



महाराष्ट्र MAHARASHTRA

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AW 050970

अनु. क्र. ५५८ दि. ३१/१२/२०२० मु. शु. रकम. ५-०७७२५०८

दस्तावा प्रकार अर्थोव्ये लेटर

दस्त पोरणी तर आलेका ? हो/ नाही.

निष्ठावर्ति

कुं. वि. नं. २६४४/२०१९ शिरीष चिंतामण इसाकवा

पता २६४४/२०१९ अजोशकृपा कृपि. वसिंवार पेठ, पुणे ४

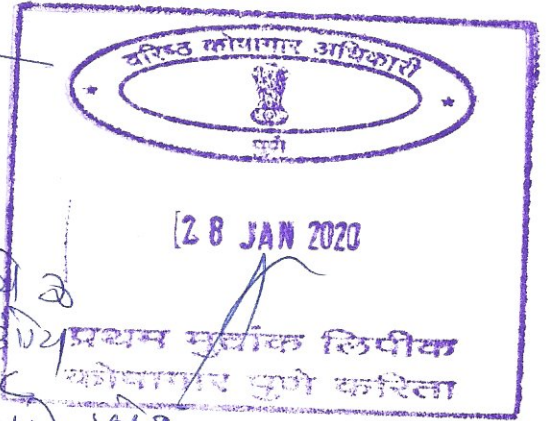
दस्तावा प्रकार जं. जॉ. वी. नं. ३०२२/२०१९ पुणे-३

हस्त लिखित दस्त अर्थोव्ये ५०७७२५०८ अर्थोव्ये मुद्रांक लिपीक

रिचिंबाळे सौ. जयजी विठ्ठल केसकर

मुद्रांक विरत न्यायाधी वही परवाना क्र. २२०९०९९

४२५ ब, शनिवार पेठ पुणे-३



**AWARD**

**IN ARBITRATION IN INDRP CASE NO.1189**

**WWW.IQOPTION.CO.IN**

IQOPTION EUROPE LTD.  
Agiou Athanasiou 33, Yiannis  
Nicolaidis Business CT, Agios  
Athanasios CY-4102 Limassol CY

THE COMPLAINANT

V/S



CAO FANG  
Simingnan Road 422  
Xiamen, Fujian Province – 361005  
CHINA (CN)

**THE REGISTRANT /  
THE RESPONDENT**

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

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

**DELIVERED ON THIS 13<sup>th</sup> DAY OF FEBRUARY TWO THOUSAND  
TWENTY AT PUNE, INDIA.**

**I] SUMMARISED INFORMATION ABOUT THE DISPUTE: -**

<b>SR. NO.</b>	<b>PARTY TO THE DISPUTE</b>	<b>NAME</b>	<b>ADDRESS</b>
01	COMPLAINANT	Iqoption Europe Ltd.	Agiou Athanasiou 33, Yiannis Nicolaidis Business CT, Agios Athanasios CY-4102 Limassol CY
02	AUTHORISED REPRESENTA TIVE OF THE COMPLAINANT	Vijay Kumar Makyam	I-WIN IP Services, Flat No.202, 2 <sup>nd</sup> floor, Above SBI, Sree Siva Rama Krishna Mansion, Allwyn Colony, Kukatpally, Hyderabad, Telangana. 500072. India
03	RESPONDENT / REGISTRANT	Cao Fang	Simingnan Road 422 Xiamen, Fujian Province – 361005 CHINA (CN)
04	DOMAIN NAME REGISTRAR	Tucows Inc.	IANA ID-69

**II] CALENDER OF MAJOR EVENTS:-**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Date (All communications in electronic mode)</b>
01	Arbitration case referred to me by NIXI	07.01.2020
02	Acceptance given by me	07.01.2020
03	Soft copy of complaint received	10.01.2020
04	Complainant asked to submit Power of Attorney / Vakalatnama	10.01.2020
05	Complainant submitted Power of Attorney	16.01.2020



06	Notice of Arbitration issued with instructions to the Registrant to file his reply latest by 26.01.2020	16.01.2020
07	Period to file say by Respondent extended with instruction to file his say if any, latest by 31.01.2020	29.01.2020
06	Notice of closure of arbitration issued	31.01.2020
07	Award passed	13.02.2020

### **III] PARTICULARS OF DISPUTED DOMAIN NAME & REGISTRATION:**

1. Disputed domain name is 'IQOPTION.CO.IN'.
2. Date of registration of disputed domain name by Respondent is 12.04.2017
3. Registrar is Tucows Inc.

### **IV] PROCEDURE FOLLOWED IN ARBITRAION PROCEEDINGS: -**

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

### **VI] BRIEF INFORMATION OF THE COMPLAINANT: -**

The Complainant in these arbitration proceedings is Iqoption Europe Ltd. According to the Complainant it mainly deals in stock market trade including crypto currency, financial services, investment services, options trading, exchange services etc. It was founded in the year 2013. It owns iq option/ iqoption or its variations as registered trademarks in European countries as well as in India. The said trademark IQOPTION is registered in India through Madrid Protocol under class 36 vide application No. 3537759 and 3392344 dated 15.12.2016 and 11.04.2016 respectively.

The Complainant has registered domain 'iqoption.com'.

### **VII] SUMMARY OF GROUNDS OF THE COMPLAINT: -**

*The Complaint, inter-alia, is based on the following points, issues, representations or claims in brief:-*

- i. The Complainant claims that its trademark 'iqoption' is registered in European countries and has also been registered in India through Madrid Protocol and hence has exclusive rights and interests in the said trade / service mark.



- ii. The disputed domain name 'IQOPTION.CO.IN' is identical and / or similar to the complainant's registered domain – iqoption.com and that the Respondent has violated the Complainant's rights by registering the disputed domain name. (Reliance is placed on *Dr.Reddy's Laboratories Ltd. V/s Manu Kosuri*).
- iii. The Complainant alleges that according to Para 7 of INDRP, the Respondent has no rights or legitimate interests in the disputed domain name.
- iv. The Respondent has not been commonly known with the disputed domain name, while the Complainant is commonly and popularly known by it.
- v. The disputed domain name has not been in use for any commercial purpose. On the contrary it is available for sale at exorbitant prices.
- vi. The complainant has not licensed or otherwise permitted the Respondent to use its trademark or a variation of it, which is a clear indication that the Respondent had acquired the disputed domain name only to derive commercial gain by adopting similarity in the disputed domain name and registered trademark of the Complainant and to divert customers from the website of the Complainant.
- vii. The Respondent has primarily registered the disputed domain name for selling the same for valuable consideration. The fact that it is available for sale itself is evidence of bad faith of the Respondent. (Reliance is placed on *SBI Cards and Payment Services Pvt. Ltd. V/s Domain Active Pty. Ltd. and Vodafone Group Pic V/s Rohit Bansal*).

**(D) REMEDIES SOUGHT BY THE COMPLAINANT: -**

On the above background of the Complaint and reasons described therein the Complainant has requested for TRANSFER OF DISPUTED DOMAIN to the Complainant and also for award of costs.

**VII] RESPONDENT'S DEFENSE: -**

The Respondent did not respond to the Notice of Arbitration even within the extended time.

**VIII] REJOINDERS OF THE PARTIES: -**

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



#### **IX] EVIDENCE RELIED UPON: -**

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

1. Copies of trademarks registered in India and in other countries in the name of the Complainant
2. Copy of printout of the *whois* details
3. Copies of other documents submitted with the Complaint

#### **X] FINDINGS: -**

Based on the complaint, contentions of it and annexures attached to it, this panel makes following observations: -

1. The Complainant is an owner of registered trade / service marks incorporating the word IQ OPTION / IQOPTION in which it has legitimate interests and rights.
2. The registration of these marks is prior to the registration of the disputed domain name by the Respondent.
3. The Complainant has not authorized / licensed to the Respondent to use the word 'IQ OPTION / IQOPTION' in any manner, nor the Respondent has claimed such authority having issued by the Complainant in his say.
4. The Respondent is not known by the word IQ OPTION / IQOPTION or any resembling word to it.
5. The Respondent is not making use of disputed domain name for non-commercial or charitable purposes. On the contrary it is up for sale at exorbitant price.
6. The Respondent has not responded / replied to Notice of Arbitration, even within the period extended suo-motu by this arbitration panel. Based on the legal maxim '*silence amounts to acceptance*', this panel concludes that all the submissions, allegations, statements and claims made by the Complainant, have been accepted by the Respondent.

#### **XI] CONCLUSION: -**

On the basis of the averments in the Complaint, citations, documentary evidence and other substantiating points, this Arbitration Panel has come to the following conclusions: -

- a. the disputed domain name contains registered trade / service mark of the Complainant in its entirety and is totally identical or confusingly similar to a name, trademark in which the Complainant has legitimate rights and interests.



- b. the Respondent has no rights or legitimate interests in respect of the domain name. He has not been authorized, licensed / permitted to use the said domain name, nor has he been known individually or by his business by the name of disputed domain name or any closely resembling term to it.
- c. the disputed domain name is registered in bad faith by the Respondent and allowing him to continue to own the same would make injustice and loss to the Complainant as also it may pose serious threats to innocent people anywhere in the world.
- d. Allowing a stranger to trade on someone else's goodwill or reputation is injustice on a person, who has spent efforts and money in building his brand, goodwill and reputation, because it results in allowing unscrupulous persons to gain illegally and monetarily to the disadvantage of the person who is legitimately entitled to it.

**Accordingly it is proved that: -**


1. In terms of Rule 6(i) of INDRP, the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name;
2. In terms of Rule 7 of INDRP, the Registrant has failed to prove his legitimate rights or interests in the disputed domain name.

**XIII] AWARD: -**

On the basis of above findings on issues, foregoing discussion, conclusion and as per the remedies requested by the Complainant, this panel passes the following award: -

- a. The disputed domain name 'IQOPTION.CO.IN' be transferred to the Complainant.
- b. The Registrant / Respondent shall pay costs of arbitration to the Complainant.

Date: - 13.02.2020  
Place: - Pune, India

  
(S.C. INAMDAR)  
SOLE ARBITRATOR  
NATIONAL INTERNET  
EXCHANGE OF INDIA