

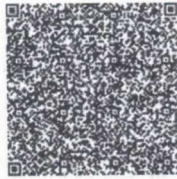


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BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN
NAME DISPUTE RESOLUTION POLICY
INDRP ARBITRATION

THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

INDRP CASE NO. 1486

ARBITRATIONAL TRIBUNAL CONSISTING OF SOLE ARBITRATOR

MR. SRIDHARAN RAJAN RAMKUMAR,
ADVOCATE, DELHI HIGH COURT

IN THE MATTER OF:

Debevoise & Plimpton LLP
919 Third Avenue
New York, NY 10004
United States

.....Complainant

vs.

DingDing
Dingcorp
A3, JiaZhao Ye,
JiangBei, Huicheng District,
HuiZhou, Guangdong,
China

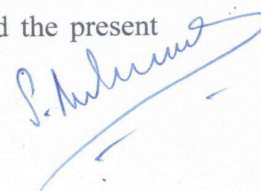
.....Respondent

AWARD

I. THE PARTIES:

1. COMPLAINANT

The Complainant in these proceedings is Debevoise & Plimpton LLP, a limited liability partnership registered in the State of New York, with its principal place of business at 919 Third Avenue, New York, NY 10022, which has filed the present



complaint under rules framed under INDRP.

The Complainant's authorized representatives / counsels in these administrative proceeding are:

Ms. Shwetasree Majumder & Ms. Astha Negi

Fidus Law Chambers,

F-12, Ground Floor,

Sector 8, Noida-201301

Tel.: 91-120-4847550

Email: trademarks@fiduslawchambers.com

2. RESPONDENT

The Respondent in this proceeding is an entity viz. DingDing, Dingcorp, of the address A3, JiaZhaoYe, JiangBei, Huicheng District, GuangDong, China. A copy of the WHOIS record in respect of the domain name in question was attached with the complaint and marked as **Annex A**.

II. THE DOMAIN NAME AND REGISTRAR:

The Disputed Domain Name is www.debevoise.in.

The Domain Name is registered with IN REGISTRY.

The Domain Name is registered with the Registrar Dynadot LLC.

The Registrar's contact information is as under:

Dynadot LLC

210 S Ellsworth Ave

#345 San Mateo, CA 94401

United States

Phone: +1.866-262-3399

Email: abuse@dynadot.com

III. PROCEDURAL HISTORY:

DATE	PARTICULARS
18 th December, 2021	Date of Complaint

6 th January, 2022	Sole Arbitrator was appointed to adjudicate the dispute
10 th January, 2022	Arbitral proceedings were commenced by sending notice as per Paragraph 4 (c) of INDRP Rules of Procedure
12 th January, 2022	Amended complaint submitted by Complainant through email with physical copies of the same along with annexures also served on the Respondent's address via courier but Respondent failed and neglected to file its response within the 15 days' time period which expired on 27 th January, 2022.

Hence this award is proceeded with on basis of the available pleadings and documents only.

IV. FACTUAL AND LEGAL GROUNDS:

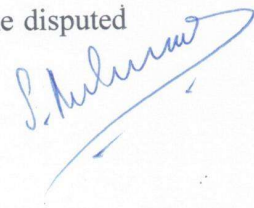
The Complainant based its Complaint on the following grounds:

A. The domain name is identical or confusingly similar to a trademark or service in which the Complainant has rights.

1. It was submitted that the Complainant Debevoise & Plimpton LLP is a limited liability partnership registered in the State of New York with their principal place of business at 919 Third Avenue, New York, NY 10022. It was submitted that the Complainant is a leading international law firm with offices across the

world that handles a wide breadth of legal services ranging from, but not limited to, international dispute resolution to intellectual property litigation to corporate mergers and acquisitions. It was submitted that the Complainant is an internationally renowned law firm and that it is the only law firm to appear on the American Lawyer A-list every year since that list's inception. Further, it was also submitted that the Complainant and its lawyers are regularly mentioned in public decisions by prominent courts and other tribunals. It was submitted that the Complainant is also often featured in leading publications such as The New York Times and The Wall Street Journal. It was submitted that the Complainant has, since at least the early 1990s, advised clients in India on a range of India-related activities, including advise on M&A, joint ventures, private equity/fund formation, direct investment, compliance matters, commercial disputes and capital markets. It was submitted that throughout its history advising in India, the Complainant has also developed close ties with a network of Indian firms, as well as senior figures within the Indian legal community. It was submitted that the Complainant is the owner of the domain <www.debevoise.in> where it posts many of these accolades and awards. The relevant extracts from the Complainant's website and third-party articles were attached with the Complaint and marked as **Annex 3**.

2. It was submitted that the Complainant is the owner of registered trademarks for legal services in India, including DEBEVOISE® (IN Reg. No. 4424192; Reg. Date September 26, 2020) and DEBEVOISE & PLIMPTON® (IN Reg. No. 4424191; Reg. Date October 14, 2020). The DEBEVOISE® and DEBEVOISE & PLIMPTON® trademarks of the Complainant are also registered in many other countries throughout the world, including, but not limited to, the United States, United Kingdom, the European Union (EU), China, Japan, South Korea, Turkey, and the Russian Federation. Copies of the registration certificates for the United States, EU and Indian marks were attached with the Complaint and marked as **Annex 4**.
3. It was submitted that the disputed domain name is confusingly similar to the DEBEVOISE® mark because it expropriates the entirety of the registered mark and contains no other distinguishing factors. It was submitted that the disputed



4. It was submitted that the website hosted at the disputed domain name also features the DEBEVOISE® mark at the top of the page and displays pay-per-click advertising for competitive legal services. It was submitted that this clearly indicates that Respondent seeks to trade off the Complainant's reputation and goodwill in the legal services industry. A copy of the Respondent's website at the disputed domain name was attached with the Complaint and marked as **Annex 5**.
5. It was submitted that the confusingly similarity between the disputed domain and the DEBEVOISE® mark was further evidenced by the Registrant's repeated attempts to sell the domain to the Complainant. Reliance was placed on **Annex 6** by the Complainant wherein, it was submitted, that the Registrant itself recognized that the disputed domain is "[t]he domain of your brand is [sic] for the Indian market" when the Respondent sought to sell the domain name to the Complainant.
6. The Complainant in its submissions relied upon the INDRP cases viz. *Nike Inc. v. Nike Innovative CV Zhaxia* (Case No. INDRP/804); *Metropolitan Trading Company v. Chandan Chandan* (Case No. INDRP/811); *Lego Juris A/s v. Robert Martin* (Case No. INDRP/125), where it was held that if a Disputed domain name completely incorporates the trademark / service mark of the Complainant, then the mere addition of domain codes such as ".in" and/or ".co.in" will not distinguish the Respondent's Disputed domain name.

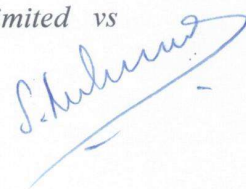
B. The Respondent has no rights or legitimate interests in respect of the domain name

1. It was submitted that the Complainant has never consented to Respondent's use of its trademarks in connection with any domain name. It was submitted that there is no affiliation or connection between the Complainant and Respondent.
2. It was submitted that as per the Complainant's information and belief, the

belief, the

Respondent has no legitimate rights or interest in the disputed domain name. It was submitted that the Respondent does not appear to be operating a legitimate business or use the domain in connection with a bona fide offering of goods and services. The Complainant submitted that on the contrary, upon information and belief, Respondent is operating a website at the domain that only contains pay-per-click advertising for competitive legal services.

3. It was further submitted that the Respondent is not commonly known by the domain name and the website hosted at the disputed domain contains no information that would suggest the Respondent has commonly used the domain name.
4. It was submitted that as per the Complainant's information and belief, Respondent began using the disputed domain name with knowledge of the Complainant's trademarks and with the intent to profit off the mark by misleading consumers and by selling the domain to the Complainant for profit. It was submitted that the mark DEBEVOISE® was first used in commerce in the United States in 1931. It was submitted that the distinctive DEBEVOISE® mark was registered in India on September 26, 2020. Copies of registration certificates for the US, EU and Indian trademarks of the Complainant were filed with the Complaint and marked as **Annex 4**. It was also submitted that the Respondent used the entire DEBEVOISE® mark in the disputed domain name and on its website where it hosts pay-per-click advertisements for services in the same industry that Debevoise operates in. It was submitted that the Respondent has also reached out to the Complainant's employees on multiple occasions and offered to sell "the domain of [Debevoise's] brand" to Debevoise. The document showing the Respondent's attempt to sell the disputed domain name to the Complainant was attached with the Complaint and marked as **Annex 6**. It was submitted the Respondent clearly has knowledge of Debevoise's mark. It was submitted that the Respondent's offer to sell the domain and recognition of the disputed domains similarity to Debevoise's mark illustrates the lack of a legitimate use and interest in the disputed domain.
5. The Complainant relied on the case of *Virgin Enterprises Limited vs*



LINYANXIAO aka lin yanxiao (Case No. D2016-2032), wherein the UDRP Panel observed that *“The consensus view of previous UDRP panels is that use of a domain name to post parking and landing pages or pay-per-click links may be permissible in some circumstances but would not of itself confer rights or legitimate interests arising from a “bona fide offering of goods or services” or from “legitimate noncommercial or fair use” of the domain name. This is especially so where such links result in a connection to goods or services competitive with those of the Complainant – and all the more so if leading to a “scam contest” page. Such use of the disputed domain name is neither legitimate nor fair”*.

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

1. It was submitted that the INDRP Policy at Paragraph 7(a) states that the registration and use of a domain in bad faith can be shown by “circumstances indicating the Registrant has registered or acquired the domain name primarily for the purpose of selling . . . or otherwise transferring the domain name registration to the Complainant” or “by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant’s website . . . by creating a likelihood of confusion with the Complainant’s name or mark as the source of sponsorship, affiliation, or endorsement of Respondent’s website.”
2. It was submitted that the Respondent’s repeated attempts to sell the domain name to Complainant are straightforward and incontrovertible evidence of its bad faith under the terms of the Policy. Reliance was again placed by the Complainant on the document showing the Respondent’s attempt to sell the disputed domain name to the Complainant was attached with the Complaint and marked as **Annex 6**. It was again submitted that within a month of registering the disputed domain, the Respondent reached out to the Complainant’s employees and offered to sell the disputed domain, which it stated was “the domain of [Debevoise’s] brand.” It was submitted that this showed that the Respondent registered the disputed domain because of its similarity to the Complainant’s mark and attempted to profit off that similarity by selling the disputed domain to the Complainant.

3. It was submitted that the Respondent registered and is using the disputed domain name in bad faith by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, and endorsement of Respondent's site. It was submitted that upon information and belief, the disputed domain name displays Debevoise's mark and is being used to host pay-per-click advertising for competitive legal services that are not affiliated with the Complainant. Further, it was again submitted that the respondent's intent to create a likelihood of confusion is evidenced by their offer to sell the disputed domain to Debevoise because the disputed domain "is the domain of [Debevoise's] brand" in the Indian market.
4. The Complainant sought to rely on the Complainant's own WIPO Case No. D2007-1679 (*Debevoise & Plimpton LLP vs Keyword Marketing, Inc. / Web Advertising, Corp*) wherein the Panel observed "*In registering and using the domain names in dispute, Respondent has intentionally attempted to attract for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of Respondent's websites*".

V. PARTIES CONTENTIONS:

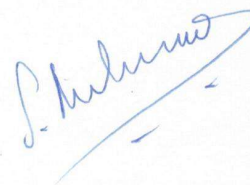
A. COMPLAINANT

- (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:




The INDRP (.IN Domain Name Dispute Resolution Policy), adopted by NIXI, provides that a domain name owner must transfer its domain name registration to a complainant/trademark owner if:

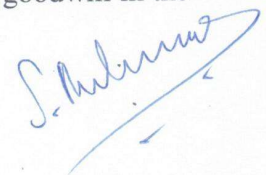
- i. The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant have rights;
- ii. The Registrant has no rights or legitimate interests in respect of the domain name; and
- iii. The Registrant's domain name has been registered or is being used in bad faith.

I have gone through the pleadings i.e., the Complaint filed by Complainant. I have also gone through the document filed by the Complainant with its Complaint. I have also gone through the case laws cited by the Complainant with the Complaint. After giving due consideration to pleadings, documents, fact and legally settled principles, I hold that in the present case all three requirements for transfer of the disputed domain name have been met. I further hold that the disputed domain name of the Respondent is visually, phonetically, structurally and conceptually deceptively similar to the trademark and domain name of the Complainant over which the Complainant, who is the registered proprietor of trademarks DEBEVOISE and DEBEVOISE & PLIMPTON and the owner of the domain name <www.debevoise.com>, has absolute and sole rights. I hold that that the mark DEBEVOISE is exclusively and solely associated and recognized with Debevoise & Plimpton LLP, the Complainant. I hold that due to such exclusive association of the DEBEVOISE / DEBEVOISE & PLIMPTON marks with the Complainant, and also considering the registered domain name <www.debevoise.com> of the Complainant, the Complainant alone has the right to utilize the mark DEBEVOISE and DEBEVOISE & PLIMPTON LLP as a domain name registered with .IN Registry. I hold that the Respondent is not entitled to register the disputed domain name as he has no right over the DEBEVOISE trademark in India and the same is associated only with the Complainant.

A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.



- a. I find that the ownership of the Complainant over the DEBEVOISE and DEBEVOISE & PLIMPTON LLP trademarks is firmly established. I find that the Complainant, which is a leading international law firm of international renown with offices around the world handling a wide breadth of legal services, is the owner of the registered trademarks for legal services in India including the mark DEBEVOISE under registration no. 4424192 and the mark DEBEVOISE & PLIMPTON under registration no. 4424191. I find that the Complainant also holds registration for its DEBEVOISE and DEBEVOISE & PLIMPTON trademarks in many other countries throughout the world, including but not limited to US, EU, UK, China, Japan, South Korea, Turkey and the Russian Federation. I also find that the Complainant is the owner of the domain name <www.debevoise.com> which was registered on 12-06-1996. Therefore, I find that sufficient grounds are made out to hold that the disputed domain name <www.debevoise.in> of the Respondent is identical or confusingly similar to the Complainant's trademarks DEBEVOISE and DEBEVOISE & PLIMPTON in which the Complainant has international prior rights and trans-border reputation in India, and the prior and registered domain name <www.debevoise.com>. Hence, I hold that the requirements of Paragraph 4(a) of the INDR Policy as well as Paragraphs 4(b)(v-vi) of the INDRP Rules are satisfied.
- b. I hold that the disputed domain name is confusingly similar to the DEBEVOISE marks of the Complainant as it expropriates the entirety of the Complainant's registered marks and contains no other distinguishing factors. I find that the disputed domain name hosts pay-per-click advertising for services in the same industry that Debevoise operates in.
- c. I also find that the website hosted at the disputed domain name also features the DEBEVOISE® mark at the top of the page and displays pay-per-click advertising for competitive legal services. I find that this clearly indicates that Respondent seeks to trade off Debevoise's reputation and goodwill in the legal services industry.

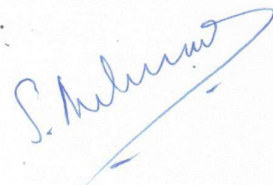


- d. I find that the confusingly similarity between the disputed domain and the DEBEVOISE® mark of the Complainant is further evidenced by the Registrant's repeated attempts to sell the domain to the Complainant. I hold that the Registrant itself recognized that the disputed domain is "[t]he domain of your brand is [sic] for the Indian market" when it sought to sell the domain name to the Complainant vide the document marked as Annex 6 which was filed with the Complaint.
- e. Therefore, in view of the abovesaid findings, I hold that the requirements of Paragraph 4(a) of the INDR Policy as well as Paragraphs 4(b)(v-vi) of the INDRP Rules are suitably established.

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

I hold that the Complainant has successfully demonstrated by way of its Complaint that the Respondent has no right or legitimate interest in the disputed domain name <DEBEVOISE.IN> for the following reasons:

- a. I find that the Complainant has never consented to Respondent's use of its trademarks in connection with any domain name. I find that there is no affiliation or connection between the Complainant and Respondent.
- b. I find that the Respondent has no legitimate rights or interest in the domain name. I find that the Respondent does not appear to be operating a legitimate business or use the domain in connection with a bona fide offering of goods and services. I find that the Respondent is operating a website at the domain that only contains pay-per-click advertising for competitive legal services.
- c. I find that the Respondent is not commonly known by the domain name and the website hosted at the disputed domain contains no information that would suggest the Respondent has commonly used the domain name.



- d. I find that the Respondent began using the disputed domain name with knowledge of the Complainant's trademarks with the intent to profit off the mark by misleading consumers and by selling the disputed domain name to the Complainant for profit. I find that the mark DEBEVOISE® was first used in commerce in the United States in 1931. I find that the distinctive DEBEVOISE® mark of the Complainant was registered in India on September 26, 2020. I find that the Respondent has used the entire DEBEVOISE® mark in the disputed domain name and on its website where it hosts pay-per-click advertisements for services in the same industry that the Complainant operates in. I find that the Respondent has also reached out to the Complainant's employees on multiple occasions and offered to sell "the domain of [Debevoise's] brand" to the Complainant. I find that the Respondent clearly had knowledge of Complainant's mark. I find that the Respondent's offer to sell the domain and recognition of the disputed domains similarity to Debevoise's mark illustrates the lack of a legitimate use and interest in the disputed domain.
- e. Therefore, in view of the aforesaid findings, I hold that the Respondent has no rights and legitimate interests in in respect of the disputed domain name under the provisions of Paragraph 4(b) and Paragraph 6 of .IN Policy and Paragraph 4(b)(vi) of the .IN Rules.

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

I hold that the Respondent had registered the impugned domain name in bad faith as per Paragraph 7(c) of the INDRP for the following reasons:

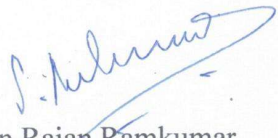
- a. I find that the Respondent's repeated attempts to sell the domain name to Complainant are a straightforward and incontrovertible evidence of its bad faith under the terms of the Policy. I find that within a month of registering the disputed domain, the Respondent reached out to the Complainant's employees and offered to sell the disputed domain which it stated was "the domain of [Debevoise's] brand." I hold that this is ample proof that the Respondent registered the disputed domain because of its similarity to the

Debevoise marks and that the Respondent attempted to profit off that similarity by selling the disputed domain to the Complainant.

- b. I find that the Respondent registered and is using the disputed domain name in bad faith by creating a likelihood of confusion with the Complainant's DEBEVOISE and DEBEVOISE & PLIMPTON marks as to the source, sponsorship, affiliation, and endorsement of Respondent's site. I hold that the disputed domain name displays the Complainant's DEBEVOISE mark and is being used to host pay-per-click advertising for competitive legal services that are not affiliated with the Complainant. I also find that the respondent's intent to create a likelihood of confusion is evidenced by their offer to sell the disputed domain to the Complainant because the disputed domain is admittedly "the domain of [Debevoise's] brand" in the Indian market.
- c. For aforesaid reasons, I hold that the facts and evidence overwhelmingly support the conclusion that the Respondent has registered the disputed domain name in bad faith and the requirements of Paragraphs 4(c) and 7 of the .IN Policy and Paragraph 4(b)(vi) of the .IN Rules are satisfied.

VII. DECISION:

- a) In view of the above facts and circumstances, it is clear that the Complainant had succeeded in its complaint.
- b) That the .IN Registry of NIXI is hereby directed to transfer the domain name/URL of the Respondent "**www.debevoise.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 2nd day of March, 2022.


 Sridharan Rajan Ramkumar
 Sole Arbitrator

Date: 02/03/2022