



தமிழ்நாடு தமில்நாடு TAMILNADU

27/3e
27 JUN 2014

D. SARAVANAN
Advocate & Arbitrator
"Orient Chambers", 4th & 5th Floor,
No. 90 / 73, Armenian Street,
Chennai - 600 001.

AT 215011
P.S. SHANMUGASUNDARAM
STAMP VENDOR,
L No 54 / 109 / 88
HIGH COURT CAMPUS,
CHENNAI-600 104 (TAMIL NADU)

**BEFORE THE SOLE ARBITRATOR MR.D.SARAVANAN
.IN REGISTRY
(NATIONAL INTERNET EXCHANGE OF INDIA)**

Disputed Domain Name: www.trademaster.in

Equitymaster Agora Research
Private Limited,
103, Regent Chambers,
Above Status Restaurant,
Nariman Point,
Mumbai- 400 021
sonal@equitymaster.com

... Complainant

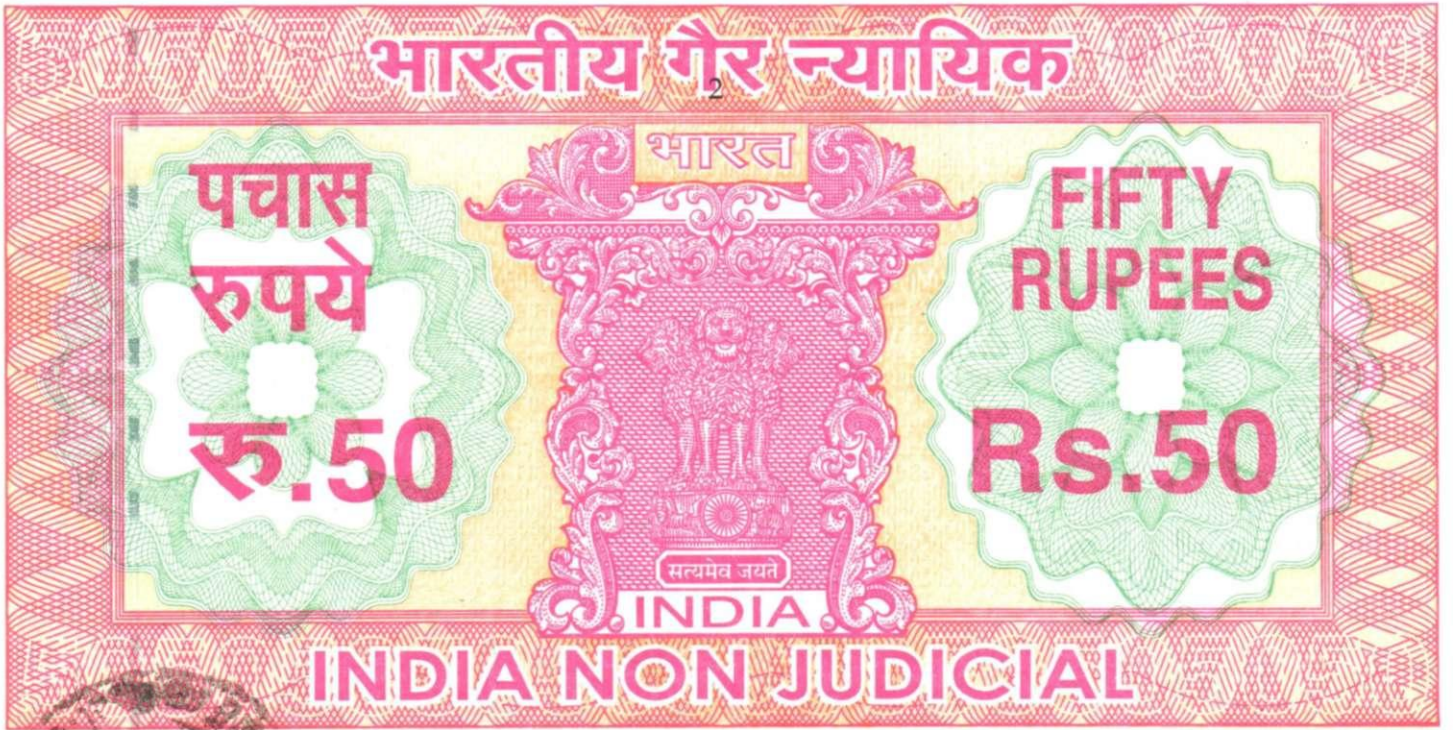
-versus-

Louis,
Street HJ,
Kanchipuram,
Tamil Nadu- 986596
sproosen@gmail.com
dntagr@gmail.com

... Respondent

..2.





தமிழ்நாடு மிலநாடு TAMILNADU

D. SARAVANAN
Advocate & Arbitrator
"Orient Chambers", 4th & 5th Floor,
No. 90 / 73, Armenian Street,
Chennai - 600 001.

AG 904631
P.S. SHANMUGA SUNDARAM
STAMP VENDOR,
LN No 84 / 105 / 88
HIGH COURT CAMPUS,
CHENNAI-600 104 (TAMIL NADU)

-2-

1. The Parties:

The Complainant is Equitymaster Agora Research Private Limited, having its registered office at 103, Regent Chambers, Above Status Restaurant, Nariman Point, Mumbai- 400 021, represented by its Company Secretary and VP-Legal, Sonal Ramachandran.

The Respondent is Louis, having address at Street HJ, Kanchipuram, Tamil Nadu- 986596. Neither the Respondent represented himself nor represented by any one.

2. The Domain Name and Registrar:

The disputed domain name is www.trademaster.in. The domain name has been registered with .IN REGISTRY

..3.



3. Procedural History:

May 26, 2014	:	Date of Complaint.
June 03, 2014	:	The .IN REGISTRY appointed D.SARAVANAN as Sole Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of Procedure.
June 05, 2014	:	Consent of the Arbitrator was given to the .IN REGISTRY according to the INDRP Rules of Procedure.
June 11, 2014	:	Notice was sent to the Respondent by e-mail directing him to file his response within 10 days, marking a copy of the same to the Complainant's representative and .IN Registry.
June 21, 2014	:	Due date for filing response.
June 28, 2014	:	Notice of default was sent to the respondent notifying his failure in filing the response, a copy of which was marked to the Complainant's representative and .IN Registry.

4. Factual Background:

4.1 The Complainant:

The Complainant is Equitymaster Agora Research Private Limited, having its registered office at 103, Regent Chambers, Above Status Restaurant, Nariman Point, Mumbai- 400 021, represented by its Company Secretary and VP-Legal, Sonal Ramachandran.

4.2 Complainant's Activities:

The Complainant states that it is doing business of carrying out equity research on Indian Stock Market, providing various recommendations and online learning services through its website www.equitymaster.com. The complainant also provides premium paid research services which, inter alia, include "StockSelect", "MidcapSelect", "Hidden Treasure" and online e-learning courses including "TradeMaster", "DeriVantage" on the Indian Equity stock and derivatives market.



The complainant also publishes on its website various articles on topics relating to finance as well as general articles on corporate which are relevant to its subscribers.

The complainant's website www.equitymaster.com is India's leading financial services site. Various research reports and online e-learning courses provided by the complainant exclusively to its paid subscribers and articles published on its website are original literary works. "Trademaster" is the online e-learning course and is integral to business strategy of the complainant. The mark trademaster has been popularized by the complainant through extensive advertisement, publicity, promotion and marketing. More than 18,600 subscribers of the complainant as on May 23, 2014 have availed paid services of the complainant through its website and more than 4.3 million visitors visit the website per day.

4.3 Complainant's Trading Name:

The complainant states that it has coined, invented and adopted the mark TRADEMASTER in relation to its financial, e-learning and other business and has been using it since 2012. The complainant has registered following marks:-

Sr.No	Mark	Class	Date	Registration No.	Status
1	equitymaster.com	16	14.08.2000	947827	Registered
2	equitymaster.com	16	14.08.2000	947828	Registered
3	equitymaster	36	12.03.2004	1272095	Registered
4	TradeMaster Right Trade. Right Time. Right Price	9	29.06.2012	2356270	Applied For
5	TradeMaster Right Trade. Right Time. Right Price	16	29.06.2012	2356271	Applied For
6	TradeMaster Right Trade. Right Time. Right Price	36	29.06.2012	2356272	Applied For



The complainant has marked trade mark registration certificates as Exhibit C and marked copies of online status of trade mark application as Exhibit D. The complainant has copyright registration of the mark TradeMaster. The complainant has marked a copy of the Copyright Registration Certificate in its favour as Exhibit F.

4.4 Respondent's Identity and activities:

The Complainant states that the Respondent is Louis. A printout of the WHOIS record associated with the disputed domain name is marked as **Exhibit A**. As per the WHOIS record, the Respondent is based in Tamil Nadu, India. The record also shows that the disputed domain name was registered on August 12, 2012.

5. Dispute

The dispute arose when the respondent registered the disputed domain name on August 12, 2012. The complainant by email dated May 22, 2014 approached the respondent and called upon the respondent to desist from using trademaster.in and to transfer the domain name to the complainant. In reply, the respondent vide mail dated May 22, 2014 quoted the price of USD 3999 to transfer.

6. Parties contentions:

A. Complainant:

1. The complainant states that the respondent has no legitimate interest or right in the disputed domain name.
2. The complainant also states that it has not licensed or permitted the respondent to use the mark Trademaster or apply for or use the disputed domain name incorporating the said mark.
3. The complainant further states that the respondent has purchased the disputed domain name and he has not hosted any website under trademaster.in.
4. The complainant states that the respondent is not using the domain name for any bonafide purposes. The respondent is thus having mala fide intention under the



disputed domain name to divert clients of the complainant and thereby causing financial loss to the complainant. The complainant alleges that the respondent has intentionally attempted to attract, for commercial gain, internet users to its website or other online location, by creating likelihood of confusion with complainant's mark as to source, sponsorship, affiliation or endorsement of the respondent's website or location of services on its website.

B. Respondent:

The Respondent, in spite of notice dated 11.06.2014 and default notice dated 28.06.2014, did not submit any response.

6. Discussion and Findings:

It has to be asserted as to whether the Constitution of Arbitral Tribunal was proper and whether the Respondent has received the notice of this Arbitral Tribunal?

Having gone through the procedural history, this Tribunal comes to the irresistible conclusion that the Arbitral Tribunal was properly constituted and Respondent has been notified of the complaint of the Complainant. However, the Respondent did not choose to submit any response and that non-submission of the Response by the Respondent had also been notified to the Respondent on June 28, 2014

Under paragraph 4 of the IN Domain Name Dispute Resolution Policy (INDRP), the Complainant must prove each of the following three elements of its case:

- (i) The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The Respondent has no rights or legitimate interest in respect of the domain name; and



(iii) The Respondent's domain name has been registered or are being used in bad faith.

(a) Identical or confusing similarity:

i) The Arbitral Tribunal finds that the Complainant has provided evidences that it possesses registered trademark "equitymaster" in India. The Arbitral Tribunal finds that the complainant has started online e-learning course known as Trademaster which is integral to business strategy of the complainant. The Tribunal also finds that the mark trademaster has been popularized by the complainant through extensive advertisement, publicity, promotion and marketing. The tribunal vide Exhibit B finds that the complainant has coined, invented and adopted the mark TRADEMASTER in relation to its financial, e-learning and other business and has been using it since 2012. The Tribunal also finds that the applications of the complainant for registration of the mark "trademaster" are still pending. The Respondent's domain name is <www.trademaster.in>. The Tribunal finds that the business product of the complainant TradeMaster and the disputed domain are exactly identical in its entirety. Thus, this Arbitral Tribunal finds that the disputed domain name <trademaster.in> is identical to the Complainant's mark.

ii) The Arbitral Tribunal concludes that the Complainant has established paragraph 4(i) of the IN Domain Name Dispute Resolution Policy.

(b) Respondent's Rights or Legitimate Interests:

i) The Complainant contends that the Respondent has no legitimate interest in the disputed domain name. Paragraph 7 of the IN Dispute Resolution Policy sets out three elements, any of which shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(ii) of the Policy. The Respondent had been given the opportunity to respond and to present evidence in support of the elements in paragraph 7 of the INDRP. The Respondent has not chosen to do so and has not filed any response in these



proceedings to establish any circumstances that could assist it in demonstrating, any rights or legitimate interests in the disputed domain name. Although, the Complainant is not entitled to relief simply by default of the Respondent to submit a Response, the Arbitral Tribunal can however and does draw evidentiary inferences from the failure of the Respondent to respond. The Arbitral Tribunal finds that the Complainant has not yet registered the mark "trademaster". The Tribunal finds that the applications for registration of the mark "trademaster" are still pending. The Tribunal has only stated in its complaint that it is the inventor of the mark trademaster and has adopted it and has established and proved the same vide Exhibit B. It is also found that the respondent has no connection with the mark trademaster. The Respondent has failed to rebut the presumption of absence of rights or legitimate interests.

ii) Based on the record, the Respondent does not have rights or legitimate interests in the disputed domain name as the Respondent's current use is neither an example of a bona fide offering of goods or services as required under paragraph 7(i) of the Policy nor is there any legitimate non-commercial or fair use of the disputed domain name and as such there is no evidence that paragraphs 7(ii) or 7(iii) of the Policy apply. The Complainant asserts that they have not licensed or otherwise authorized the Respondent to use their trademark.

iii) The Arbitral Tribunal is satisfied that the Respondent has no rights or legitimate interests in respect of the disputed domain name and, accordingly paragraph 4(ii) of the Policy is satisfied.

(c) Registration and Use in Bad faith:

iii) In view of the email dated May 22, 2014 sent by the respondent to the complainant quoting the price of \$3999 USD for selling the domain name and in the specific circumstances of this case, this Arbitral Tribunal draws the legal inference that Respondent's purpose of registering the domain name was in bad faith within



the meaning of the Policy. The Respondent has no legitimate rights or interests in the disputed domain name and there was a malafide intent for registering the disputed domain name other than for commercial gains, and that the intention of the Respondent was simply to generate revenue, either by using the domain name for its own commercial purpose or through the sale of the disputed domain name to a competitor or any other person that has the potential to cause damage to the ability of the Complainant to have peaceful usage of the Complainant's legitimate interest in using their own trade names.

In the light of the above, this Arbitral Tribunal finds that the Complainant has established that the disputed domain name was registered and is being used in bad faith.

7. Decision:

For all the foregoing reasons, in accordance with paragraph 10 of the Policy, the Arbitral Tribunal orders that the disputed domain name <trademaster.in> be transferred to the Complainant.

Dated at Chennai (India) on this July 02, 2014.


(D.SARAVANAN)
Sole Arbitrator