



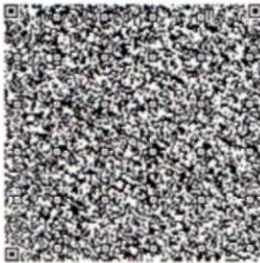
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL20733584663460M
Certificate Issued Date	: 10-Oct-2014 12:41 PM
Account Reference	: IMPACC (IV)/ dl871703/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL87170338301244549114M
Purchased by	: SANJAY KUMAR SINGH
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: SANJAY KUMAR SINGH
Second Party	: Not Applicable
Stamp Duty Paid By	: SANJAY KUMAR SINGH
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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BEFORE SHRI SANJAY KUMAR SINGH ARBITRATOR.
IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP).

IN RE:-

REEBOK INTERNATIONAL LIMITED -- COMPLAINANT
VERSUS.

C J REEBOK

-- RESPONDENT

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10-10-2014

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BEFORE SHRI SANJAY KUMAR SINGH ARBITRATOR
IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

IN RE:

Reebok International Limited
4th Floor 11-12 Pall Mall,
London SW 1Y 5LU,
United Kingdom

Through its authorized representative

RNA, Intellectual Property attorneys,
Vatika Towers, 10th Floor, B Block,
Sector-54, Gurgaon-122002,
National Capital Region, Haryana
E-mail: rbakhru@indiaiprights.com

COMPLAINANT

Versus

C J REEBOK
701 North 7th Street
Harrisburg, Pennsylvania USA 17110
E-mail: cjreebok@gmail.com

RESPONDENT

1. THE PARTIES

A. THE COMPLAINANT:

1. The Complainant in this administrative proceeding is Reebok International Limited, 4th Floor 11-12 Pall Mall, London SW 1Y 5LU, United Kingdom.
2. Complainant's authorized representatives in this administrative proceeding are:
RNA, Intellectual Property attorneys, Vatika Towers, 10th Floor, B Block, Sector-54, Gurgaon-122002, National Capital Region, Haryana, E-mail: rbakhru@indiaiprights.com

B. THE RESPONDENT

The Respondent in this administrative proceeding is C J Reebok, 701 North 7th Street, Harrisburg, Pennsylvania USA 17110, E-mail: cjreebok@gmail.com. The Complainant has submitted that it is not aware of any other details as regards the legal status, place of incorporation, principal place of business etc. of the Respondent. From the search at the "who is" database of .In Registry the Complainant came to know that the disputed domain name is not available and only came to know that this website is registered by the Respondent.

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2. COMPLAINANT:

1. The complainant has submitted that the complainant has been instituted to protect the complainant's rights in the corporate name/trade mark and domain name 'REEBOK' which have been copied without authorization by the respondent. The complainant has further submitted that the respondent has registered an identical disputed domain name www.reebok.in with the .In registry. The complainant has relied on a copy of WHOIS report for contact details of the respondent and the aforesaid domain name registration and has annexed it as Exhibit-A.
2. The complainant has submitted that it is one of the world's leading athletic footwear and apparel makers and the complainant (includes its subsidiaries, group companies, affiliates, assigns in business) is a world renowned manufacturer and distributor of inter alia sports shoes, apparel and accessories. The complainant has further submitted that it was founded in 1895, in Bolton, Lancashire, England and in 2006 German Group adidas AG acquired the business of Reebok International Limited the complainant herein and it became a subsidiary company of adidas AG with its global headquarters located in Canton, Massachusetts, United States of America with many regional offices in Amsterdam (EMEA), Montreal (Canada), Hong Kong (Asia Pacific) and Mexico city (Latin America). The complainant has stated that its business and its activities can be found on its website at www.reebok.com.
3. The complainant has submitted that its products are distributed in various countries across the world including India. The complainant has stated that it has additionally spent very large sum of money in promoting its products and products bearing the complainant's trademark have been available in India since 1984 and even before that Indians travelling abroad brought these products as gift and souvenirs for their relatives and friends while returning back to India from their foreign sojourns. The complainant has claimed that its various products are well known in India because of purchase and import of their products by Indian travelling abroad, extensive broadcast of the sporting events either sponsored by the complainant or where players used the complainant's products and extensive advertisements in newspapers and magazines' abroad which were freely available in India.
4. The complainant has submitted that in India it sponsored kits for Indian premier league (IPL) teams, such as Royal Challengers Bangalore, Kolkata Knight Riders, Rajasthan Royals and Chennai Super kings in first edition of the IPL league held in 2009, the sponsorship which included Royal Challengers Bangalore, Kolkata Knight Riders, Chennai Super kings and Kings XI Punjab kits. The complainant has further submitted that its sport gears were endorsed by one of the most prominent personality in international cricket, Indian cricketer Mahendra Singh Dhoni, who was named by Forbes as the world's thirty-first highest paid sportsperson in June 2012 and its

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products are also advertised regularly on print and visual media and are endorsed by various other sportsperson such as Yuvraj Singh and Anil Kumble etc.

5. The complainant has claimed that it is the prior adopter, user and registered owner of the trademark REEBOK. The trademark Reebok serves the complainant's identity and also serves as the sign of the origin of the complainant's goods and services. The complainant has annexed a selected list of its various REEBOK marks around the world standing in the name of its subsidiaries and affiliate companies as Exhibit-B and has relied on the same. The complainant has submitted that due to the sufficient number of registrations, it would be happy to provide a detail list of the registration certificates or extracts from the official databases for any of the marks upon request. In India, the complainant is the registered proprietor of the following REEBOK marks :

<u>Registration No.</u>	<u>Date</u>	<u>Class</u>	<u>Trademark</u>
424212	July 11, 1984	25	Reebok
539081	October 29, 1990	9	Reebok
488591	April 4, 1988	18	Reebok
488590	April 4, 1988	28	Reebok
1644218	January 22, 2008	25	Reebok
2116072	March 16, 2011	35	Reebok

The complainant has submitted that the aforesaid trademark registration are valid and subsisting on the registrar, conferring on the complainant the exclusive right to its use and to restrain use of identical or deceptively similar marks by unauthorized person. The complainant has annexed the copies of registration certificates and has placed reliance on the same.

6. The complainant has submitted that it is the owner of a number of domain names which support its several dedicated and official websites for its consumers and other visitors from different countries and jurisdictions. The complainant has provides some of these domain names owned by it as under:

<u>www.reebok.com</u>	International
<u>www.reebok.co</u>	
<u>www.reebok.ca</u>	Canada
<u>www.reebok.dk</u>	Denmark
<u>www.reebok.es</u>	Spain
<u>www.reebok.nl</u>	Netherlands
<u>www.reebok.ie</u>	Ireland
<u>www.reebok.ru</u>	Russia

The complainant has annexed a third party summary of REEBOK INTERNATIONAL LIMITED from Wikipedia which refers to the complainant none else. As per complainant's contention it is widely known that Wikipedia is an encyclopedia viewed

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by the masses and this information reflects the view point of the general public and not necessary people related to the complainant.

7. The complainant has submitted that the overwhelming success of its mark has resulted in complainant gaining extensive goodwill and reputation in the said mark/name worldwide and in India. The complainant has submitted that on account of its extensive use and popularity the domain name/trade mark and corporate name REEBOK, it is well known to large strata of society. It signifies the services offered by the complainant or its subsidiaries and affiliate companies around the world. The members of the trade and public exclusively associate the mark/name REEBOK with the business of the complainant and none other. This can be further inferred from the fact that search for the word 'REEBOK' in popular search engines e.g. Google, Yahoo, Bing and others only bring up business/information and news related to the complainant in the top ten results.
8. The complainant has submitted that quality of its services and popularity of mark can be gauged from the fact that the net sales revenue accumulated by it globally in the fiscal year ending in 2013 amounts to 1,599 million.
9. The complainant has submitted that its business under the name Reebok India Co. was founded in 1995 and is based in New Delhi. The business under the Reebok name is well known in India.

RESPONDENT:

1. The complainant has submitted that the respondent has registered the identical domain name www.reebok.in with the .In registry and the aforesaid domain name incorporates the complainant's well-known, prior used marks 'REEBOK' in totality and identity and is identical to prior registered domain name www.reebok.com. The complainant has contended that it has not licensed or otherwise authorized or given consent to the respondent to use/utilize or commercially exploit the complainant's registered well-known trademark in any manner.
2. The complainant has submitted that on account of its extensive use and popularity the domain name/trade mark and corporate name REEBOK across the world, the REEBOK trade name is well recognized and it has been popularized by the complainant, as such the respondent can have no plausible explanation for adoption of a domain name phonetically, visually and conceptually identical complainant's well-known and highly distinctive trade mark and domain name REEBOK. The complainant has contended that the respondent's intention is clearly to take advantage of the goodwill and reputation enjoyed by complainant's trade mark and domain name REEBOK.

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3. The complainant has submitted that the respondent's domain name/website is currently inactive and is not being used and the domain name therefore been merely blocked/registered with an intention to attract internet traffic and mislead the potential customers. The disputed domain name resolves to an inactive webpage and therefore there is no legitimate business interest of the respondent in the said domain name. The complainant has relied on the screenshot of the respondent's website and has annexed it as Exhibit-E. The Complainant has contended that the sole purpose of registering domain name www.reebok.in by the respondent is to block the complainant from acquiring lawful rights by securing registration of the same.
4. The complainant has submitted that the domain name is identical with complainant's domain name and trade mark and there is strong likelihood that a web browser looking for REEBOK services in India would mistake the website, www.reebok.in for the complainant's India specific website. The Complainant has contended that no content on the impugned website may lead the customers to believe that the impugned website might be temporarily inaccessible or otherwise and therefore, chances of confusion and deception owing to identical disputed domain name are evident.
5. The complainant has submitted that it will suffer incalculable harm and injury to its goodwill, reputation and business in general if the respondent is allowed to maintain its domain name www.reebok.in. The Complainant has contended that the loss and damages will not only be to the complainant's reputation but also result in confusion and deception among the trade and public who will visit the respondent's website assuming it to be sourced, sponsored, affiliated, approved, authorized or endorsed by the complainant. The Complainant has contended that the trade and public may also assume that there exists connection between the complainant and the respondent which is likely to further harm the reputation enjoyed by the complainant.
6. The complainant has submitted that it is a settled proposition of law that where there is copying, dishonesty ought to be presumed and in the present case, copying by the respondent is evident from its adoption of an identical domain name. The complainant has contended that respondent's intention is clearly to take a free ride on the goodwill and the unique sales appeal that the complainant's goods/services under the name/mark/domain REEBOK and REEBOK INTERNATIONAL have achieved over a period of time.
7. The complainant has submitted that the intention of the respondent is primarily to cash in on the goodwill and reputation enjoyed by the complainant in its prior used trademark REEBOK. The mark/domain name REEBOK has no dictionary meaning in English language other than its African origin. The name REEBOK is misspelling for the Afrikaans/Dutch spelling of rhebok. The complainant has submitted that it is certainly not a name that is used and common to consumers in India and the intention

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of the respondent is therefore to attract internet traffic by using .InccTLD and gain advantage from complainant's business and reputation. The respondent was clearly aware of the existence prior trademark/domain name rights in favour of the complainant when it adopted the said domain name i.e. in year 2008. The complainant has further submitted that in the circumstances, the present case is that of cyber-squatting and further use of an identical domain name by the respondent is likely to mislead/divert consumers and also tarnish the reputation of the corporate name and trade mark of the complainant.

CONTENTIONS OF THE COMPLAINANT:

The Complainant has contended that it has satisfied all the three conditions of the policy and is therefore entitled to transfer of the domain name in its favour.

- a) The domain name www.reebok.in is identical or confusingly to a name, trade mark or service mark in which the complainant has rights.

The Complainant has contended that the Respondent has applied for the domain name that is identical with complainant's name and mark REEBOK. The Complainant has established its prior adoption of the mark/ name REEBOK by virtue of its prior adoption and use and registrations around the world including India. The Complainant has submitted that it has filed sufficient evidence to show that it has trademark rights in the trademark and its corporate name REEBOK.

- b) The Respondent has no claims, rights or legitimate interests in respect of disputed domain name www.reebok.in for the following reasons:

- i) The Complainant has contended that the domain name www.reebok.in was registered by the respondent on 15th November year 2008. At this time, the complainant had already made use of the mark/domain names REEBOK as a trademark and corporate name in several parts of the world including India. The complainant had also registered the domain name www.reebok.com on 8th July 1994 and enjoys considerable reputation in the REEBOK mark and domain name. Therefore, it is obvious that the respondent was aware of the complainant's trade mark rights in the REEBOK mark/name and its adoption of an identical domain www.reebok.in is in bad faith.
- ii) The Complainant has contended that the Respondent is not and has never been known by the name REEBOK name or by any similar name. The Respondent does not have any active business in the name of REEBOK. The registration of the disputed domain name by the respondent is thus a

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typical example of "cybersquatting". The fact that respondent's website carries no active content further proves that the respondent is just a cyber-squatter and has intentionally secured the registration of the disputed domain name to block the complainant's rights in its trademark and domain name.

- c) The complainant has submitted that domain name was been registered and is being used by the respondent in bad faith due to the following reason:
- i) The complainant has submitted that at the time of registration of the domain name by the respondent i.e. on 15th November, 2008, the complainant's name /mark REEBOK and domain name www.reebok.in were well known. The Complainant has submitted that it is prior user of the name /mark REEBOK and prior owner of domain name registration www.reebok.com. In addition, registration of domain name www.reebok.com serves as a constructive notice to the respondent of complainant's rights in REEBOK trademark and domain name as such the adoption of an identical mark and domain name by the respondent is in bad faith.
 - ii) The complainant has further submitted that the word REEBOK is the main distinctive component of the complainant's mark and domain name is not an English language word/expression and is highly distinctive in nature; particularly in relation to its product and services; various marketing services that include advertising; branding and identity; shopper and retail marketing; promotion and relationship marketing. The complainant has contended that there cannot be any plausible explanation for adoption of an identical mark and domain name by the respondent. The complainant has submitted that adoption and use of an identical name by the respondent cannot be a coincidence and is in 'bad faith'.
 - iii) The complainant has further submitted that the respondent is not carrying out any legitimate business activities through the domain name www.reebok.in and its registration is only to divert internet traffic by using a well-known and established domain name and thus it is obvious that registration of the domain name www.reebok.in by the respondent is in bad faith.

The Complainant has prayed that the disputed domain name www.reebok.in in be transferred to the Complainant herein.

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AWARD

1. This arbitral proceeding commenced in accordance with IN Dispute Resolution Policy (INDRP) and rules framed there under.
2. The complainant submitted his complaint in the registry of NIXI against the respondent in respect to the respondent's Domain name www.reebok.in
3. I was appointed as Sole Arbitrator in the matter by NIXI.
4. The complainant submitted the said complaint under In Domain Name Dispute Resolution Policy (INDRP).
5. A copy of complaint was sent to me by the NIXI for arbitration in accordance with Dispute Resolution Policy (INDRP). The copy of the complaint along with annexures/exhibits was forwarded to me and to the respondent by .In Registry of NIXI.
6. On 18-08-2014, I informed the respective parties to the complaint, about my appointment as an arbitrator. Accordingly, I called up on the parties to file their counter/ reply and rejoinder with the supportive document/evidence within ten days of the receipt of the notice. However the respondent did not file any reply to the complaint nor did he file any supportive document /evidence despite the notice duly served on the respondent at his e-mail address.
7. 02-09-2014, I again called up on the parties to file their counter/ reply and rejoinder with the supportive document/evidence within ten days from receipt of the notice failing which the award would be passed ex-parte on the merits of the complaint and as per law of the land.
8. However the respondent did not file any reply to the complaint of the complainant nor did he file any supportive document /evidence despite the notices duly served on the respondent at his e-mail address "cjreebok@gmail.com".
9. I have perused the records and have gone through the contents of the complaint and the documents annexed with the complaint. Since respondent has not filed any reply hence the complaint is being decided ex-parte on the merits of the complaint and as per law of the land.
10. The complainant has forcefully contended that there is prima facie evidence of respondent's involvement in bad faith and cybersquatting as the respondent has registered an unrelated domain name similar to the complainant's trade mark and corporate name.
11. The complainant has made positive assertions that respondent has no legitimate right in domain name and the respondent has no trademark on the domain name. The

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complainant has made positive assertions regarding the fact that respondent has got registered the disputed domain name in the .IN Registry for which the respondent has no right or trademark. As such in above circumstance it is clear that the complainant has prima facie discharged the initial onus cast upon him. The respondent has not come forward in spite of repeated notices to file any reply / counter or to provide any positive, cogent and specific evidence that it is known or recognized by domain name. The respondent has neither put forth and has not provided such evidence. Thus the conclusion is that respondent has no right or legitimate interest in the domain name.

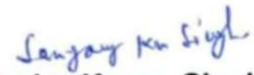
12. It has been held in Indian decision M/s Satyam Infoway Ltd. vs. M/s Sifynet Solution (P) Ltd. JT. 2004 (5) SC 541, that Domain name has all characteristics of trademark. As such principles applicable to trademark are applicable to domain names also. In the said case the words, "Sify" & "Sify" were held to be phonetically similar and addition of word 'net' in one of them would not make them dissimilar. It is held in above case that in modern time's domain name is accessible by all internet users and thus there is need to maintain it as an exclusive symbol. It is also held that it can lead to confusion of source or it may lead a user to a service, which he is not searching. Thus conclusion is that domain name and trademark, which may be used in different manner and different business or field, or sphere, can still be confusingly similar or identical.
13. Thus the conclusion is that the domain name "www.reebok.in" is identical and confusingly similar to the trademark of complainant "REEBOK" and the complainant has established that he has right in the trademark and further the respondent has got registered his domain name "www.reebok.in" in bad faith.

RELIEF

The domain name www.reebok.in of respondent is identical and confusingly similar to trademark of complainant. The respondent also does not have right or legitimate interest in the domain name. He has got it registered in bad faith; as such he is not entitled to retain the domain name. The complainant is entitled for transfer of domain name www.reebok.in as complainant has established its bonafide rights in trademark. In facts and circumstances of the complaint and in view of law discussed herein above I direct that the Domain name be transferred to the complainant by the registry.
No order as to costs.

Delhi

Date: 10/10/2014


(Sanjay Kumar Singh)
Arbitrator