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BEFORE THE SOLE ARBITRATOR, DIVYA BALASUNDARAM
.IN REGISTRY
C/O NIXI (National Internet Exchange of India)

ARBITRAL AWARD
In

DB.

ZipRecruiter Inc.

Versus

Li, Chenggong

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ARBITRAL AWARD

.IN REGISTRY

C/O NIXI (NATIONAL INTERNET EXCHANGE OF INDIA)

Before The Sole Arbitrator, Divya Balasundaram

Disputed domain name – <"ziprecruiter.co.in">

IN THE MATTER OF:

ZipRecruiter Inc.

604 Arizona Avenue, Santa Monica

California 90401, USA

....Complainant

Vs

Li, Chenggong

Beijing, China

.....Respondent

1. THE PARTIES

1.1 The Complainant in these proceedings is ZipRecruiter, Inc., a company incorporated under the laws of USA, having its registered office at 604 Arizona Avenue, Santa Monica, California, 90401, USA represented by Safenames Ltd., Safenames House, Sunrise Parkway, Linford Wood, Milton Keynes, MK14 6LS, UK.

1.2 The Respondent in these proceedings is Li, Chenggong of Beijing, China.

2. DISPUTED DOMAIN NAME AND REGISTRAR

2.1 This dispute concerns the domain name <ziprecruiter.co.in> which was registered on August 26, 2014 (the 'disputed domain name'). The Registrar with which the disputed domain name is registered is Endurance Domains Technology LLP, Unit No. 501, 5th Floor, IT Building 3, Nesco IT Park, Nesco Complex, Western Express Highway, Goregaon (E), Mumbai Mumbai City MH 400063, India.

3. PROCEDURAL HISTORY

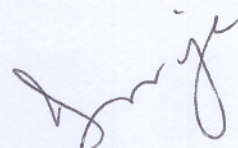
- 3.1 The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (.INDRP), adopted by the National Internet Exchange of India (NIXI).
- 3.2 NIXI vide its email dated May 27, 2019 requested availability of Ms. Divya Balasundaram to act as the Sole Arbitrator in the matter. The Arbitrator indicated her availability and submitted the Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the .INDRP Rules of Procedure on May 28, 2019.
- 3.3 Arbitrator was appointed vide NIXI's email of June 6, 2019.
- 3.4 Arbitrator sent email on June 6, 2019 serving formal notice of the Complaint upon the Respondents and calling for a response within 15 days. Response to the complaint has not been received from Respondent in the given timeframe. Hence, Arbitrator sent email of June 26, 2019 informing Respondent of absence of response and the decision to proceed with an ex-parte order.
- 3.5 The language of these proceedings is English.

4. FACTUAL BACKGROUND

- 4.1 The Complainant is the owner and controller of the 'ZIPRECRUITER' brand. The Complainant was initially founded in 2010, by Ian Siegel, Ward Poulos, Will Redd and Joe Edmonds.
- 4.2 The Complainant is a well-known American online recruitment company, attracting over 7 million active job seekers, over 40 million job alert email subscribers and over 10,000 new companies every month. The Complainant segments their business into two main categories, providing their services to individuals and secondly, services for commercial entities. The Complainant currently has subsidiaries in Canada, Israel and the United Kingdom, and its services and products are used by job seekers and employers in multiple countries around the world.
- 4.3 As part of their efforts to protect their Intellectual Property, the Complainant has protected the 'ZIPRECRUITER' brand name by way of trademark registrations in numerous jurisdictions including USA, EU, Canada, Australia and New Zealand. Earliest registration is of 2011, covering goods and services in international classes 9, 35, 36, 41 and 42.



- 4.4 The Complainant has also utilised its trademark as part of its brand logo.
- 4.5 The Complainant further uses the ZIPRECRUITER term in domain names. Specifically, the Complainant registered the domain name, www.ziprecruiter.com during February 2010 which has shown active content as early as 2011. The Complainant's web-based platform is the foundation of their business; allowing employers to post jobs, search for candidates and manage the applicant process, as well as permitting job seekers to search for jobs, apply to jobs and/or receive alerts regarding the latest job posts.
- 4.6 The Complainant has further registered their trademark in country code Top Level Domains ('ccTLDs'), enabling users to access the Complainant's services, using their local TLD. For instance, <ziprecruiter.co> registered May, 2013; and <ziprecruiter.co.uk> registered September, 2010 amongst others.
- 4.7 The Complainant is recognised as one of the fastest growing technology companies in North America, ranking at 231 in the Deloitte (2017) Technology Fast 500. The Complainant was also featured in Forbes (2017), claiming its place amongst the top 100 world's best cloud companies.
- 4.8 In addition to the above, the Complainant promotes their brand on national television, which has facilitated the brand's recognition as one of the leading recruitment services, especially in the United States.
- 4.9 The Complainant also uses their brand to establish social media presence and in turn promote their services under name ZipRecruiter.
- 4.10 In addition to the above, the Complainant has also developed a mobile and tablet application, allowing users to access the services while on the move. The application can be downloaded on popular marketplaces, such as Google Play and iTunes.
- 4.11 Due to the national and international reputation of this brand, the Complainant is listed as one of the first hits on popular search engines, such as Google when you enter 'ZIPRECRUITER'.

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5. LEGAL GROUNDS

A. Respondent's domain name is identical to Complainant's trademark

- 5.1 The Complainant submits that they hold registered trademarks for "ZIPRECRUITER" in multiple jurisdictions. These trademarks are not generic or commonly understood by any other meaning, other than their association with the Complainant's goods and services. In the Indian market, for the period of 2018-2019, over 2.2 million users coming from the different regions of India used the Complainant's website www.ziprecruiter.com and over 4.5 million sessions were made by Indian users only.
- 5.2 Various Panelists with WIPO have recognised the value attached to "ZIPRECRUITER" and its association with the Complainant. Few examples have been provided by the Complainant.
- 5.3 As such, the Complainant maintains that they have "rights" for the purpose of these proceedings.
- 5.4 The disputed domain name incorporates the term "ZIPRECRUITER" verbatim.
- 5.5 The addition of the ccTLD, ".co.in" should be disregarded in the comparison between the Complainant's trademark and the disputed domain name, as it is merely a technical requirement to identify domain names in India.
- 5.6 Thus Complainant submits disputed domain name is identical, or at the very least, confusingly similar to Complainant's "ZIPRECRUITER" trademark.

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

- 5.7 The Complainant firstly maintains its legal right to the disputed domain name based on the statutory protection of the "ZIPRECRUITER" term by way of trademarks in several jurisdictions. The Complainant also relies on the recognition acquired by the Complainant since 2010, which pre-dates the date when the Respondent registered the domain name. To the best of the Complainant's knowledge, the Respondent does not own any recognised rights to the term "ZIPRECRUITER", by way of trademarks, or any other protected right.

- 5.8 The Complainant submits that <ziprecruiter.co.in> is currently active as a Pay-Per-Click ("PPC") landing page, with various links referring to the Complainant, but also direct users to various websites, some of which offer competing goods. It is a well-established principle that the use of a domain name to offer PPC links, can be legitimate, so long as the links do not take advantage of any third party rights. This principle is commonly applied in UDRP disputes, but has also been discussed numerous times in INDRP disputes. As such, the Respondent's use of PPC links on <ziprecruiter.co.in> is not legitimate, because the headings generated relate to either the Complainant or to competing companies offering similar goods.
- 5.9 In addition to PPC links, the Complainant submits that the Respondent advertises the domain name for sale on the website itself, and has also offered to sell the domain name to the Complainant for 11,000 USD, which was prompted by a cease and desist letter sent to them, on behalf of the Complainant on the 19th February 2019. The Respondent does not deny knowledge of the Complainant and instead asks for a very high price for the disputed domain name and the domain name <ziprecruiter.in>, which the Respondent also registered. It is, therefore, highly likely that the only reason why they have acquired <ziprecruiter.co.in> is to obtain profit based on the brand value of the domain name prefix.
- 5.10 The Respondent does not appear to have any protected rights for the term "ZIPRECRUITER". As such, they cannot claim to be commonly known by this term.
- 5.11 The use of the domain name is for commercial gain only and thus, means that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Respondent's domain name has been registered and used in bad faith

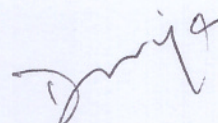
- 5.12 Complainant reiterates that they hold prior rights which protect "ZIPRECRUITER". The Complainant further submits that anyone who has access to the Internet can find the "ZIPRECRUITER" trademarks on public databases, including, but not limited to WIPO Brand Database. To date, results on popular search engines like Google for "ZIPRECRUITER", list the Complainant's brand and services as the first hit. Based on the goodwill and reputation built-up for this brand, the Respondent would have been aware of the Complainant's rights and should have paid more heed to the representations made to their Registrar, to ensure that they did not infringe any trademark rights.



- 5.13 Moreover, the Complainant offers to Internet users the opportunity to search for jobs in specific regions, such as India, where over 8,000 open positions are currently available through their online platform.
- 5.14 Respondent has acquired this domain name to obtain profit from the Complainant, which is in excess of out-of-pocket costs. By offering to sell the disputed domain name to Complainant for 11,000 USD, which is undoubtedly in excess of out-of-pocket costs, the Respondent's primary purpose of registering <ziprecruiter.co.in> is to extort a benefit from the Complainant. Such activity amounts to bad faith registration and use.
- 5.15 The Complainant further notes from the Respondent's domain portfolio that they have many domain names which correspond to other 3rd party brands such as <harveynichols.co.in>; <lyft.tw> and others. The fact that the Respondent has registered many domain names corresponding to 3rd party brands, further affirms the Complainant's belief that the Respondent intentionally registers domain names, to profit from the brand value of trademarked terms.
- 5.16 The Complainant maintains that the Respondent has engaged in prior bad faith activity, meaning it is more likely than not, that <ziprecruiter.co.in> is also subject to this bad faith pattern of conduct. In addition, the Respondent also registered the domain name <ziprecruiter.in>, which also infringe on the Complainant's "ZIPRECRUITER" trademark.

6. DISCUSSION AND FINDINGS

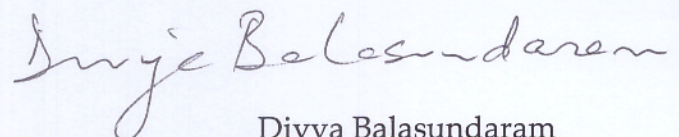
- 6.1 The Arbitrator has reviewed the Complaint and all the Annexures filed by the Complainant.
- 6.2 The Arbitrator finds that the Arbitral Tribunal has been properly constituted.
- 6.3 The Arbitrator finds that the Complainant has been able to establish its prior rights and interests in the trademark ZIPRECRUITER. This mark is not generic or commonly understood by any other meaning, other than their association with the Complainant's goods and services. Various WIPO Panelists have also previously recognised the value attached to "ZIPRECRUITER" and its association with the Complainant.



- 6.4 The disputed domain name wholly incorporates "ZIPRECRUITER" which makes it identical to Complainant's mark.
- 6.5 Complainant's rights go back to the year 2010, which pre-dates the date when the Respondent registered the disputed domain name.
- 6.6 The Respondent does not own any recognised rights to the term "ZIPRECRUITER", by way of trademarks, or any other protected right.
- 6.7 Further, <ziprecruiter.co.in> is a Pay-Per-Click ("PPC") landing page, with links referring to the Complainant as also websites offering competing goods.
- 6.8 The Respondent advertises the domain name for sale on the website, and has also offered to sell the domain name to the Complainant for a sum well in excess of out of pocket expenses. It is pertinent to note that in response to the legal notice sent by Complainant, the Respondent did not deny knowledge of the Complainant.
- 6.9 The Respondent also owns many domain names which correspond to other 3rd party brands shows the pattern of bad faith conduct. Bad faith of the Respondent is also seen in the fact that he has not even provided a full and proper address as required by the Rules.
- 6.10 The Complainant has satisfactorily established all the elements necessary to maintain its complaint. Further, the Respondent was given sufficient time to reply to the Complaint, however, he has chosen not to respond.

7. DECISION

- 7.1 For all the foregoing reasons, the Complaint is allowed.
- 7.2 It is hereby ordered in accordance with paragraph 10 of the INDRP that the disputed domain name <ziprecruiter.co.in> be transferred to the Complainant.
- 7.3 No order as to costs.



Divya Balasundaram
Sole Arbitrator

Date: June 27, 2019
Place: New Delhi.