any response in these proceedings to establish any circumstances that could assist it in demonstrating, any rights or legitimate interests in the disputed domain name. Although, the Complainant is not entitled to relief simply by default of the Respondent to submit a Response, the Arbitral Tribunal can however and does draw evidentiary inferences from the failure of the Respondent to respond. It is



also found that the respondent has no connection with the mark "IBM". The Respondent has failed to rebut the presumption of absence of rights or legitimate interests.

- ii) It is further seen that the WHOIS lookup (see: **Annexure 2**) relates the Respondent to the Disputed Domain name. However, it identifies the registrant as 'Aditya Singh', with no organization name provided, which also not in the slightest way similar to the Disputed Domain name. The Respondent is found to have acted in a way that tarnishes the Complainant's well known mark "IBM", by using the mark without any proper authorization.
- iii) Based on the record, the Respondent does not have rights or legitimate interests in the disputed domain name as the Respondent's current use is neither an example of a bona fide offering of goods or services as required under paragraph 7(i) of the Policy nor is there any legitimate non-commercial or fair use of the disputed domain name and as such there is no evidence that paragraphs 7(ii) or 7(iii) of the Policy apply. The Complainant asserts that they have not licensed or otherwise authorized the Respondent to use their trademark.
- iv) The Arbitral Tribunal is satisfied that the Respondent has no rights or legitimate interests in respect of the disputed domain name and, accordingly paragraph 4(ii) of the Policy is satisfied.

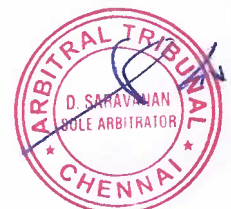
(c) Registration and Use in Bad faith:

- i) This Tribunal finds that the Respondent has registered the disputed domain name with the sole purpose of using the e-mail account(s) based on the said domain name as a tool to defraud and cheat people by luring them with fake job prospects as evidenced in **Annexure 16**. The endeavor of the Respondent is to commercially gain and take undue advantage of the reputation and good will enjoyed by the Complainant in its world famous and well known mark IBM.
- ii) Anyone who comes across the domain name <ibmglobel.in> and/or an e-mail sent from an account based on the said domain name is likely to associate the same with the Complainant and is bound to entertain a belief as to possible



nexus between the Complainant and the Respondent and/or sponsorship, affiliation, or endorsement of the Respondent's illegal activities by the Complainant.

- iii) The mark "IBM" is also recognized by the World Intellectual Property Association Arbitration and Mediation Center in its decision in *International Business Machines Corporation V. Miculescu Aron Razvan Nicolae*, Case No.DRO02010-0003), as a well known trademark around the World. Similarly in Case No. INDRP/854 (*International Business Machines Corporation V. Pakki Rama Krishna Patnaik*), the Learned Arbitrator concluded that the Complainant has successfully established that its mark IBM is known all across the globe including India (see **Annexure 14**). This Tribunal also concurs with the decisions stated above and this Tribunal agrees that the mark "IBM" is a well-known trademark across the world, including in India. The Respondent having used the Complainant's mark in his domain name should have been aware of the same and the use of the said mark by the Respondent, is nothing but use in bad faith.
- iv) The Respondent has no legitimate rights or interests in the disputed domain name and there was a *mala fide* intent for registering the disputed domain name other than for commercial gains, and that the intention of the Respondent was simply to generate revenue, either by using the domain name for its own commercial purpose or through the sale of the disputed domain name to a competitor or any other person that has the potential to cause damage to the ability of the Complainant to have peaceful usage of the Complainant's legitimate interest in using their own trade names.
- v) The Arbitral Tribunal is satisfied that the Respondent used the Complainant's domain name in bad faith and, accordingly paragraph 4(iii) of the Policy is also satisfied.
- vi) In the light of the above, this Arbitral Tribunal finds that the Complainant has established that the disputed domain name was registered and is being used in bad faith.



7. Decision:

For all the foregoing reasons, in accordance with paragraph 10 of the .INDRP, the Arbitral Tribunal orders that the Respondent shall cease to use the mark IBM and also disputed domain name www.ibmglobal.in and the disputed domain name be transferred to the Complainant.



D.SARAVANAN**Sole Arbitrator**April 2, 2018
Chennai, INDIA.