

उत्तर प्रदेश UTTAR PRADESH

BW 356390

Dr. Bodhisatva Acharya
ARBITRATOR

(Appointed by .IN Registry-National Internet Exchange of India)

ARBITRATION AWARD

DISPUTED DOMAIN NAME :< www.idfcbank.co.in >

In the matter of:
IDFC Limited,
Naman Chambers,
C-32, G-Block,
Bandra-Kurla Complex,
Bandra East,
Mumbai 400051,
India

Filed by its authorized representative attorney -
AZB & Partners
Advocates & Solicitors
Express Towers, 23rd Floor,
Nariman Point, Mumbai-400 021,
India

.....Complainant.

Vs.

Pankaj Singla
House No.660, Sector-10,
Panchkula
Haryana-134109.

.....Respondent.

A W A R D

1. The Parties:

The complainant in this arbitration proceeding is IDFC Limited, Naman Chambers, C-32, G-Block, Bandra-Kurla Complex, Bandr East, Mumbai 400051, India filed by its authorized representative attorney AZB & Partners ,Advocates & Solicitors, Express Towers, 23rd Floor, Nariman Point, Mumbai-400 021, India

Respondent Pankaj Singla, House No.660, Sector-10, Panchkula, Haryana-134109.

2. The Domain Name, Registrar & Registrant:

The disputed domain name is :< www.idfcbank.co.in >

3. Procedural History:

The Complainant, through its authorized representative, filed this complainant to NIXI regarding the disputed domain name www.idfcbank.co.in following the clause 4 of the policy of .IN Registry and .IN Registry appointed Dr. Bodhisatva Acharya (The Arbitrator) as Sole Arbitrator under clause 5 of the policy. The Arbitrator submitted his statement of acceptance and declaration of Impartiality and the Independence on December 25th, 2013 and the complaint was produced before the Arbitrator on January 8th, 2014 and the Arbitrator sent a notice, to the Respondent through his email for the Arbitration Proceeding on January 8th, 2014, to submit his reply but Respondent sent many e-mail to Arbitrator but no reply was filed properly by Respondent during this the Complainant sent a mail to Arbitrator that the Hon'ble Arbitrator of NIXI Mr. A.K.Singh passed an Award in other matter in favor of complainant between in same parties ,hence the Award is being declared on April 2nd, 2014.

4. Factual Background:

- I. The Complainant, formerly known as Infrastructure Development Finance Company limited, was established as part of a Government of India initiative to promote 'Public Private Partnerships' and private capital investment into Indian infrastructure. The Complainant is a company incorporated under the Companies Act, 1956 on January 30, 1997, to meet the need for a specialized financial intermediary for infrastructure development in India and was set up on the recommendations of the 'Expert Group on Commercialization of Infrastructure Projects' under the Chairmanship of Dr. Rakesh Mohan. The Complainant provides inter alia financial, advisory, and management services for the infrastructure sector in India and operates various verticals such as private equity, mutual funds, projects, project finance, institutional banking, and capital and project equity. The Complainant had recently changed its corporate name from Infrastructural Development Finance company Limited to IDFC Limited on July 20, 2012.
- II. The Complainant is India's leading integrated infrastructure finance company providing end to end infrastructure financing and project implementation services. The Complainant commenced their business activities on June 9, 1997. The Complainant operates a full range of business lines, from project and corporate finance to asset management. The Complainant and its subsidiaries/affiliates which include IDFC Asset Management Company Limited, IDFC Project Equity Company Limited, IDFC Securities Limited, IDFC Alternatives Limited, IDFC Finance Limited, IDFC Capital Limited, IDFC Investment Managers (Mauritius) Limited, IDFC Capital USA, Inc., IDFC Capital (Singapore) Pte. Ltd., and IDFC Foundation, to name a few, are hereinafter collectively referred to as "**IDFC Group**". In the year 1997, the Complainant conceived and adopted the trademark IDFC, which is not only the IDFC Group's house mark but also forms part of the corporate name/ trade name of the Complainant and the corporate name of the entities which form part of the IDFC Group. The trademark IDFC is a contraction of its corporate name/ acronym - Infrastructural Development Finance company Limited. Ever since January 30, 1997, the Complainant and the members of the IDFC Group have been using the trademark IDFC, continuously, till date. The Complainant got its trademark registered with the Trademark Registry, Government of India as early as February 17, 2003.
- III. In the year 1998, the Complainant registered itself with the Reserve bank of India ("**RBI**") as a Non Banking Financial Company. Recently, in light of its business plans for providing banking related services, the Complainant, in the month July 2013, had applied for a banking license with the RBI, and is currently awaiting receipt of the same. The Complainant is listed on various stock exchanges including the NSE - National Stock Exchange and BSE - Bombay Stock Exchange. The Complainant and the IDFC Group are popularly referred to as IDFC by the trade, public, stock exchanges and the regulatory authorities. Further, the ticker symbol in the various stock exchanges for the Complainant such as on the NSE - National Stock exchange is IDFC.

- IV. The Complainant has filed for application and/or obtained registration for their trademark IDFC and IDFC formative marks including IDFC IN OUR HANDS under various classes in India. A matrix setting out the applications and/or registrations of the Complainant, in India. It has recently come to the Complainant's attention that the domain name www.idfcbank.co.in (hereinafter referred to as the "Disputed domain Name") has been registered by the respondent.
- V. The Complainant submits that it is the rightful owner and proprietor of the trademark IDFC and other IDFC formative marks and is entitled to use the same to the exclusion of all others, including the Respondent. The Respondent, without any right, authorization, legitimate interest or license from the Complainant has been using and operating the Disputed Domain Name using the Complainant's registered trademark IDFC, and without the Complainant's knowledge has registered, the Disputed Domain Name. The Complainant had made attempts to telephonically contact the Respondent, calling upon him to stop the unauthorized use of the Complainant's trademark IDFC. However, the Respondent was not inclined to stop such unauthorized use and was instead keen on negotiating the commercials to sell the Disputed Domain Name to the Complainant, which is proof of the malafide intention of the Respondent. Therefore, it is evident that the Respondent has registered the disputed Domain Name, containing the Containing the Complainant's trademark IDFC, with the sole intention of cyber squatting and extorting money from the Complainant in exchange for the Disputed Domain Name, who are the rightful owners of the trademark IDFC.

Lastly the complainant filed this complaint for Arbitration proceeding and The Arbitrator submitted his statement of acceptance and declaration of Impartiality and the Independence on December 25th, 2013 and the complaint was produced before the Arbitrator on January 8th, 2014 and the Arbitrator sent a notice, to the Respondent through his email for the Arbitration Proceeding on January 8th, 2014, to submit his reply but Respondent sent e-mails on January 9th, 2014 and January 15th 2014 to Arbitrator mentioning that He is not familiar with Rules and Policies of NIXI and he don't know the procedure to file the reply in the matter therefore no reply was filed properly by Respondent again on January 22nd 2014, the Respondent sent other mail that he is willing to transfer the disputed domain name at no cost to IDFC Bank, during this on February 5th 2014 the Complainant sent a mail to Arbitrator that the Hon'ble Arbitrator of NIXI Mr. A.K.Singh passed an Award in other matter in favor of complainant between in same parties, hence the Award is being declared on April 2nd, 2014

5. Parties Contentions:

(a) Complainant contends that

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

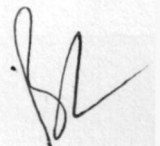
- (ii) The Registrant has no rights or legitimate interests in respect of the domain name; and
- (iii) The Registrant's domain name has been registered or is being used in bad faith, and the domain name be transferred to the Complainant.

(b) Respondent contends that

The respondent sent many mails but no reply was filed properly.

6. Discussion & Findings:

- (A) The Disputed Domain Name is identical and/or confusingly similar to the Complainant's trademark and trade name, contains the Complainant's trademark IDFC in entirety, and constitutes a blatant infringement of the Complainant's trademark IDFC. Further there is high likelihood of confusion and wrong association of the disputed domain Name with the Complainant. Furthermore, the mere addition of the term 'BANK' as a suffix alongside the Complainant's trademark IDFC is irrelevant and does not detract from the fact that the Respondent has, without any authorization, used the Complainant's registered trademark IDFC as part of the Disputed Domain Name. In addition to the foregoing, the complainant places reliance on the case Morgan Stanley v. Bharat Jain [Case No. INDRP/156] decided by the .IN Registry where the domain name www.morganstanleybank.co.in was ordered to be transferred on account of confusing similarity, lack of legitimate interest and bad faith. Similarly, in the present case, the dominant or principal component of the Disputed Domain Name is IDFC, which is the Complainant's trademark and the Respondent has merely added the suffix BANK to the Complainant's trademark IDFC. The Complainant submits that owing to the fame, goodwill and reputation of the Complainant, the use of the Disputed Domain Name would confuse or deceive the trade and public at large and is also likely to create a false impression in the minds of the public that the Disputed Domain Name is part of the Complainant's business and the IDFC Group.
- (B) The Complainant states that the Respondent has no authorization or permission from the Complainant to either use or register the Disputed Domain Name. The Complainant further contends that the Respondent is not associated with the Complainant in any manner. Hence, the Respondent has no legitimate justification or interest in the Disputed Domain Name. The Complainant further contends that the Respondent has registered the Disputed Domain Name without any legitimate interest in the Disputed Domain name. It is important to note that the Respondent had registered the Disputed Domain name on June 2, 2013 and the Complainant's trademark registrations and domain name registrations long predate the Respondent's registration of the Disputed Domain Name, Complainant having used its trademark IDFC prior in point of time of time and the trademark IDFC being famous, it is evident that this has provided a significant motivation for the Respondent's registration of the Disputed Domain



Name till date. The trademark IDFC is synonyms only with the Complainant and none else and the respondent is in no way commonly known by the Disputed Domain Name. The Respondent has never actually made use of the Disputed Domain Name nor has shown any demonstrable preparations to use the same, even after (5) months has elapsed since the date of registration of the Disputed Domain Name. Respondent has primarily registered the Disputed Domain with the sole intention of, and the sole purpose of selling or for transferring the Disputed Domain Name to the Complainant for a substantial sum of money which far exceeds reasonable out of pocket expenses for registering a domain name. The trademark IDFC is synonymous only with the Complainant and none else. The Complainant is the rightful owner of the trademark IDFC and is entitled to the use of the same to the exclusion of all others, including the Respondent and the Respondent has no right or legitimate interests in the Disputed Domain Name

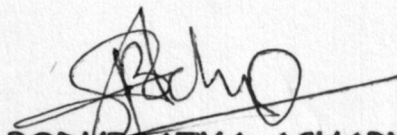
- (C) The Complainant has been using its trademark IDFC ever since January 30, 1997, till date, continuously and extensively. The Respondent, despite being aware of the reputation and goodwill associated with the Complainant and the fact that the trademark IDFC belongs to the Complainant, has dishonestly and with malafide intention adopted and registered the Disputed Domain Name. the Respondent has registered the Disputed Domain Name without the Complainant's knowledge, authorization, consent or permission, with malafide intention, and it is clear and evident that the Respondent is guilty of cyber squatting.

D The Complainant thus has satisfied the Arbitrator on all the parameters as mentioned in the Paragraph 4 of the Policy (INDRP).

7. Decision:

Hence the Arbitrator decides the Disputed Domain Name **www.idfcbank.co.in** is identical or confusingly similar to registered trademark of the Complainant and Respondent has no right to use the disputed domain name and the Respondent domain name has been registered in bad faith.

The Arbitrator further decides and orders that the domain name **www.idfcbank.co.in** shall be transferred to the Complainant with immediate effect.


Dr. BODHISATVA ACHARYA
SOLE ARBITRATOR
NIXI

DATED: April 2nd , 2014,
PLACE: NEW DELHI,
INDIA