

**Government of National Capital Territory of Delhi**

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Certificate Issued Date	: 22-Nov-2021 11:37 AM
Account Reference	: SELFPRINT (PU)/ dl-self/ NEHRU/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDL-SELF99087884649915T
Purchased by	: IRA LAW PREETIKA KASHYAP
Description of Document	: Article 12 Award
Property Description	: ARBITRATION AWARD
Consideration Price (Rs.)	: 0 (Zero)
First Party	: BINNY KALRA
Second Party	: BINNY KALRA
Stamp Duty Paid By	: BINNY KALRA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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## ARBITRATION AWARD

## .IN REGISTRY

(C/O NATIONAL INTERNET EXCHANGE OF India)

Before the Sole Arbitrator, Binny Kalra

Disputed domain name <**ROCKSTARGAMES.IN**>

In the matter of:

TAKE-TWO INTERACTIVE SOFTWARE, INC.

Complainant

VS

Doublefist Limited

Dynadot LLC

## Respondents

**Statutory Alert:**

**ARBITRATION AWARD**

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Before the Sole Arbitrator, Binny Kalra

Disputed domain name <**ROCKSTARGAMES.IN**>

In the matter of:

TAKE-TWO INTERACTIVE SOFTWARE, INC.

A corporation organized under the laws of  
the United States of America

having its principal place of business at  
110 West 44<sup>th</sup> Street New

York

New York 10036

United States of America

**Complainant**

E-mail: [david.harris@take2games.com](mailto:david.harris@take2games.com)

Versus

Doublefist Limited

A3, Jiazhaoye, Jiangbei

Huicheng District, Huizhou City,

Guangdong Province, China

Email: [ymgroup@msn.com](mailto:ymgroup@msn.com); [postmaster@rockstargames.in](mailto:postmaster@rockstargames.in)

Dynadot LLC

210 S Ellsworth Ave #345

San Mateo, CA 94401,

United States of America

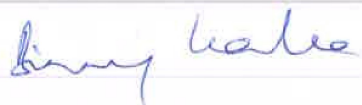
Email: [info@dynadot.com](mailto:info@dynadot.com)

**Respondents**

**INDRP Case No: 1430**

**1. The Parties:**

The Complainant TAKE-TWO INTERACTIVE SOFTWARE, INC. is a company organised and existing under the laws of United States of America and is represented in these



proceedings by its authorised representative Mr. J.V. Abhay c/o Shardul Amarchand Mangaldas & Co., Amarchand Towers, 216 Okhla Industrial Estate, Phase III, New Delhi 110020. The first Respondent is Doublefist Limited with its address at A3, Jiazhaoye, Jiangbei, Huicheng District, Huizhou City, Guangdong Province, China. The second Respondent is Dynadot LLC, USA, which is the Registrar for the disputed domain name. Neither Respondent is represented in these proceedings. Since the role of the Registrar is limited for the purpose of INDRP proceedings, the term "Respondent" used throughout this award shall mean and refer to the first Respondent which is the registrant of the disputed domain name.

## 2. The domain name, Registrar, and Policy:

The disputed domain name is [www.rockstargames.in](http://www.rockstargames.in) (hereinafter referred to as the "**Disputed Domain Name**"). The Registrar for the Disputed Domain Name is GoDaddy.com, LLC. The present arbitration is being conducted in accordance with the Arbitration and Conciliation Act, 1996, the .IN Domain Name Dispute Resolution Policy ("**Policy**") and the INDRP Rules of Procedure ("**Rules**").

## 3. Procedural history:


- |                    |   |
|--------------------|---|
| 23 September 2021: | Statement of acceptance along with a declaration of impartiality and independence was sent by the arbitrator to the .IN Registry  |
| 23 September 2021: | The .IN Registry transmitted information of appointment of the arbitrator and circulated the complaint and its annexures to the parties   |
| 23 September 2021: | Notice of commencement of arbitration proceedings was sent by the Panel to the Parties and the Respondent was given 21 days' time until 15 October 2021 to submit its statement of defense. |
| 16 October 2021    | The Panel wrote to the Parties and NIXI to record that no statement of defense or other communication was forthcoming from the Respondent by the due date                                   |

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therefore its right to file the statement of defense stood forfeited. The award was reserved.

#### 4. Complainant's case:

The Complainant's submissions and claims in the complaint are summarized in the following paragraphs:

- i. The term **"Complainant"** includes reference to the holding/group/subsidiary/associate companies of TAKE-TWO INTERACTIVE SOFTWARE, INC. as well as its affiliates/licensees having rights, title, or interest in the ROCKSTAR Marks.
- ii. The Complainant is a leading worldwide publisher, developer, and distributor of interactive entertainment software and accessories, including video and computer games and online interactive video games, interactive video and online entertainment services, and a wide array of related goods and services ("Complainant's Goods and Services"). Complainant's Goods and Services are developed, marketed, and sold to consumers throughout the world.
- iii. The Complainant's Goods and Services are offered under trade names, trademarks, and service marks comprising or containing ROCKSTAR and/or the letter "R" combined with a star design as , used alone or with other words or designs worldwide (collectively, the "ROCKSTAR Marks").
- iv. The Complainant, through its subsidiary Rockstar Games, Inc. ("Rockstar Games"), has continuously and prominently used the ROCKSTAR Marks since 1999 to

designate its goods and services. The ROCKSTAR house mark has been used since at least 1998, and the ROCKSTAR GAMES mark since at least 1999, long prior the registration date of the impugned domain name which is 13 October 2018.


- v. The Complainant also uses the ROCKSTAR house mark in conjunction with other

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words for a variety of goods and services, such as ROCKSTAR PASS, ROCKSTAR GAMES SOCIAL CLUB, and ROCKSTAR WAREHOUSE which is a website on



which the Complainant sells ROCKSTAR and  branded goods, including clothing and promotional products. Each of the Complainant's subsidiary development studios use ROCKSTAR as a formative mark, including Rockstar North, Rockstar London, Rockstar Leeds, Rockstar Lincoln, Rockstar San Diego, Rockstar Toronto, Rockstar New England, and Rockstar India. In addition to those listed above, Rockstar also uses the ROCKSTAR house mark for numerous other products and services, including ROCKSTAR FILMS (television and movie production).

- vi. Since adopting the ROCKSTAR Marks, the Complainant has expanded its use of the marks to a broad variety of products and services, including without limitation, television programs; websites featuring news, information, animated films, and other multimedia materials and many more.
- vii. The Complainant's ROCKSTAR Goods and Services include some of the best-selling video games in the world, and Rockstar Games is one of the best-recognized and most successful game developers in the world. An instance of the popularity of Rockstar Games the well-known status of the Complainant's ROCKSTAR Marks is the results of a Google search for the phrase "ROCKSTAR GAMES" which on 28 April 2021 got 8,33,00,000 hits. Reliance is placed on **Annexure - A** being the Google search results for "ROCKSTARGAMES".
- viii. The Complainant is the exclusive owner of all rights, titles, and interest in and to the ROCKSTAR Marks, which are the subject of trademark registrations in many countries. Reliance is placed on copies of the US and EU trademark registrations owned by the Complainant and a complete list of its registered ROCKSTAR Marks worldwide at **Annexure - C**.
- ix. The Complainant's has trademark registrations in India as listed below:

*Bhiny Kalra*

S.No.	Trademark	Regn. No.	Class/es	Date
1.	ROCKSTAR GAMES	1729662	9, 41	09/09/2008
2.	ROCKSTAR STUDIOS	2204281	9, 16, 41	13/09/2011

- x. The Complainant's ROCKSTAR Marks have been featured prominently in connection with the promotion and sale of the ROCKSTAR Goods and Services and related marketing and promotional materials for decades. The Complainant has expended significant time and money in promoting its goods and services in connection with the ROCKSTAR Marks. It has generated large sums in revenue from sales of the ROCKSTAR Goods and Services bearing the ROCKSTAR Marks. Reliance is placed on the Complainant's Annual Report for the year 2019 at **Annexure – D**.
- xi. The Respondent has merely parked the disputed domain name on a third-party website i.e., [www.sedo.com](http://www.sedo.com) for sale and the disputed domain name resolves to a pay-per-click website displaying links that divert Internet users to third party websites that are not associated with the Complainant. A few of the links displayed on the website at the impugned domain name appear to relate or refer to the ROCKSTAR Goods and Services, including but not limited to the GTA Game Series. The Respondent appears to be receiving commissions via click-through advertising to these third-party websites.
- xii. The Complainant did not attempt to correspond directly with Respondent prior to filing this proceeding apprehending 'cyber flying' and because the relevant contact information for Respondent is not publicly available.

#### 5. Respondent's case:

The Respondent, though duly served on its email address [ymgroup@msn.com](mailto:ymgroup@msn.com) as provided in the WhoIs database, has not filed a statement of defense, or participated in any manner in these domain name dispute proceedings.

#### 6. Legal grounds:

*Binary*

Under Paragraph 4 of the Policy, the Complainant must establish the following three elements to succeed:

- (a) the Disputed Domain Name is identical and/or confusingly similar to a name, trademark, or service mark in which the Complainant has rights; and
- (b) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (c) the Disputed Domain Name has been registered or is being used in bad faith.

## **7. Discussion and findings:**

The Panel has gone through the complaint and annexures submitted by the Complainant. Since the Respondent has not submitted a statement of defense in these proceedings, the Panel has proceeded based on the Complainant's uncontroverted submissions in the complaint and an unbiased appreciation of the documents placed on record by the Complainant. The below discussion analyzes whether the Complainant has established the presence of the aforesaid three elements in this case to succeed in the Domain Name Dispute.

### **A. Whether the Disputed Domain Name is identical and/or confusingly similar to a name, trademark, or service mark in which the Complainant has rights:**

The Disputed Domain Name is <ROCKSTARGAMES.IN>. The Complainant has demonstrated its rights in the trademark ROCKSTAR GAMES through the following:

- i. Registrations in India for ROCKSTAR GAMES under trademark No. 1729662 in classes 9 and 41 dating back to the year 2008, and for ROCKSTAR STUDIOS under trademark No. 2204281 in classes 9, 16 and 41 dating to 2011. The supporting documents are filed as Annexure G. The statutory protection granted to the Complainant's said trademarks in India confirms that it has strong and enforceable rights in the said mark.
- ii. The Complainant operates a website at [www.rockstargames.com](http://www.rockstargames.com), for which the domain name record was created in 1998. The Complainant also owns the domain

*Brijendra Kumar*

names rockstargames.net (created in 1999) and rockstargames.org (created in 2006).

- iii. The Complainant has also filed a database of its registrations for ROCKSTAR GAMES and various other ROCKSTAR formative marks in countries apart from India as Annexures C and F. The Panel finds these records to be supportive of the Complainant's claim, based on the following excerpt of the decision of the Hon'ble Delhi High Court in *Mac Personal Care Pvt Ltd v. Laverana GMBH & Co KG, 2016 (65) PTC 357 (Delhi)*:

*"18. In our opinion anything done at a commercial level should suffice to achieve the prima-facie satisfaction unless it can be called de minimis or trivial. Even if one is to assess in a rough way the amount or magnitude of the international reputation, there can be certain factors which assists in this process. If the trademark is registered in favour of the plaintiff in a jurisdiction abroad, said fact would demonstrate:-*

*(i) That the proprietor has declared to the world that the subject matter is its trademark;*

*(ii) That the declaration has been made in a public record open to inspection under the Trademark Laws of most jurisdictions; and*

*(iii) That in all probability, the Registering Authority of the registering country satisfied itself that the mark was distinctive and therefore, capable of distinguishing the Registrant's Trademark from those of other traders.*

*19. As against a single registration, registrations in multiple jurisdictions create an even stronger presumption that reputation inures in favour of the trademark.*

*... "*

- iv. the Complainant's trademark registrations and its use of the trademark ROCKSTAR GAMES pre-dates the Respondent's registration of the disputed domain name in October 2018.
- v. the Complainant also carries out business operations in India through Rockstar India.
- vi. the Complainant's documents show that its goods and services are accessible in India and the Complainant enjoys a reputation and goodwill in the trademark and name ROCKSTAR GAMES.

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- vii. The trademark ROCKSTAR GAMES is copied in entirety in the Disputed Domain Name.

For the above reasons, the Panel finds that the Disputed Domain Name is identical to the trademark ROCKSTAR GAMES in which the Complainant clearly has an exclusive right.

**B. Whether the Respondent has any rights or legitimate interests in respect of the Disputed Domain Name:**

The Panel finds merit in the claims made by the Complainant based on an independent analysis of its documents. The Panel also finds that the Disputed Domain Name is identical to the Complainant's mark, for the following reasons:

- i. The Disputed Domain Name <ROCKSTARGAMES.IN> wholly contains the words ROCKSTAR GAMES which form the entirety of the mark ROCKSTAR GAMES in which the Complainant has rights.
- ii. The Complainant's claim that the mark ROCKSTAR GAMES is exclusively associated with its business has been accepted by the Panel to be correct.
- iii. It is highly likely that consumers who access the website corresponding to the Disputed Domain Name will associate it with the Complainant believing it to be that of or related to the Complainant, especially given that the Complainant has a website [www.rockstargames.com](http://www.rockstargames.com) which is accessible in India.
- iv. There is no apparent basis to presume in the Respondent's favour that it has any independent claim to or rights in the Disputed Domain Name. A legitimate owner will typically not use sponsored links to third party websites as this runs counter to the integrity of its own brand and is completely inconsistent with rights and legitimate interests in the Disputed Domain Name.

The conduct of the Respondent is self-speaking as to the absence of any legitimate interest in respect of the Disputed Domain Name. Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

**C. Whether the Disputed Domain Name has been registered or is being used in bad faith**



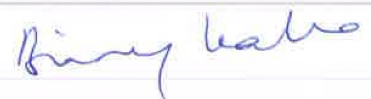
Section 3 of the INDRP clearly stipulates that by applying to register a domain name, or by asking a Registrar to maintain or renew a domain name registration, the Registrant thereby represents and warrants that:

- (a) the credentials furnished by the Registrant for registration of Domain Name are complete and accurate;
- (b) to the knowledge of registrant, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;
- (c) the Registrant is not registering the domain name for an unlawful and malafide purpose; and
- (d) the Registrant will not knowingly use the domain name in violation or abuse of any applicable laws or regulations."

A brief discussion follows on whether the Respondent has complied with Section 3 of the INDRP:

- i. Based on the averments in the complaint and the documents filed by the Complainant, the Panel is of the view that the Respondent did not comply with Section 3 (a) since it failed to furnish complete and accurate credentials for registration of the Disputed Domain Name.
- ii. The fact that the Respondent has parked the disputed domain name for sale on a third-party website [www.sedo.com](http://www.sedo.com) and that the disputed domain name resolves to a pay-per-click website displaying links that divert Internet users to third party websites is contrary to and does not comply with Section 3 (b). These factors show that the disputed domain name has been registered for an unlawful and malafide purpose.

This Panel notes that it has previously given three awards in complaints by other complainants pertaining to different disputed domain names wherein the same Respondent. i.e., Doublefist Limited, with the same email address i.e., [ymgroup@msn.com](mailto:ymgroup@msn.com), was the registrant of the disputed domain names that were ordered to be transferred to the rightful claimants (see INDRP/1368 re brioni.in; INDRP/1385 re steelcase.in, INDRP/1395 re canali.co.in). This Panel is familiar with INDRP decisions of other panelists relating to the same registrant, such as INDRP



1186/2019 (Patagonia, Inc. v Doublefist Limited), INDRP 1128/2019 (Lowes, Inc. v Lina/Doublefist Limited), INDRP 1145/2019 (Richemont, Inc. v Doublefist Limited), INDRP 1067/2019 (Fiskars Corporation v Lina/Doublefist Limited), INDRP 1008/2018 (Solvay (Societe Anonyme) Vs. Lina, Doublefist Limited), INDRP 936/2018 (Goldman Sachs, LLP v Lina/Doublefist Limited), UDRP Case No. D2020-1185, to name a few, and it is clear that there is a repetitive pattern of cyber-squatting on the part of the Respondent/registrant. The Respondent appears to have used the services of the same domain name registrar and this Panel is of the view that it is in the power of the domain name registrar to take note of this cyber-squatting pattern, based on the findings of panelists in INDRP and UDRP decisions, and take adequate measures to avoid enablement of cyber-squatting by the Respondent through its services.

In this background, the Panel cannot find any factor that comes to the assistance of the Respondent and the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith.

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**Decision:**

In the facts and circumstances, and for the reasons discussed above, the Panel finds that the Complainant has satisfied all three elements required under Paragraph 4 of the Policy to obtain the remedy of transfer of the Disputed Domain Name. Accordingly, the Panel directs that the Disputed Domain Name <ROCKSTARGAMES.IN> be transferred to the Complainant.

The Panel deems this a fit case to order the Respondent to compensate the Complainant its official filing costs of Rs. 30,000.

Signed:



(Binny Kalra)

Arbitrator

Date: 22 November 2021