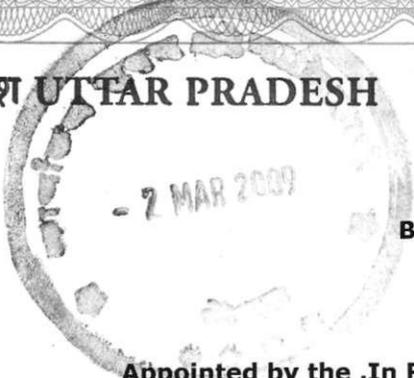




उत्तर प्रदेश **UTTAR PRADESH**

U 432970



BODHISHTVA ACHARAYA

LL.M.

ARBITRATOR

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

In the matter of:-

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

In the matter of:-

Google Inc.

1600 Amphitheatre Parkway
Mountain View, California 94043
U.S.A.

Through

It's authorized Representative :-

Ranjan Narula, (Advocate)

Ranjan Narula Associates
Vatika Towers, 10th Floor, Block-B
Sector-54, Gurgaon-122002
N.C.R. (Haryana)

Email: rnarula@iprights.com Complainant

EDMUNDS GAIDIS

Banks Iv
Miera 70
Rezekne
LV-4600
LATIVIA

E-mail: parax@inbox.lv Respondent

AWARD

1. **The Parties :-**

The complainant is Google Inc., 1600 Amphitheatre Parkway, Mountain View, California 94043, USA Represented by It's authorised Advocate Mr. Ranjan Narula, Ranjan Narula Associates, Vatika Towers, 10th Floor, Block-B, Sector-54, Gurgaon 122002, NCR (Haryana).

The respondent is Edmunds Gaidis, Banks Iv, Miera 70, Rezekne LV-4600, LATIVIA.

2. **The Domain Name, Registrar & Registrant :-**

The disputed domain name is www.igoogle.co.in and the registrar is key - Systems GmbH (R48-AFIN) and the registrant is Edmunds Gaidis (Respondent).

3. **Procedural History :-**

The complainant had filed this complaint to the .In Registry, through it's authorised advocate Mr. Ranjan Narula, under clause 4 of the policy and the rules of .In Registry and .In Registry appointed "BODHISATVA ACHARYA" ("The Arbitrator") as Sole Arbitrator under clause 5 of its policy. The Arbitrator submitted his statement of acceptance and declaration of impartiality and independence on 12th January, 2009 then the complaint was produced before the arbitrator on 17th January, 2009. The notice was issued to the respondent on 19th January, 2009 on his email address with a dead line of 10 days to submit his reply to the arbitration but respondent didn't file any reply again on 5th February, 2009 second notice was sent to respondent to submit his reply with in 7 days to arbitrator but no response was shown by the respondent. At last, on 15th February 2009 final notice was sent to respondent with a dead line of 7 days to submit his reply to the arbitrator but again respondent given no response. Hence, the arbitrator is giving this award as Ex-parte.

4. **Factual Background :-**

The complaint Google Inc. started his business under the Brand name/Mark "GOOGLE". It was founded by Larry Page and Sergey Brin in the year 1997. The complainant's primary website www.google.com, was registered on 15th September, 1997, is the largest search engine of the world of Internet. The complainant's Mark "Google" is one of the world's best known brands amongst the internet users.

The complaints primary website www.google.com generates revenue by providing advertises with the opportunity to deliver measurable, cost effective on line advertising



on any given page. The complainant's primary website is used by 581 million visitors per month. The complainant's website is the no. 1 search engine and it operates other popular website like :- www.youtube.com, www.orkut.com and so many other websites are under the mark of google. The complainant has obtained world wide rights and registered under the trade mark of google. It is also registered under the Registration No. 845041 in class 9 since 12th March, 1999 in India. The complainant has won a number of award's for its unique services through out the world

As per the **Exhibit - B** The Respondent has registered a domain name www.igoogle.co.in on 23rd November, 2007 after having the knowledge regarding the registration of the disputed domain name the complainant sent a notice to the respondent to stop the misuse of the "GOOGLE" Mark and the domain name on 28th October, 2008, but there was no response by Respondent.

Finally the complaint was filed to .In Registry for Arbitration proceeding for the disputed domain name www.igoogle.co.in.

5. Parties Contention :-

i) Complainant :-

Complainant contends by the documents produced herewith the complaint that

- The Respondent's domain name is identical and confusingly similar to a name, trademark or service mark in which the complainant has rights;
- The Respondent has no right or legitimate interests in respect of domain name.
- The respondent's domain name has been registered or is being used in bad faith, and
- The domain name be transferred to the complainant.

ii) Respondent :-

Respondent has not, submitted any response while various notices with deferent deadlines were sent to him.

6. Discussion and Findings :-

Under the paragraph 4 of the policy (INDRP) it is stated, any person who considers that a registered domain name conflicts with his legitimate rights or interests then he may



file a complaint to the .In Registry and the complainant must prove the following premises:-

- i) The Respondent's domain name is identical or confusingly similar to a name, trade mark or service work in which complainant has rights;
- ii) The Respondent has no rights or legitimate interests in respect of the domain name; and
- iii) The Respondent's domain name has been registered or is being used with bad faith.

After having gone through the supported documents produced herewith the complaint, it is the view of the arbitrator that the complainant's trade mark "google" is the keyword not only in website but - complainant's other business also, the disputed domain name had been registered intentionally only for the sole purpose to take advantages of the goodwill and the reputation enjoyed by the complainant under the trade mark of "google" and respondent has other intention to register the disputed domain name for making money either from the complainant or from the third party by selling it..

Complainant has proved and established all the three elements of the para 4 of the policy (INDRP) by producing all the supported document on the other hand respondent has shown his bad intention previously by the registration of the disputed domain name and secondly not giving any response regarding the three notices for the arbitration proceeding sent by arbitration.

The learned counsel of the complainant has rightly mentioned that "It is a settled proposition of law that where there is copying, dishonesty ought to be presumed" In this case the respondent - had copied the brand name of the complainant with a bad intention and he is misguiding the internet users after having registered the disputed domain name which is identical or confusingly similar to the trade mark in which complainant has rights as well as respondent has no right or legitimate interest in respect of the domain name and the arbitrator finds that the respondent's performance is *ab initio* in bad faith in all manners.

7. Decision :-

In the light of the circumstances and facts discussed above. Arbitrator decides "The disputed domain name is identical and confusingly similar to the registered trademark of complainant in which the complainants has rights and the respondent has no right or



legitimate interests in respects of the domain name and the respondent's domain name has been registered or is being used in bad faith."

Consequently the Arbitrator decides that the domain name www.igoogle.co.in shall be transferred to the complainant with immediate effort.



BODHISATVA ACHARYA
SOLE ARBITRATOR
NIXI
INDIA