



मध्य प्रदेश MADHYA PRADESH

BG 542524

BEFORE THE ARBITRATOR RAJESH BISARIA
IN REGISTRY
(C/o. NATIONAL INTERNET EXCHANGE OF INDIA)

Disputed domain name : CLOUDERA.CO.IN.

INDRP CASE No. -1281

CLOUDERA, Inc.
395 Page Mill Road, Palo Alto CA 94306
United States of America

----Complainant

Vs.

Amy Cox,
2321 George Street
Ocala, Florida 34471
US

----- Respondent

Registrant of Domain Name: www.CLOUDERA.CO.IN

The Parties:

The Complainant is CLOUDERA, Inc. having its mail address -395 Page Mill Road, Palo Alto CA 94306, United States of America.

The Respondent is Amy Cox, having its mail address - 2321 George Street Ocala, Florida 34471, US



The Domain Name and Registrar:

- 2 The disputed domain name: www.CLOUDERA.CO.IN the domain name registered with .IN REGISTRY.

Procedural history :

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1. The .IN REGISTRY appointed RAJESH BISARIA as 23.10.2020 Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of procedure.
2. Arbitral proceedings were commenced by sending notice to 31.10.2020 Respondent through e-mail as per paragraph 4(c) of INDRP Rules of Procedure, marking a copy of the same to Complainant's authorized representative and .IN REGISTRY.
3. Due date for filing Response by Respondent 10.11.2020
4. Respondent's response by submitting their Statement of Defence. Not submitted
5. Complainant's response by submitting their Rejoinder. Not required as Statement of Defence was not submitted by Respondent.
6. Arbitrator intimated Respondent for their non submission of 12.11.2020 SOD.
7. The language of the proceedings. English



Factual Background :

4 The Complainant :

The Complainant is CLOUDERA, Inc. having its mail address - 395 Page Mill Road, Palo Alto CA 94306 , United States of America, represented by its authorized representatives Mr. Rahul Chaudhary , RCY House, C-235, Defence Colony, New Delhi-110024.

Telephone: +91 11 43500000 , Fax : +91 11 43500003, 43500004 and

E-mail: domainname@rahulchaudhry.COM

5 Complainant's Activities:

- (a) The Complainant is a Corporation incorporated under the Laws of the State of Delaware, United States of America of the address 395 Page Mill Road, Palo Alto CA 94306 USA.
- (b) The Complainant was founded in the year 2008. It provides a software platform for data engineering, data warehousing, machine learning and analytics that runs in the cloud or on premises. It revolutionized various enterprises data management by offering the first unified platform for big data which was built on Apache Hadoop. In the said platform, the Complainant offered enterprises one place to store, access, process, secure, and analyze all their data, empowering them to extend the value of existing investments while enabling fundamental new ways to derive value from their data.
- (c) The Complainant's open source big data platform is the most widely adopted in the world, and the Complainant is the most prolific contributor to the open source Hadoop ecosystem. As the leading educator of Hadoop professionals, Complainant has trained over 40,000 individuals worldwide. Over 1,700 partners and a seasoned professional-services team help deliver greater time to value. Leading organizations in every industry plus top public sector organizations globally run CLOUDERA in production. Details of few of such organizations are given in the later part of the complaint.
- (d) The Complainant offers software, services and support under the mark CLOUDERA and its various CLOUDERA formative mark. Further the



Complainant also owns its subsidiaries under with the name CLOUDERA such as CLOUDERA K.K. JAPAN, CLOUDERA (SHANGHAI) SOFTWARE CO. LTD. CHINA, CLOUDERA SINGAPORE PTE. LTD. SINGAPORE, CLOUDERA KOREA, INC. SOUTH KOREA and CLOUDERA SOFTWARE INDIA PRIVATE LTD. INDIA etc.

6 Complainant's Trade Marks And Domain Names :

- (i) The trade mark CLOUDERA has also been used extensively over the internet to identify the Complainant and to associate the said mark exclusively with the Complainant. The Complainant is the owner of the domain name www.CLOUDERA.COM registered on February 28, 2006. In addition to the above the Complainant also owns domain names incorporating the mark cloudera: www.cloudera.biz, www.cloudera.it, www.cloudera.jp, www.cloudera.me, www.cloudera.site, www.cloudera.com.sg, www.clouderafoundation.org, www.clouderalive.com, www.cloudera.net, www.cloudera.info and www.cloudera.io
- WHOIS status of the above said domain names of the Complainant are marked as ANNEXURE-D.
- (ii) The Complainant is also running its business under the mark CLOUDERA in India with its Indian subsidiary CLOUDERA Software India Private Limited (incorporated on June 09, 2014), having its offices at Taramani, Chennai, Bengaluru, Karnataka and Mumbai, Maharashtra.
- (iii) In India, the Complainant's mark is well-known and the services under the said mark is also used by various Indian companies/institutions.
- (iv) The Complainant is internationally well-known and is the registered proprietor of the trademark CLOUDERA in various countries including India. The Complainant also holds International registration for the mark CLOUDERA (under WIPO Madrid- international trade mark system) bearing the IRDI-3864898 since 2018 in class 42 in relation to Software as a service (SAAS) featuring software for analyzing, managing, securing, and reporting on data; providing temporary use of a web-based software for analyzing, managing, securing, and reporting on data which has also been granted protection in by the Registrar of Trade Marks in India. Copy of registration certificate for the aforementioned mark



is at Annexure F. In addition to the above-mentioned registration, the Complainant had also applied for two more International registrations for the mark CLOUDERA designating India as one of the countries wherein protection is sought and the said applications are currently pending and the application no. is IRDI-4465233 and IRDI-4461805

7 Respondent's Identity and activities :

The Respondent is Amy Cox, having its mail address - 2321 George Street Ocala, Florida 34471, US, Telephone: (1)3524597245, E-mail:nameservices@outlook.COM

The identity and other activities of the Respondent are not known as, they failed to submit Statement of Defence or any of the documents, within the given time schedule

Submissions by Complainant:

- 8 Complainant submitted Domain name complaint with pages 4 to 29 and annexure and other documents pages from 30 to 777. As per the INDRP Rules of Procedure, Clause 4(a) – *The (maximum) word limit shall be 5000 words for all pleadings individually (excluding annexure). Annexure shall not be more than 100 pages in total. Parties shall observe this rule strictly subject to Arbitrator's discretion.*

The Complainant failed to follow this Clause, by submitting about 750 pages of annexure and other documents , otherwise the application is submitted as per the INDRP Rules of Procedure. The extra documents submitted as mentioned has been allowed in the interest of justice at large, with a caution to Complainant for future.

The Contentions of the Complainant:

- 9 The domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights
- (i) The mark CLOUDERA was first adopted by the Complainant in the year 2008 and has been used continuously and extensively since then with respect to the software services of the Complainant.
 - (ii) The word CLOUDERA has become distinctive of the products/services of the



Complainant such that any reference to the word CLOUDERA is immediately associated with the Complainant.

- (iii) Respondent's domain name - www.CLOUDERA.CO.IN encompasses the whole of the Complainant's registered trade mark CLOUDERA. Addition of ".co.in" does not make the impugned domain name distinguishable from the Complainant's registered and well-known mark CLOUDERA and reinforces the association with the Complainant's mark by showing that the impugned domain name is somehow associated with the Complainant and/or its Indian subsidiary wherein no such association exists.
- (iv) The Complainant referred and relied on the case of *3M company v. Machang INDRP/856* (decided on February 6, 2017)
- (v) The Complainant referred and relied on the case, *In Humor Rainbow Inc. Yin Jun, China (INDRP/1153)* where the Hon'ble Arbitral tribunal has held that incorporation of a trade mark in its entirety without any addition, subtraction or any other modifications results in identical domain name and that the ".in" suffix of the domain name would be immaterial for the comparison.
- (vi) The Complainant referred and relied on the case , *Charmin Charlie LLC v. Normand Clavet INDRP/859* (decided on March 17, 2017) wherein it was held that "*the disputed domain name incorporates the mark CHARMING CHARLIE in its entirety.*

It has been held in Inter-Continental Hotels Corporation vs. Abdul Hameed (INDRP/278) as well as Indian Hotels company Limited v. Mr. Sanjya Jha (INDRP/148) that when a disputed domain name incorporates a mark in entirety, it is adequate to prove that the disputed domain name is either identical or confusingly similar to the mark.

Similarly, in case of Farouk Systems Inc. v. Yishi, WIPO Case No. D2010-006, it has been held that the domain name which wholly incorporates a Complainant's registered mark may be sufficient to establish identity or confusing similarity, despite the additions or deletions of the other words to such marks.



Reliance is also placed on Boehringer Ingelheim Pharma GmbH & Co. KG v. Philana Dhimkana WIPO Case No. D2006-1594, where it was held that, if a well-known trade mark was incorporated in its entirety into a domain name - that is sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered trade mark."

- (vii) The Complainant referred and relied on the case , *Ducati Motor Holding S.p.A. v. Abhishek Chordia INDRP/ 834* (decided on February 20, 2017)
- (viii) The Complainant referred and relied on the case, *Bharti Airtel Limited v. Sunita Bhardwaj INDRP/837* (decided on February 3, 2017)
- (ix) The Complainant referred and relied on the case , *Zippo Manufacturing company v. Zhaxia INDRP/840*(decided on January 27, 2017)
- (x) The Complainant referred and relied on the case , *Aditya Birla Management Corporation v. Chinmay INDRP/1197*(decided on January 23, 2020) wherein the tribunal observed that the Respondent is involved in cyber-squatting by registering domain name containing the well-known trade mark of the Complainant and thereby gaining illegal benefits.

10 The Respondent has no rights or legitimate interests in respect of the domain name

- i. The Respondent neither has any legitimate interest in the trade mark CLOUDERA nor is the lawful owner of any right relating to the Complainant's mark. The Respondent bears no relationship to the business of Complainant and is neither a licensee nor has obtained authorization of any kind whatsoever to use the Complainant's mark. Respondent is not commonly known by the infringing domain name.
- ii. The impugned domain name www.CLOUDERA.CO.IN of the Respondent was created on January 05, 2013 and the Respondent has not developed any website on the said domain name since then. As mentioned above, only a



parked page is functioning on the impugned domain name giving links to various third-party websites on "pay per click" format.

- iii. Further, as mentioned – the parked page created on the impugned domain name also shows that the domain name is available for sale. Therefore, it is evident that the Respondent has no legitimate intention to use the impugned domain name.
- iv. Respondent cannot demonstrate or establish any legitimate interest in the domain name www.CLOUDERA.co.in. Respondent registered the impugned domain name on January 05, 2013, which is long after Complainant started using the mark CLOUDERA in the year 2008 and had established rights in the said trade mark through extensive use of the same around the world. Further, the domain name of the Complainant www.CLOUDERA.COM was created on February 28, 2006 way before the above mentioned dated of creation of the impugned domain name by the Respondent. Given that Complainant's adoption and extensive use of the mark CLOUDERA predates the Respondent's registration of the infringing domain name and the word CLOUDERA is a coined word having no dictionary meaning, the burden is on the Respondent to establish its rights or legitimate interests in the infringing domain name.
- v. The Complainant referred and relied on the case *Paris Hilton v. Deepak Kumar*, [WIPO Case No. D2010-1364] (September 23, 2010), if the owner of the domain name is using it in order "...to unfairly capitalize upon or otherwise take advantage of a similarity with another's mark then such use would not provide the registrant with a right or legitimate interest in the domain name. The Respondent's choice of the Domain Name here seems to be a clear attempt to unfairly capitalize on or otherwise take advantage of the Complainants' trademarks and resulting goodwill."
- vi. The Complainant referred and relied on the case , *QRG Enterprises Limited and Havells India Limited v Zhang Micase* no. INDRP/852(decided on January 31, 2017), wherein holding in favor of the Complainant, the panel



noted that there was no indication from the material on record that the respondent is using the disputed domain name for any legitimate purposes such as non-commercial fair use purposes. The use of the Complainant's mark in the disputed domain name is likely to mislead the public and internet users that the disputed domain name may refer to the Complainant. Misleading users by incorporating a third party's trade mark in a domain name gives a false impression to users and does not constitute a bona fide use.

- vii. The Complainant referred and relied on the case , *In Dell Inc. v. Mani, Soniya INDRP/ 765(decided on April 5, 2016)* it was held that "the respondents websites are not bonafide since the respondent is using the disputed domain name to divert/ redirect internet users and consumers seeking the Complainant's goods and services to its own websites, which offers the Complainant's products and services and also of those in direct competition with the Complainant.
- viii. The selection by the Respondent of a domain name that includes a well-known trade mark not owned by the Respondent, which is being used to redirect to the website not affiliated with the trade mark's owner is not a bona-fide use and does not confer rights or legitimate interests in the Respondent (*Factory Mutual Insurance company v. Rhianna Leatherwood WIPO Case No. D 2009*).
- ix. The Complainant referred and relied on the case , in the case of *Luxottica Holdings Corp. v. Lokesh Morade, case no. INDRP/139(April 28, 2010)*, it was held that, "Once the Complainant makes a prima facie case showing that the Respondent does not have any rights or legitimate interest in the domain name, the evidentiary burden shifts to the Respondent to rebut the contention by providing evidence of its rights or interests in the domain name."
- x. The Complainant referred and relied on the case of the disputed domain name <www.foodnetwork.in> being *Television Food Network, G.P. v. Arif Siddiqui, Case No. INDRP/138* wherein, holding in favour of the Complainant, the panel noted that, "the Respondent has registered the disputed domain name on June 02, 2005, which is much subsequent to the Complainant's adoption and use of the mark FOOD NETWORK in respect of similar products / services



since the year 1996. There is no evidence to suggest that the Complainant had authorized or licensed the Respondent's registration or use of the domain name."

Therefore, the Respondent is put to strict proof, in case he claims of having any legitimate interest in the mark CLOUDERA.

11 The domain name was registered and is being used in bad faith

- i. The circumstances detailed above indicate that the Respondent has registered or acquired the impugned domain name with dishonest intention to mislead and divert the consumers and to tarnish the well-known trade mark/ corporate name/ domain name CLOUDERA and CLOUDERA.COM of the Complainant.
- ii. The Respondent has registered and is using the impugned domain name in bad faith for commercial gain and to benefit from the goodwill and fame associated with the Complainant's CLOUDERA and CLOUDERA.COM mark and domain name and from the likelihood that internet users will mistakenly believe that the impugned domain name and its associated websites are connected to the Complainant and its services.
- iii. The Respondent has registered and is using the impugned domain name primarily for the purpose of disrupting the business of the Complainant and diverting the public, who is searching for the complaint, to a different website and has no prior rights in and no authorization to use given by the Complainant for the CLOUDERA trade mark.
- iv. Diverting the users from the impugned domain name to different websites providing similar services as that of the Complainant manifests Respondent's clear intention to attract, for commercial gain, internet users to Respondent's website by creating a likelihood of confusion with that of the Complainant's mark as to the source, sponsorship, affiliation or endorsement of Respondent's products. The use and registration of a similar domain name by the Respondent in an effort to gain commercial benefits is evidence of bad faith.



- v. Respondent's bad faith registration of the domain name is established by the fact that the domain name completely incorporates Complainant's CLOUDERA mark and was acquired long after the trade mark CLOUDERA was first used by the Complainant.
- vi. The Respondent uses the impugned domain name www.CLOUDERA.CO.IN to re-direct users to different websites offering similar products/services as that of the Complainant. The same itself amounts to evidence of bad faith.
Reference is made once again to the case of *Television Food Network, G.P. v. Arif Siddiqui, Case No. INDRP/138* wherein the panel noted the circumstances that the Respondent's domain name currently resolves to a webpage featuring services / products. By use of the Complainant's mark FOOD NETWORK, it appears that the Respondent has deliberately tried to attract internet users to his website. The Arbitrator finds that "there is a likelihood that Internet users will be confused as to the source, sponsorship, affiliation or endorsement of the Respondent's website and the services advertised on it considering the Complainant's prior use and adoption of an identical mark / domain name". The panel stated that "the aforesaid circumstances suggest bad faith registration and use of the domain."
- vii. The Complainant referred and relied on the case of *Microsoft Corporation v. Chun Man Kam, Case No. INDRP/119*.
- viii. The Complainant referred and relied on the case of Judgment of *compagnie Gervais Danone v. yunengdonglishangmao(beijing)youxiangongsi Case No. D2007-1918(March 07, 2009)*
- ix. Respondent is thus not using the domain name for legitimate personal or business purposes. Instead, it is apparent that the intention of the Respondent is to create initial-user confusion and divert users to its domain name and thereafter re-direct users to different websites whose links have been provided on the impugned domain name and thereby generating revenue for itself.
- x. Upon information and belief, particularly considering the international fame of Complainant's trade mark CLOUDERA, including the reputation in India, Complainant asserts that the Respondent intentionally registered the impugned domain name that is identical to the Complainant's trade mark CLOUDERA in



order to trade off the goodwill associated with Complainant's mark.

- xi. A Consumer searching for information concerning Complainant is likely to be confused as to whether the Respondent's impugned domain name is connected, affiliated or associated with or sponsored or endorsed by Complainant. Reliance is placed on *Exxon Mobil Corp. v. Prop. Mgmt. Prof'l*, FA 1059655, available at <http://domains.adrforum.COM/domains/decisions/1059655.htm>, use of the domain name *exxon.biz* to operate a link farm constituted evidence of bad faith; *Exxon Mobil Corp. v. Exxon Mobil c/o Internet Coordinator*, FA 1220454, available at <http://domains.adrforum.com/domains/decisions/1220454.htm> operation of link farms at domains *exxonmobilco.com* and *exxonmobilecorp.com* established Respondent's bad faith.
- xii. As such, the manner of use of the domain name *www.CLOUDERA.CO.IN* by the Respondent is a clear example of cyber-squatting. See *Homer TLC v. Kang*, FA 573872, (Nat. Arb. Forum Nov. 22, 2005) finding that Respondent's use of *hamptonbay.com* "*could in no way be characterized as fair, because consumers would think that they were visiting a site of Complainant's until they found they were in a directory which would do the Complainant potential harm*".
- xiii. Respondent's bad faith use of the impugned domain name is further evidenced by the fact that the Respondent has sought to profit from the domain name to create an affiliation with the Complainant. Respondent's use of Complainant's CLOUDERA mark bolsters the reputation of Respondent by creating an affiliation with the Complainant's famous CLOUDERA brand.
- xiv. The Respondent has also made fraudulent and incorrect claims while registering the impugned domain name since all registrants are required to warrant at the time of registering the domain name, under Paragraph 3 (b) of the INDRP that, "to the Registrant's knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;" and under Paragraph 3 (d) that, "the Registrant will not knowingly use the domain name in violation of any applicable laws or regulations".
- xv. The Complainant referred and relied on the case on the Judgment of *Pentair Inc. v. Bai Xiqing INDRP 827* (decided on November 10, 2016) in which the panel had



accepted that *"the Complainant has established its prior adoption and rights in the trade mark PENTAIR. Further the Complainant's trade mark applications were clearly made before the disputed domain name PENTAIR.IN was registered. The evidence on record shows that the Complainant's trade mark is well-known. Thus, the choice of the domain name does not appear to be a mere coincidence, but is a deliberate use of a well-recognized mark to attract unsuspecting users to the respondent's website, such registration of a domain name, based on awareness of a trade mark is indicative of bad faith registration under the Policy"*

12 Remedy Sought:

Complainant prayed to grant the following relief:

- (i) To immediately transfer the impugned domain name www.CLOUDERA.CO.IN to the Complainant and direct the Respondent to take all necessary steps with the domain name registering authority to transfer the impugned domain name to the Complainant.
- (ii) Any further order(s) which the Learned Arbitrator may find fit and proper given the facts and circumstances of the present complaint.

13 Other Legal Proceedings

- i No other legal proceedings have been commenced, pending or terminated in connection with or relating to the impugned domain name www.CLOUDERA.co.in to the best of Complainant's knowledge, information and belief.
- ii The Complainant, by submitting the complaint, agrees to the settlement of the dispute regarding the domain name which is the object of the complaint by final and binding arbitration in India, in accordance with the Arbitration and Conciliation Act, 1996, the .IN Domain Name Dispute Resolution Policy of .IN Registry; Rules of Procedure and any bye-laws, rules or guidelines framed thereunder.
- iii The Complainant agrees that its claims and remedies concerning the registration of the impugned domain name www.CLOUDERA.co.in, the dispute or the dispute's resolution shall be solely against the domain name



holder and waives all such claims and remedies against the .IN Registry, as well as their directors, officers, employees and agents and the Arbitrator who will hear the dispute.

- iv The Complainant, by submitting its complaint, agrees that the decision of the Arbitrator to be appointed may be made public and may be published on the website including, without limitation, other forms of publication of the .IN REGISTRY.

Response by the Respondent:

- 14 As per order mail dated 31.10.2020, Respondent was directed to submit Statement of Defence by 10.11.2020. But Respondent failed to submit the required documents up to 12.11.2020. It is pertinent to mention that Respondent even did not response in submitting request for extension of time limit. As per order/mail dated 12.11.2020 (11 PM), Respondent was intimated that –They lost their right to submit the said documents and the case is kept reserved for publishing the award on merit .

Rejoinder by the Complainant:

- 15 Since Respondent failed to file the Statement of Defence , so there is no question of submitting the Rejoinder by the Complainant.

Discussion and findings:

- 16 After going through the correspondence , this Tribunal comes to the conclusion that the Arbitral Tribunal was properly constituted and appointed as per Clause 5 of the INDRP Rules of Procedure and Respondent has been notified of the complaint of the Complainant. In fact, no parties raised any objection over constitution Tribunal. Respondent did not participate in this Arbitration proceeding by not submitting any of the stated documents or pleadings.



17 Under Clause 4, Sub Clause vi of the IN Domain Name Dispute Resolutions policy (INDRP), the Complainant must prove each of the following three elements of its case:

- (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 is being used in bad faith .

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

- (a) Complainant submitted that the mark CLOUDERA was first adopted by the Complainant in the year 2008 and has been used continuously and extensively since then with respect to the software services of the Complainant and thereby the word CLOUDERA has become distinctive of the products/services of the Complainant.
- (b) Respondent's domain name - www.cloudera.co.in encompasses the whole of the Complainant's registered trade mark CLOUDERA. Addition of ".co.in" does not make the impugned domain name distinguishable from the Complainant's registered
- (c) The Respondent failed to submit their Statement of Defence within the instructed time limit, so negative inference can be drawn in concluding the facts of the case.
- (d) Respondent's disputed domain name www.cloudera.co.in include the word CLOUDERA , which is identical and confusingly similar as a whole to the well known and registered trademark CLOUDERA in which the Complainant has statutory rights as well as rights inn common law, by virtue of a long and continuous user and being its registered proprietor thereof. The Respondent's domain name www.cloudera.co.in consists of entirely Complainant's trade mark, except co.in.
- (e) Complainant also submitted many judgments of Arbitration cases of INDRP.



- (f) Thus, this Arbitral Tribunal comes to the conclusion that the disputed domain name www.CLOUDERA.co.in is confusingly similar or identical to the Complainant's domain name. Thus Respondent's domain name is likely to cause confusion, mistake and deception, and hence constitutes infringement of Complainant's domain name and trademark, as well as constituting unfair competition.
- (g) On the basis of the facts of the submitted documents and various judgments, the Arbitral Tribunal concludes that the Complainant has established Clause 4(vi), First para of the IN Domain Name Dispute Resolution Policy and, accordingly satisfies the said Clause of policy.

(ii) The Respondent has no rights or legitimate interest in respect of the domain name:

- (a) Complainant submitted that the Respondent neither has any legitimate interest in the trade mark CLOUDERA nor is the lawful owner of any right relating to the Complainant's mark. The Respondent bears no relationship to the business of Complainant and is neither a licensee nor has obtained authorization of any kind whatsoever to use the Complainant's mark.
- (b) The impugned domain name www.cloudera.co.in of the Respondent was created on January 05, 2013 and the Respondent has not developed any website on the said domain name since then. The parked page created on the impugned domain name also shows that the domain name is available for sale. Therefore, it is evident that the Respondent has no legitimate intention to use the impugned domain name.
- (c) Respondent registered the impugned domain name on January 05, 2013, which is long after Complainant started using the mark CLOUDERA in the year 2008 whereas the domain name of the Complainant www.CLOUDERA.COM. Given that Complainant's adoption and extensive use of the mark CLOUDERA predates the Respondent's registration of the infringing domain name and the burden is on the Respondent to establish its rights or legitimate interests in the infringing



domain name. Since Respondent failed to submit the required documents , therefore their view is not known.

- (d) Complainant also submitted many judgments of Arbitration cases of INDRP.
- (e) On the basis of the facts of the submitted documents and various judgments , the Arbitral Tribunal concludes that the Complainant has established Clause 4(vi), Second para of the IN Domain Name Dispute Resolution Policy and, accordingly satisfies the said Clause of policy.

(iii) The Respondent's domain name has been registered or is being used in bad faith:

- (a) The circumstances detailed above indicate that the Respondent has registered or acquired the impugned domain name with dishonest intention to mislead and divert the consumers and to tarnish the well-known trade mark/ corporate name/ domain name CLOUDERA and CLOUDERA.COM of the Complainant.
- (b) The Respondent has registered and is using the impugned domain name in bad faith for commercial gain and to benefit from the goodwill and fame associated with the Complainant's CLOUDERA and CLOUDERA.COM mark and domain name and from the likelihood that internet users will mistakenly believe that the impugned domain name and its associated websites are connected to the Complainant and its services.
- (c) The Respondent has registered and is using the impugned domain name primarily for the purpose of disrupting the business of the Complainant and diverting the public, who is searching for the complaint, to a different website and has no prior rights in and no authorization to use given by the Complainant for the CLOUDERA trade mark.
- (d) The use and registration of a similar domain name by the Respondent in an effort to gain commercial benefits is evidence of bad faith.
- (e) Complainant also submitted many judgments of Arbitration cases of INDRP.
- (f) On the basis of the facts of the submitted documents and various judgments , the Arbitral Tribunal concludes that the Complainant has



established Clause 4(vi), Third para of the IN Domain Name Dispute Resolution Policy and, accordingly satisfies the said Clause of policy.

Arbitral Award:

18 Now, I, Rajesh Bisaria , Arbitrator, after examining and considering the Statement of Complainant along with evidence produced before and having applied mind and considering the facts, documents and other evidence with care, do hereby publish award in accordance with Clause 13(b) and 12 of the INDRP rules , as follows:

Arbitral Tribunal orders that the disputed domain name www.CLOUDERA.CO.IN be transferred to the Complainant.

AT has made and signed this Award at Bhopal (India) on 11.12.2020 (Eleventh Day of December, Two Thousand Twenty).

Place: Bhopal (India)
Date: 11.12.2020


11/12/2020
(RAJESH BISARIA)
Arbitrator

