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Purchased by	: JASKARAN SINGH
Description of Document	: Article 12 Award
Property Description	: ARBITRAL AWARD PASSED BY SRIDHARAN RAJAN RAMKUMAR
Consideration Price (Rs.)	: 101 (One Hundred And One only)
First Party	: SRIDHARAN RAJAN RAMKUMAR
Second Party	: SRIDHARAN RAJAN RAMKUMAR
Stamp Duty Paid By	: SRIDHARAN RAJAN RAMKUMAR
Stamp Duty Amount(Rs.)	: 101 (One Hundred And One only)

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BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN
NAME DISPUTE RESOLUTION POLICY
INDRP ARBITRATION
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

INDRP CASE NO. 1464

IN THE MATTER OF:

Viacom International Inc.
1515 Broadway
New York, New York 10036,
United States of America
Email: domains@algindia.com

...Complainant

VERSUS

Milen Radumilo
17 Strada C.A. Rosetti, Bucharest,
Romania
Phone: +1.8666375139
Email: milen.radumilo@gmail.com


...Respondent

AWARD

I. THE PARTIES:

1. COMPLAINANT

The Complainant in these proceedings is Viacom International Inc. ("Viacom"), a Delaware corporation, with its principal place of in New York at the address 1515 Broadway, New York 10036-5794, which has filed the present complaint under rules framed under INDRP. A copy of the .IN Domain Name Dispute Resolution Policy was annexed and marked as Annexure 1 (Colly).



2. RESPONDENT

The Respondent in this proceeding is a person named Milen Radumilo of the address 17 Strada C.A. Rosetti, Bucharest, Romania. The Respondent is current Registrant of the disputed domain name <nickelodeon.in>. The Complainant had filed the original complaint dated 01/11/2021 without either the name or address or contact number of the Registrant since no information as to the name, address or number was available about the same on the WhoIs database. The Complainant obtained the details of the Registrant vide the NIXI Notification dated 17/11/2021, following which the amended complaint was filed on 23/11/2021 incorporating the newly disclosed aforementioned details of the Registrant. A copy of the printout of the WhoIs database search conducted on October 19, 2021 was attached and marked as **Annexure 3**.

II. THE DOMAIN NAME AND THE REGISTRAR

The disputed domain name: www.nikcelodeon.in

The domain name is registered with IN REGISTRY.

III. PROCEDURAL HISTORY

DATE	PARTICULARS
01/11/2021	Date of filing of Complaint
17/11/2021	NIXI forwarded details of the Registrant to the Complainant
22/11/2021	Registrar changed the status of the domain name to 'Redemption'
23/11/2021	Complainant submitted amended Complaint after incorporating Registrant's particulars
26/11/2021	Communication from NIXI that Disputed Domain Name has been deleted by the Registrar and that Registry locks cannot be placed on the domain

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03/12/2021	Appointment of Sole Arbitrator to adjudicate the dispute
03/12/2021	Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per Paragraph 4 (c) of INDRP Rules of Procedure, marking copy of the same to Complainant's authorized representative and to the .IN REGISTRY to file response within 15 days of receipt of same.

The Respondent did not file its reply to contest the claims of the Complainant and thus this award is based on pleadings and documents filed by the Complainant only.

IV. FACTUAL AND LEGAL BACKGROUND:

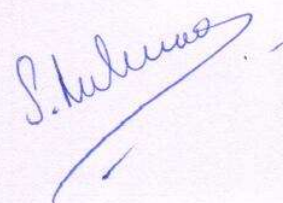
THE COMPLAINANT

1. The Complainant's authorised representative in this proceeding is ALG India Law Offices LLP. Copy of the notarized Power of Attorney executed by the Complainant in favour of ALG India Law Offices LLP was attached and marked as Annexure 2.
2. It was submitted that the Complainant Viacom International Inc., which is a subsidiary of ViacomCBS Inc., is a leading, global, premium content company and is home to premier global media brands that create compelling television programs, motion pictures, short-form content, applications (apps), games, consumer products, social media experiences and other entertainment content for audiences across traditional and emerging platforms in over 180 countries worldwide. It was submitted that the Complainant is driven by iconic consumer brands, ViacomCBS Inc.'s portfolio includes CBS, Showtime, Paramount Pictures, *Nickelodeon*, MTV, Comedy Central, BET, Smithsonian Channel,

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Paramount+ (formerly known as CBS All Access) and Pluto TV, among others.

3. It was submitted that the Complainant's *Nickelodeon* group, which provides high-quality entertainment and educational programs, websites and online services targeted towards children between 2-17 years of age and their families was launched worldwide in 1979. It was submitted that *Nickelodeon*, now in its 41st year, is a diverse, global business and a recognized leader in kids and family entertainment. It was submitted that *Nickelodeon* has been the number-one-rated advertising-supported basic cable network for over 25 consecutive years, featuring leading original and licensed series for kids across animation, live action and preschool formats. *Nickelodeon* produces and distributes television programming across several countries worldwide, has a global consumer products licensing business and licenses its brands for recreation experiences such as hotels, theme parks and live entertainment. It was submitted that *Nickelodeon* is viewed in more than 202.3 million households in 170 territories across the world including countries in Asia, Africa and the Pacific Rim, Latin America, Europe, CIS/Baltic Republics and the United States of America, making it the most widely distributed television channel in the world. It was further submitted in September 2019, *Nickelodeon*'s channel portfolio reached approximately 1.1 billion cumulative television subscribers in 179 countries worldwide. Copy of relevant webpage was attached and marked as Annexure 6 (colly).
4. It was submitted that the popularity, appeal and international repute of the Complainant's *Nickelodeon* group is evident from the considerable list of awards and accomplishments gathered by it over the years. For instance:
 - a. *Nickelodeon* ranked No. 1 in kids' network for the year and as basic cable's top entertainment network for 2016.



- b. *Nickelodeon* logged an average audience of 1.231M making it the No. 2 ranked cable TV network in total viewers for total day for 2015.
- c. *Nickelodeon* ranked No. 1 among all basic cable networks in total day for the 15th straight year among total viewers and all kid demos, according to Nielsen Media Research in 2009.
- d. *Nickelodeon* won the most nominations for animated shows at the 55th Annual Primetime Emmy Awards, 2003.
- e. *Nickelodeon* was recognized for its overall excellence, as early as in 1982, when it received the Peabody Award. At such time, *Nickelodeon* emerged as one of the most outstanding cable programming channels with sixteen different program series, all designed for young people ranging from age 2 to 15, plus innumerable features and short films.

Relevant webpages were attached and marked as **Annexure 7 (colly)**.

- 5. It was submitted that *Nickelodeon*, also referred to as Nick was launched internationally in 1979. It was submitted that the Complainant has used the NICKELODEON Mark in India since as early as the year 1992, and that *Nickelodeon* India is a 24-hour pay channel in Hindi, with the option of English, Tamil and Telugu audio feed on DTH (Direct to Home) and is available in over 100 million households in the country. It was submitted that apart from featuring animated as well as live action entertainment and educational content on TV, the Complainant's NICKELODEON Mark also features on its websites, in relation to its goods/services and advertising thereof. Copies of relevant webpages were attached and marked as **Annexure 8 (colly)**.
- 6. The Complainant also provided a table of select trademark registrations for the NICKELODEON marks in select jurisdictions including India

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which is as follows:

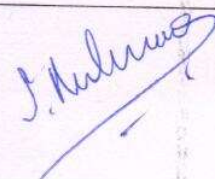
Mark	Registration No.	Date of Filing	Class(es)	Goods & Services
INDIA				
NICKELODEON	677989	August 25, 1995	9	apparatus for recording, transmitting & reproducing sound &/or images; motion picture films & videotapes, videodisks & recorded magnetic tapes with sounds and /or images, sound recording phonograph recording, phonograph records and discs.
NICKELODEON	677988	August 25, 1995	16	printed matter, periodical publications, books and newspapers, paper and cardboard articles, artists materials, writing instruments, pencils, pens paintbrushes, stationery, writing pads, greeting cards, transfers (delcalcomanias), photographs, figurines(statuettes) of paiper mache, ordinary playing cards, instructional and teaching materials, office machines and typewriters.
NICKELODEON	677987	August 25, 1995	25	clothing footwear and headgear.
NICKELODEON	1402049	November 28, 2005	41	entertainment services in the nature of on-going television programs featuring animation; providing information in the field of entertainment by means of a global computer network included in class 41.
NICKELODEON	1402030	November 28, 2005	24	bed linen, bed blankets, bath linen, household linen, table linen; table cloths not of paper; beach towels; shower curtains; textile wall hangings and cloth banners included in class 24.
NICKELODEON	1402023	November 28, 2005	18	umbrellas, luggage tags, tote bags, backpacks, fanny packs, messenger bags, handbags, wallets

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				and purses, athletic bags, garment bags for travel, knapsacks, change purses, duffle bags, beach bags included in class 18.
nickelodeon	1955262	April 23, 2010	38	television broadcasting services via cable, satellite and other means; cable radio broadcasting, cable radio transmission; mobile radio communication; radiobroadcasting; radio communication; wireless mobile phone telecommunication services and all types of mobile phone services; downloadable ring tones, music, mp3's, graphics, video images for wireless mobile communication devices, wireless transmission of uploading and downloading ringtones, voice, music, mp3's, graphics, video images, information, and news via a global computer network to a wireless mobile communication device; sending and receiving voice and text messages between wireless mobile communication devices; internet services which should be understood to include communication services, namely transmitting streamed sound and audio-visual recordings via the internet.
nickelodeon	1955263	April 23, 2010	41	entertainment services in the nature of an amusement park ride and attraction, entertainment, sporting and cultural services, including production of radio and television programs; production of films and live entertainment features; production of animated motion pictures and television features; cinema and television studios services; motion picture entertainment, television entertainment services, including live performances and shows, the publication of books, magazines and periodicals;

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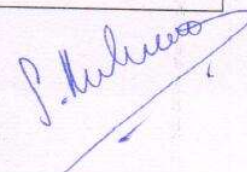
				<p>providing information on the applicant's entertainment services to multiple users via the world wide web or the internet or other on-line databases; production of dance shows, music shows and video award shows; comedy shows, game shows and sport events before live audiences which are broadcast live or taped for later broadcast; live musical concerts; tv news shows; organizing talent contests and music and television award events; organizing and presenting displays of entertainment relating to style and fashion; providing information in the field of entertainment by means of a global computer network.</p>
NICKELODEON	1236726	September 15, 2003	38, 41	<p>38: all types of broadcasting services rendered through the media of radio, television, cable television, global communications network and satellite delivered systems in the high definition format.</p> <p>41: all types of educational, teaching and training, entertainment, sporting and cultural services, such as, production of radio and television programs, production of films and live entertainment features, production of animated motion pictures and television features, services relating to cinema and television studios, services relating to motion picture entertainment, television entertainment and to live entertainment performances, and shows, services relating to the publication of books, magazines and periodicals, providing information on the applicants television programming services</p>



				to multiple users via the world wide web or the internet or other on-line databases, including on-line voting system.
UNITED STATES OF AMERICA				
NICKELODEON	1356737	July 6, 1982	25	children's clothing-namely, [dresses, jumpers;] multiple sets namely, skirts and tops sold as a unit and pants and tops sold as a unit; and tops, pants, and skirts
NICKELODEON	1217864	November 28, 1979	41	television entertainment services
NICKELODEON	3288589	January 21, 2004	9, 38	09: downloadable ring tones, music, graphics, and video images via wireless mobile communication devices 38: wireless mobile phone telecommunication services and all types of mobile phone services; providing wireless transmission of uploading and downloading ring tones, voice, music, graphics, video images, information, and news via a global computer network to a wireless mobile communication device; sending and receiving voice and text messages between wireless mobile communication devices
NICKELODEON	1907159	April 6, 1994	9, 14, 16, 24, 25, 28	09: prescription eyeglasses, non-prescription eyeglasses, sunglasses, musical sound recordings, video recordings featuring motion picture entertainment, namely comedy, drama, action, suspense, and horror 14: watches 16: stationery, notecards, note paper, greeting cards, pencils, erasers, diaries, notebooks, trading cards, and calendars 24: towels, sheets, pillow cases, and quilts

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				<p>25: footwear, hats, scarves, shirts, pants, shorts, jackets, socks, ties, infant rompers, underwear and sleepwear</p> <p>28: multiple activity toys; jigsaw puzzles; playground, rubber action, and hand balls; activity toys, namely a gel compound; video game cartridges and cassettes; plush dolls and figures; action dolls and figures; board games</p>
NICKELODEON	2028590	November 17, 1995	42	providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information
NICKELODEON	2222947	April 13, 1998	38	television broadcasting services via cable, satellite and other means
<u>EUROPEAN UNION</u>				
NICKELODEON	005889845	May 10, 2007	43	<p>services for providing food and drink; temporary accommodation; restaurant, catering, bar and cocktail lounge services; resort lodging services; provision of general purpose facilities for meetings, conferences and exhibitions; provision of banquet and social function facilities for special occasions; reservation services for hotel accommodations for others.</p>
<u>SINGAPORE</u>				
NICKELODEON	T0711520G	May 24, 2007	43	<p>restaurant, catering, bar and cocktail lounge services; provision of lodgings; resort hotel services; providing facilities [accommodation] for meetings, conferences and exhibitions; providing facilities [accommodation] for</p>



				banquets and social functions; and reservation services for hotel accommodations for others.
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Copies of the Registration Certificates/status pages of the aforementioned trademark registrations were attached and marked as **Annexure 5 (colly)**.

7. It was submitted that the Complainant not only owns domain names incorporating the trademark NICKELODEON such as <nickelodeon.com>, but the NICKELODEON Mark has been identified as associated solely with the Complainant in domain name proceedings as well. It was submitted that in Viacom International Inc. v. Bladimir Boyiko Case No. D2008-0867, it was observed "*The Complainant has established that it has extensive rights in the trademark NICKELODEON dating from 1979 and also in the derivative trademark NICK dating from 1983*". A copy of the decision was attached and marked as **Annexure 9**.
8. It was submitted that the Complainant has invested substantial sums of money in developing and marketing its goods and services under the NICKELODEON Mark. It was submitted that the NICKELODEON Mark has been and continues to be widely publicized through substantial advertising throughout the world, including in India. The Complainant submitted that it also promotes and advertises its NICKELODEON Mark and the goods and services thereunder through numerous social media sites/platforms, including India specific pages such as Facebook (over 26 million likes), Instagram (over 6.3 million followers), Twitter (over 3.9 million followers), YouTube (over 9.59 million subscribers and over 5 billion views), etc. Copies of relevant webpages were attached and marked as **Annexure 10 (colly)**.
9. It was submitted that the NICKELODEON Mark is exclusively associated with the Complainant. It was submitted a search on third-party online search engines (such as Google, Yahoo! and Bing) for NICKELODEON would immediately reveal a direct and exclusive connection of the marks with the Complainant.

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Representative prints of the search results for the Complainant's mark generated on Google, Yahoo! and Bing were attached and marked as **Annexure 11**.

10. It was submitted that owing to consistent, long and extensive use, marketing, advertisement, promotion, and sales internationally, including in India, Complainant's NICKELODEON Mark has acquired a significant degree of fame, reputation and well-known status across the globe. It was submitted that the mark has attained widespread awareness in relevant trade circles, and have been featured in various reputed print media etc. It was further submitted that the outstanding reputation, goodwill and brand value associated with the NICKELODEON Mark is of inestimable value to the Complainant.

V. PARTIES CONTENTIONS:

A. COMPLAINANT

- (a) The Domain Name is identical or confusingly similar to a Trademark of the Complainant;
- (b) Respondent had no legitimate interest in the domain name;
- (c) Respondent had registered the domain name in bad faith.

B. RESPONDENT

The Respondent did not file its reply to contest the claims of the Complainant and thus this award is based on pleadings and documents filed by the Complainant only.

VI. DISCUSSION AND FINDINGS:

I hold that the Respondent's domain name is identical to the trademark/ trade name in which the Complainant has absolute and sole rights.



A. The domain name <nickelodeon.in> is identical to the trademark NICKELODEON in which the Complainant has rights

I find that the Complainant's prior, exclusive and existing rights in the NICKELODEON marks have been established. I find that the Complainant owns the rights in the NICKELODEON marks since at least 1979 internationally and 1992 in India. I find that the NICKELODEON Mark is sufficiently distinctive, unique, famous and registered. Therefore, in view of Paragraph 4(a) of the INDRP Policy and Paragraph 4(b)(vi)(1) of the INDRP Rules of Procedure, I hold that the disputed domain name <nickelodeon.in> is identical to the Complainant's trademark NICKELODEON which has been incorporated fully, as is, in the disputed domain name with the ccTLD '.in'. I hold that the ccTLD element of a domain name has no distinguishing capability and should be disregarded while considering whether a domain name is identical or confusingly similar to a trademark. I hold that it is a well-established principle that the ccTLD suffix in a domain name (".in") should be disregarded for the purpose of comparison and similarity since it is a technical requirement of registration of domain names. Hence, I hold that, disregarding the ccTLD ".in", the disputed domain name <nickelodeon.in> is identical to the Complainant's mark NICKELODEON.

B. The Respondent has no rights or legitimate interests in respect of the domain name <nickelodeon.in>

In view of Paragraph 4(b) of the INDRP Policy and Paragraph 4(b)(vi)(2) of the INDRP Rules, I hold that the Respondent has no rights or legitimate interest in either the trademark NICKELODEON or in the disputed domain name <nickelodeon.in>. I find that the Complainant has never authorized or licensed the Respondent to use the NICKELODEON Mark in any way or for any purpose. I find that the Respondent does not have any association or affiliation with the Complainant and neither the Complainant has any past dealing with the Respondent. I find that the Respondent is not commonly known by the disputed domain name and, to my knowledge, has not acquired any trademark rights in the NICKELODEON Mark. Therefore, I hold that the Respondent therefore has no reason to adopt or register the domain name <nickelodeon.in>.

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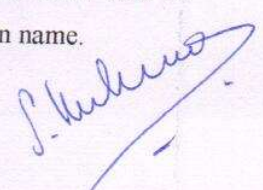
I find that the Complainant's NICKELODEON Mark has garnered immense reputation and goodwill owing to its long and continuing use, and has consequently, become well-known much before the registration of the disputed domain name by the Respondent. Therefore, I hold that it is unlikely that the Registrant did not know about the Complainant's rights in its NICKELODEON Mark. I find that the registration of a domain name based on awareness of a complainant's trademark rights is recognized as bad faith registration.

I further find that the disputed domain name has been made available for sale by the Respondent at the website hosted at the disputed domain, with the message "Click here to buy this domain." I hold that this further establishes that the Respondent does not have any rights or legitimate interest in the domain name, and it intends to make unjust commercial profits.

I find that the Respondent appears to be using the domain name <nickelodeon.in> for fraudulent purposes, namely, to imitate the Complainant and deceive job seekers into purchasing/subscribing services that are in fact never provided to job seekers and accordingly the Respondent's acts do not constitute a *bona fide* offering of goods or services. I hold that the Respondent does not have any legitimate rights and interest in the disputed domain name and has evidently registered the same with the *malafide* intent of making illegitimate and illegal commercial gains. I further find that the webpage hosted at the domain name <nickelodeon.in> appears to carry listings/advertisements.

I find that it is evident from Registrant's WhoIs particulars that the actual registrant is an illegal, non-existing, fake and fictitious entity. I find that the disputed domain name is a mere cloak or device to perpetrate fraud. I hold that giving false information about its identity by a Registrant shows absence of legitimate rights (apart from lack of good faith). I find that a non-existent Registrant can never have any rights, still less any legitimate rights, in anything including the registered domain name. I find that whoever registers a domain name in the name of a fake name/identity bears the risk of a finding of absence of legitimate rights under INDRP.

I hold that the Respondent's acts do not constitute a *bona fide* offering of goods or services. I hold that the Complainant has established a prime facie case of Respondent's lack of legitimate rights and interests in the domain name.



C. The domain name <nickelodeon.in> was registered and/or is being used in bad faith.

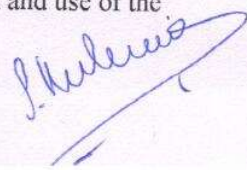
I hold that as per Paragraph 4(c) of INDRP Policy and paragraph 4(b)(vi)(3) of INDRP Rules, the Registrant's bad faith is implicit in the registration and the current use of the disputed domain name as the is evident from the following:

- (i) Fake / masked / fictitious particulars in WhoIs records: I find that the respondent's particulars, including name and address provided in the WhoIs records appear to be fake, masked, and fictitious.
- (ii) Lack of bona fide offerings or business on the website: I also find that there is also no instance where the Respondent has made (or has made preparations for) a *bona fide* offering of goods/services under the mark/name NICKELODEON or through hosting at the disputed domain name <nickelodeon.in>.

I find that the Complainant's NICKELODEON Mark has garnered immense reputation and goodwill owing to its long and continuing use, and has consequently, become well-known much before the registration of the disputed domain name by the Respondent. I find that it is highly unlikely that the Registrant did not know about the Complainant's rights in its NICKELODEON Mark. I hold that registration of a domain name based on awareness of a complainant's trademark rights is recognized as bad faith registration.

I hold that in view of (i) Complainant's registered and common law rights in NICKELODEON Mark, (ii) use of the marks by Complainant for many years prior to Respondent's registration of the domain name, (iii) Complainant's prior use of the marks on the Internet and in other domain name(s), and (iv) tremendous fame, goodwill, and reputation associated with the marks, it is impossible to conceive of any circumstance in which Respondent could have registered the domain name in good faith or without knowledge of Complainant's rights in the NICKELODEON Mark.

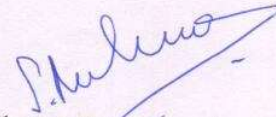
I hold that in light of the above, it is apparent that the registration and use of the



domain name <nickelodeon.in> by the Respondent is not *bona fide* and the Respondent has *prima facie* registered and is using the disputed domain name in bad faith.

VII. DECISION:

- a) In view of the above facts and circumstances, it is clear that the Complainant has succeeded in its complaint.
- b) That the .IN Registry of NIXI is hereby directed to transfer the domain name/URL of the Respondent "**www.nickelodeon.in**" to the Complainant;
- c) In the facts and circumstances of the case no cost or penalty is imposed upon the Respondent. The Award is accordingly passed on this 24th day of December, 2021.



Sridharan Rajan Ramkumar
Sole Arbitrator

Date: 24/12/2021