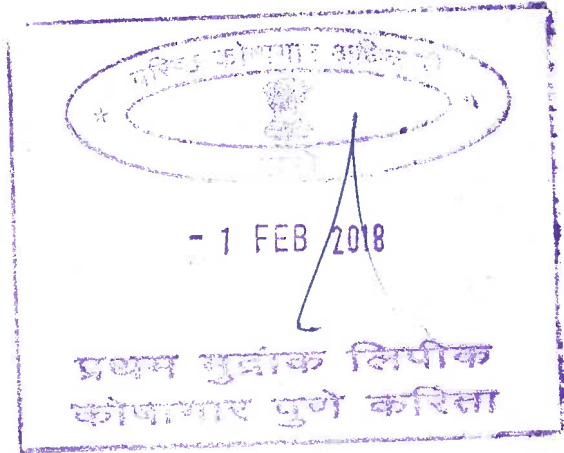


महाराष्ट्र MAHARASHTRA

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अनु.क्र. १२६९ दि. १/२/१८ मु.श.सकम. पुणे ४८
दस्तावा प्रकार कार्यादेशाने ठेवें
दस्त नोंदणी करणार कोर्टात १ कोर/पाटी.
मिलकतीचे मालक
मुद्रांक विजय देवनाथी सही
पत्ता २५४ शनिवार फे. पुणे ४८
दुसऱ्या पक्षाचा मु.श.सकम. पुणे ४८
हस्ते व्यक्तीचे मु.श.सकम. पुणे ४८
मुद्रांक विजय देवनाथी सही
पत्ता ४२५ ब, शनिवार पेठ पुणे-४८



**AWARD
IN ARBITRATION**

INDEEDJOB.CO.IN

INDRP CASE NO.948

INDEED Inc.
6433 Champion Grandview Way
Building 1, Austin, Texas 78750
United States of America

AND

JOSH MATHEWS
280 Ground Floor, Wilson Garden
Opposite Post Office
Bangaluru. India.

THE COMPLAINANT

**THE RESPONDENT /
THE REGISTRANT**

IN THE MATTER OF DISPUTED DOMAIN NAME: - 'INDEEDJOB.CO.IN'

**ARBITRATION PANEL: - MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.
SOLE ARBITRATOR**

**DELIVERED ON THIS 1st DAY OF FEBRUARY TWO THOUSAND
EIGHTEEN AT PUNE, INDIA.**

II] SUMMARISED INFORMATION ABOUT THE DISPUTE: -

SR. NO.	PARTY TO THE DISPUTE	NAME	ADDRESS
01	COMPLAINANT	Indeed Inc.	6433 Champion Grandview Way, Building 1, Austin, Texas 78750 United States of America
02	AUTHORISED REPRESENTATI VE OF THE COMPLAINANT	ALG India Law Offices LLP.	A-2, First Floor, Neeti Bagh, New Delhi. 110019. India
03	REGISTRANT / RESPONDENT	Josh Mathews	280 Ground Floor, Wilson Garden Opposite Post Office Bangaluru
04	DOMAIN NAME REGISTRAR	GoDaddy.com LLC	14455 North Hayden Rd, Suite 219, Scottsdale AZ 85260 United States of America

III] CALENDER OF MAJOR EVENTS:-

Sr. No.	Particulars	Date (Communications in electronic mode)
01	Arbitration case referred to me by NIXI	04.01.2018
02	Acceptance given by me	05.01.2018
03	Hard copy of complaint received	12.01.2018
04	Notice of Arbitration issued, with the period to file reply, if any, latest by 25.01.2018	15.01.2018
05	Period to file reply, if any, by the Registrant, extended by Arbitration Panel suo-motu till 30.01.2018	27.01.2018
06	Notice of closure of arbitration issued	31.01.2018
07	Award passed	01.02.2018

III] PARTICULARS OF DISPUTED DOMAIN NAME & REGISTRATION:

1. Disputed domain name is 'INDEEDJOB.CO.IN'.
2. Date of registration is 08.11.2017
3. Registrar is GoDaddy.com, LLP, 14455 North Hayden Rd, Suite 219, Scottsdale AZ 85260, United States of America

IV] PROCEDURE FOLLOWED IN ARBITRAION PROCEEDINGS: -

- 1) Arbitration proceedings were carried out as per .In Domain Name Dispute Resolution Policy (INDRP) read with INDRP Rules of Procedure, Indian Arbitration Act, 1996 and Code of Civil Procedure, wherever necessary.
- 2) The parties were requested to expedite their submissions so as to enable this panel to pass award within the 60 days time frame prescribed.
- 3) Copies of all communications were marked to both the parties and NIXI.
- 4) No personal hearing was requested / granted / held.

V] BRIEF INFORMATION OF THE COMPLAINANT: -

The Complainant - Indeed Inc., is a U.S.A. based company and claims to be the largest job site with over 200 million unique visitors every month from over 60 different countries. The company is the owner of INDEED trademark which is in use since 2004. The said trade mark INDEED has been registered in various countries like U.S.A., CANADA, UNITED KINGDOM, AUSTRALIA, NEW ZEALAND, IRELAND, EUROPEAN COUNTRIES apart from INDIA. The Complainant offers online databases, job search engines, and software for mobile applications, featuring job listings, resume postings and other job search information and thereby helps employers seek right candidates and job seekers right employment. It has several offices of operation at various places all over the world and in Hyderabad in India. The Complainant maintains prominent internet presence through its principal website www.indeed.com and country specific websites such as www.indeed.co.in, www.indeed.ca etc. It not only owns several domain names incorporating the trademark INDEED but has also successful record of enforcing its trademark through domain name complaints.

IV] SUMMARY OF THE COMPLAINT: -

The Complainant's Complaint is based on the following points, issues, representations or claims in brief:-

(A) CONTRAVENTION OF THE REGISTERED TRADEMARKS AND DOMAIN NAMES OF THE COMPLAINANT (CONTRAVENTION OF POLICY PARA 4(i) OF THE .IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)) :-

The Complainant states that the domain name registered by the Respondent viz. INDEEDJOB.CO.IN, is virtually identical to the trademark INDEED registered in India, vide Trademark Reistration Nos.2044681 2044682 in class 35 & 42 and a host of other trademarks registered in various countries across the world. The details of such registrations have been furnished by the Complainant in Paragraph No.9 of the Complaint. According to the Complainant the disputed domain name is confusingly

similar to the Complainant's trademark INDEED, since it is included in its entirety in the disputed domain name. Addition of the term 'JOB' to the registered trademark in the disputed domain name does not serve to distinguish the disputed domain name from the Complainant's INDEED trademark, since it is generic term. In support of his claim the Complainant has cited the following decided cases: -

- a. WIPO case - No. D 2016-1899 BHP Billiton Innovation Pty Ltd. V/s Jefry Brukeman
- b. WIPO case - No. D 2016-1607 Walgreen Co. V/s Muhammad Azeem / Wang Zheng, Nicenic International Group Co. Ltd.

The Complainant has also cited the INDRP Case No.033 (Kingston Technology Co. V/s Web Master Skype Network Ltd.), INDRP case No.907 (Slickdeals LLC V/s Srujan Kumar) wherein similar views have been upheld by the arbitration panels.

It is a well settled legal position that mere addition of any generic term or CCTLD to the registered trademark, no valid rights are conferred upon the Registrant, nor he becomes entitled to use it validly. On perusal of the above citations this arbitration panel concludes that the disputed domain name 'INDEEJOB.CO.IN' is coined by mere addition of the generic term JOB to the registered trademark of the Complainant which is confusingly similar to the registered trademark of the Complainant.

**(B) NO RIGHT OR LEGITIMATE INTEREST IN DISPUTED DOMAIN NAME
(PARA 4(ii) OF INDRP): -**

The Complainant states that it has never authorised or licensed the Respondent to use the mark INDEED. The Respondent does not have any association with the Complainant nor it had any past dealing with him. According to the knowledge of the Complainant, the Respondent has no registered trademark or trade name corresponding to the disputed domain name. The Respondent cannot contend that it is known by or trades under the uncommon and distinctive name INDEED which is a registered trademark of the Complainant. In support of its contentions the Complainant has cited the WIPO case No.D2004-1072 (Cavinkare Pvt. Ltd. V/s LaPorte Holdings Inc. and Horshiy Inc., WIPO case No. D2016-1973 (TTT Moneycorp Ltd. V/s Privacy Gods / Pricavy Gods Limited)

The Complainant further states that the Respondent is using the domain name for fraudulent purposes and hence the very acts do not constitute a bona-fide offering of goods or services.

Based on the ratio laid down in the above cited cases this panel concludes that the Respondent does not have any legitimate rights and interest in the disputed domain name. Similarly it is inferred that the same is registered with the malafide intent of making illegal and illegitimate commercial gains.

(C) REGISTRATION AND USE IN BAD FAITH (PARA 4(iii) OF INDRP): -

The Respondent has registered domain name on November 8, 2017. The Complainant states that by this time the Complainant's trademark INDEED, through extensive and continuous use, had acquired immense goodwill and reputation amongst the public

and had become closely associated with the Complainant. The Complainant has cited the decisions made in FA 1201001426668, (Victoria's Secret Stores Brand Mgmt. Inc V/s Michael Bach) and WIPO case No. D 2005-0517 (Caesars World Inc. V/s Forum LLC) wherein it has been held that the Respondent had actual notice of the Complainant's registered trademark due to its fame.

The Complainant further states that the Respondent's domain name currently does not resolve to an active website. The Respondent is using the domain name <indeedjob.co.in> for sending through the email address rajveer@indeedjob.co.in, fraudulent 'phishing' emails to impersonate the Complainant and attempts to secure personal information and money from unsuspecting persons. The Complainant has attached consumer complaint written by an individual against the Respondent wherein the individual received email from the Respondent's address offering fake career and recruitment services as Annexure 19 to the Complaint. The Complainant has cited the decided case of Horizon Pharma Inc. V/s Becky Johnson (FA 1604001672142 dated June 6, 2016) wherein it has been held that 'the use of emails attached to a disputed domain name is an attempt to gain personal information and collect money constitutes bad faith registration and use under policy. The Complainant has also cited recently decided case No. FA 1711001757559 NAF December 5, 2017, (Indeed Inc. V/s Josh Mathews) wherein it has been held that 'this behavior (of sending phishing mails and thereby earning illegal money) indicates bad faith. In another case No FA 1709001749207, NAF October 24, 2017 (Indeed Inc. V/s Dinesh Sarang / Indeed / Josh Mathews) it has been held that 'in view of the conduct that the Respondent registered and used the disputed domain names in bad faith within the generally accepted meaning of that expression.' The said decision is attached as Annexure 23.

(D) REMEDIES SOUGHT BY THE COMPLAINANT: -

On the above background of the Complaint and reasons described therein the Complainant has requested for transfer of the disputed domain name to it.

VI] REGISTRANT'S DEFENSE: -

The Registrant has failed / neglected to file any reply, say, statement in response to the Complaint or Notice of Arbitration, even within the period extended suo-motu by this panel. The courier containing hard copy of the Complaint and all annexures to it, has been returned undelivered to NIXI with the remarks '*No such person / company at given address*'. However it is noticeable that none of the emails sent to him on the email id registered under the whois details, has bounced.

VII] REJOINDERS OF THE PARTIES: -

In view of non-filing of any say / reply by the Registrant, no rejoinder was called for.

VIII] EVIDENCE RELIED UPON: -

This panel has placed reliance upon the following evidences / details thereof, submitted by the Complainant: -

1. List of trademarks registered in various countries

2. Copies of trademarks registered in India and in other countries in the name of the Complainant
2. List of domain names registered in the name of the Complainant
3. Screenshot of official INDEED website
4. Copies of decided cases on which the Complainant has relied upon

VIII| FINDINGS & DISCUSSION: -

The Complainant has brought out his case in the dispute by way of contents of the Complaint and annexures attached to it.

(A) This panel has noticed following important aspects and facts pertaining to the dispute under arbitration proceedings: -

1. The Registrant has registered disputed domain name on November 8, 2017 while the Complainant has trademarks registered way back in 2004 with continuous use of the same. In India the Complainant has registered its trademarks in the year 2010, i.e. seven years prior to the Registrant's registering disputed domain name.
2. The Complainant has trademarks registered in several countries, including in India. It has also various domain names which include the term 'INDEED' as integral part of it.
3. The Complainant has successfully defended his legitimate rights and interests in case of other disputed domain names containing the word INDEED, where the dispute was against the present Registrant / Respondent - Josh Mathews- like
 - a. 'indeedjob.online', (FA 171100177559 NAF December 5, 2017)
 - b. 'indeedjobs.live' } (FA 1709001749207 NAF October 24, 2017)
 - c. 'indeedjob.co' }
4. Legal Department of National Internet Exchange of India (NIXI) has informed this panel that courier containing hard copies of the complaint and annexures to it, has been returned undelivered by courier company with the remarks 'No such person / company at given address'. This means the Registrant has given false address at the time of registration of disputed domain name.
5. The Registrant / Respondent has not filed any reply / say, to the Complaint or to the Notice of Arbitration, even within extended period.

(B) Now we turn to the contents of the complaint and annexures attached to it.

1. The Complainant has trademarks registered in several countries including in India. These trademarks contain the term 'INDEED' as its uniform and integral part. The Complainant's websites also contain this term. The Complainant has been using these trademarks from 2004 in other countries and from 2010 in India. It has large network of offices all over the world and has gained reputation in the business of employment opportunities offerings over last several years.

While the Registrant's domain name contains the term 'INDEED' in its entirety, he has just added generic term 'JOB' to this term. It is noteworthy that the term so added 'JOB' is directly concerned with the main business activity of the Complainant, in which it has gained long standing reputation. By adding such word to the registered trademark, the Registrant has cleverly coined the term 'INDEEDJOB', thereby compelling the internet user to think that it is official website of the Complainant.

Moreover it is a well settled legal position in many decided cases so far that, mere addition and difference in top level domain name of the words like '.in' does not differentiate the domain name from the registered trademarks or websites of the Complainant.

All this has led to the conclusion that the registered domain name is identical or confusingly similar to a name, trademark in which the Complainant has rights.

2. The Registrant is not known by the word INDEED. He has neither been authorized nor licensed, to use this word by the Complainant, who is the registered owner of the trademark. The Registrant has not come out with any defense to prove that his business entity has been known by this word or has any legitimate interest in it.

Therefore this panel concludes that the Registrant has no rights or legitimate interests in respect of the domain name.

3. The Complainant has produced a copy of the customer's complaint posted on the official website of National Consumer Complaint Forum. By this complaint the Complainant has proved that the Registrant has been sending phishing mails to lure the job seekers and making them to pay for purported services which in fact are never rendered and the customer is robbed of his money for no value. The customer has alleged that Cuttack (Orissa) office, which is a fake office, held to be that of the Complainant, has been arranging telephonic interviews, taking charges for all this and offering job letters (tentative). Again for final letter money is being charged. The said customer has also stated email ids being used for this fake business. This entire act is nothing but a fraud and cheating innocent internet users who think that they are dealing with the real and true owner of the business - i.e. Indeed Inc. This leads to extreme damage to the reputation and creditworthiness of the Complainant, which he has gathered over a period of time painstakingly. When visited the website, a visitor comes across the message that website is suspended. The links provided under the said website clearly create impression that the said website is actually owned and operated by the Complainant.

The Complainant has pointed out that email phishing schemes indicate bad faith registration and use under para 4(iii) of the Policy.

The decided cases in favour of the Complainant in respect of other domain names, between the Complainant and the Registrant clearly establish that the Registrant is habitual cyber squatter. Registering misleading domain names, email phishing and extraction of money from innocent internet users, has been his regular business.

All these facts and above discussion lead this panel to the conclusion that the Registrant's domain name is being used in bad faith.

4. It is the duty cast by INDRP read with INDRP Rules, on every person aspiring to register any domain name: -

(i) to verify whether any similar domain name exists, before registration of proposed domain name,

(ii) whether any registered trademark exists similar to the proposed domain name,

(iii) whether said domain name or registered trademark, has been in prior use by others

If he fails or neglects to check on above points, he is registering domain name with the risks of infringing other's rights, interests and claims. If such infringement is proved later on, his domain name is liable to be transferred to genuine owner / stakeholder. Further he may be liable for other civil and / or criminal consequences including monetary losses.

5. If use of disputed domain name by the Registrant / Respondent is allowed to continue, it would tantamount to helping the criminal to continue to cheat innocent persons and making injustice at the same to the genuine stakeholder. It is also likely the disputed domain name would be sold at unreasonable consideration to any other party including the competitors of the Complainant.

6. Any person, having genuine rights or interests in disputed domain name, would come out with some reply or say in his defense. Importantly, the Respondent has failed / neglected to respond to any of these emails even within the extended period. Thus he has failed to establish his bona fides, legitimacy, legal rights, prior use of the domain name for lawful purpose or any other type of nexus between him and the registered domain name. He is neither licensed or permitted to use the disputed domain name by the Complainant.

Above facts and discussion lead to the conclusion that the Registrant has registered domain name in bad faith, is using it for gaining illegally at the cost of the Complainant's reputation, has no legal right or interest in it. The Complainant thus has proved his case.

Due to above findings and based on above discussion, this panel has come to the conclusion that the Complainant is entitled to the disputed domain name.

IX] AWARD: -

On the basis of above findings on issues and foregoing discussion, this panel passes the following award: -

The Complainant is entitled to the disputed domain name 'INDEEDJOB.CO.IN and hence the same be transferred to the Complainant.

No order as to the costs.

Date: - 01.02.208

Place: - Pune, India


(S.C.INAMDAR)
SOLE ARBITRATOR