



SHIWANGI PESWANI
F-84, Kamla Nagar,
Agra. Uttar Pradesh.
282005.

**THE RESPONDENT /
THE REGISTRANT**

**IN THE MATTER OF DISPUTED DOMAIN NAME: - 'WWELIVEINDIA.IN'
BEFORE MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.**

SOLE ARBITRATOR

**DELIVERED ON THIS 14th DAY OF JUNE TWO THOUSAND SIXTEEN AT
PUNE, INDIA.**

SUMMARISED INFORMATION ABOUT THE DISPUTE: -

01. **Names and addresses
Of the Complainant: -** **WORLD WRESTLING
ENTERTAINMENT INC.**
1241, East Main Street, Stanford
CT 06902. USA
- Through its authorized
representatives Vaishali Mittal / Siddhant Chamola.
Anand and Anand
First Channel, Plot No.17A, Sector 16A,
Film City, Noida. India.
02. **Name and address of
The Respondent: -** **SHIWANGI PESWANI**
F-84, Kamla Nagar, Agra.
Uttar Pradesh. 282005.

03. Calendar of Major events:

Sr. No.	Particulars	Date (Communications in electronic mode)
01	Arbitration case referred to me & acceptance given by me	11.05.2016
02	Hard copy of complaint received	19.05.2016
03	Notice of Arbitration issued with the instructions to the Respondent to file reply latest by 29.05.2016	19.05.2015
04	Reply filed by the Respondent (after suo-motu extension of time by Arbitrator)	03.06.2016
05	Rejoinder filed by the Complainant	10.06.2016
06	Reply to rejoinder filed by the Respondent	11.06.2016
07	Notice of closure of arbitration	14.06.2016
08	Award passed	14.06.2016

I] PARTICULARS OF DISPUTED DOMAIN NAME & REGISTRATION:

1. Disputed domain name is WWW.WWELIVEINDIA.IN.
2. Date of registration is 26.10.2015
3. Registrar is Webiq Domains Solutions Pvt. Ltd. (R 131 - AFIN). 102, Osia Friendship, 4th Gaothan Lane, Off J. P. Road, Mumbai. Maharashtra. 400058.

II] PROCEDURE FOLLOWED IN ARBITRAION PROCEEDINGS: -

01. Arbitration proceedings were carried out as per INDRP read with INDRP Rules of Procedure, Indian Arbitration Act, 1996 and Code of Civil Procedure wherever necessary.
02. The parties were requested to expedite their submissions so as to enable this panel to pass award within the 60 days time frame prescribed.
03. Copies of all communications were marked to both the parties and NIXI.
04. No personal hearing was requested / granted / held.

III] SUMMARY OF THE COMPLAINT: -

The Complaint is based on the following points / issues in brief: - -

(A) CONTRAVENTION OF THE REGISTERED TRADEMARKS AND DOMAIN NAMES OF THE COMPLAINANT (CONTRAVENTION OF PARA (3), (4) AND (6) OF THE .IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP) :-

1. The Complainant states that the domain name registered by the Respondent is wwliveindia.in which is both similar and identical to 'WWE' trademarks, character names and slogans, of which the Complainant is the registered owner. A list of trademarks registered by the Complainant in many countries is provided in Annexure C to the complaint, by the Complainant. The list provides such registrations in about 63 regions including China, Hong Kong, European Union and India. Among other registered trademarks, the Complainant also holds Indian Trademarks a list of which is provided under Schedule D annexed to the complaint, including Registration No.1111005 dated 12.06.2002, No. 1111006 dated 12.06.2002, No. 1111003 dated 12.06.2002, No. 1111004 dated 12.06.2002, No. 1111002 dated 12.06.2002, No. 1110998 dated 12.06.2002 and many more.
2. Apart from the registered trademarks in various countries, the Complainant owns over 300 domain names either directly or beneficially, incorporating the word WWE trademarks like www.wwe.com, www.wwe.in, www.wweasia etc.
3. The Complainant also states that it has contested and has been successful in law suits and in obtaining court orders against those using 'www' word illegally. In India it has been successful in CS (OS) 1443 of 2012, CS (OS) 784 of 2013 and CS (OS) 1801 of 2013 wherein Hon. High Court at Delhi has

upheld their rights, titles and interests in the word WWW. It has also won several domain name complaints so far.

4. The Complainant submits that World Wrestling Entertainment Inc. is an integrated media organisation and is a well reputed leader in global entertainment. It has offices in various major cities of the world including New York, Los Angeles, London, Istanbul, Tokyo, Shanghai, Singapore and Mumbai. It is listed on New York Stock Exchange with an estimated market capitalization of USD 1.33 Billion.
5. The disputed domain name includes the Complainant's registered trademark www in its entirety. It is identical and / or confusingly similar to the trademark and trade name and several domain names of the Complainant. Moreover the Respondent's website is dedicated to reporting and providing updates on the Complainant's Video programming formats such as Monday Night RAW as well as Friday Night SMACKDOWN in addition to providing updates on individual WWE superstars. This may cause an impression of association between the Complainant and Respondent in the minds of persons who access the domain of the Respondent is inevitable. It is violation of Para 3 and attracts Para 4 and Para 6 of INDRP.

(B) NO RIGHT OR LEGITIMATE INTEREST IN DISPUTED DOMAIN NAME (PARA 3(b)(vi)(2) OF INDRP RULES READ WITH PARA 7 :-

The Complainant has legitimate interest in the disputed domain name wwliveindia.in, since the Complainant has registered the mark WWW which is adopted in the disputed domain name in its entirety. On the other hand the Respondent does not have any registered trademark, service mark etc. in its name, nor is she commonly known by the name WWELIVE or any other combination thereof. The Respondent is not engaged in any business or commerce under the name WWE. The Respondent has not been authorized by the Complainant to use the word WWE for its purpose. The Respondent should be held to have actual or constructive knowledge of worldwide prior use and registration of the distinctive WWE trademarks by the Complainant. The Respondent has registered the domain name with mala fide intentions to capitalize upon the goodwill and reputation vested in the Complainant's trademarks and the registration of the disputed domain name has been done for the sole purpose of causing irreparable damage and injury to the Complainant's goodwill and reputation.

(C) REGISTRATION AND USE IN BAD FAITH: -

The Complainant has furnished the copy of its registered trademark W against which the Respondent has prepared image - WLive india and used it on the disputed website. Similarly the Respondent has also used the other registered trademarks such as UNDERTAKER, JOHN CENA, UNDERTAKER AND BATISTA in its website. The website was created by the Respondent on 26.10.2015 which is after a long period of registration of trademarks by the Complainant in India in 2002. Perusal of the website reveals that the Respondent offers advertising space to numerous third party entities to

promote their goods and services. Several links hosted on the Respondent's website redirect a user to the websites of third party entities.

Due to this the surfers to the website might believe that the Complainant has licensed the Respondent or has authorized the Respondent to register the domain name. Or that the Respondent has some connection with the Complainant or its business.

(C) REMEDIES SOUGHT BY THE COMPLAINANT: -

On the background of the Complaint and reasons described therein the Complainant has requested for transfer of the disputed domain name to it.

VI REPLY TO THE COMPLAINT / STATEMENT OF DEFENSE: -

In reply to the complaint, the Registrant / Respondent sent an email to this Arbitration Tribunal on 3.06.2016 stating that she has not bought domain name with bad intention. She is fan of WWE and wanted to have platform to share WWE news and events with her friends. She has also pleaded that she has taken the website down and she was ready to surrender the domain name. However she has also requested for payment of US\$ 500 towards the cost of buying the domain name and developing the website.

VII REJOINDERS OF THE PARTIES: -

(A) Due to email dated 03.06.2016 by the Registrant, an opportunity was given to the Complainant to file rejoinder, if any. Accordingly the Complainant filed rejoinder on 10.06.2016. In the said rejoinder the Complainant submitted that if the Respondent was interested only in sharing the news and events of WWE with her friends, there was no need: -

- (i) to adopt domain name which includes the WWE trademarks in its entirety.
- (ii) make use of the logos, images and slogans owned by the Complainant.
- (iii) offer space for third party advertisements
- (iv) put links to third parties websites

The Complainant also submitted that the Respondent had not substantiated the claim for expenses of US \$ 500 in developing the website. According to the Complainant this claim was fabricated, baseless, and far in excess of the expenses required actually for registering the domain name.

(B) On the background of the rejoinder filed by the Complainant, an opportunity was given to the Respondent to file her rejoinder. However the Registrant merely submitted that she was ready to surrender the domain name and requested to let her know the procedure for the same.

VII] MERITS OF THE COMPLAINT: -

On the basis of the Complaint and subsequent rejoinders of the parties, this Arbitration panel records the following observations: -

(a) The Complainant has several registered trademarks and websites which include the word 'WWW'. All of them have been in use for several years and much before the registration of disputed domain name by the Respondent.

Against this the Registrant does not have any registered trademark, other similar prior website or any business mark / identity containing the words or part thereof 'WWW'. She is also not commonly known by these words or any part thereof.

(b) The Respondent has developed the website wherein the space for advertisements of other goods and services is provided. Similarly there are links to third party websites creating confusion in the minds of surfers or visitors to the website regarding nexus, authority or association of the Respondent with the Complainant or any right, interest in the Complainant's registered trademarks.

(c) The Respondent's website contains the word WWW with the extension of the words 'liveindia'. This mere addition and difference in top level domain name '.in' does not differentiate the website from the websites of the Complainant. It is more so due to the contents, use of logos, images of the Complainant on the Respondent's website, identical or similar to those of the Complainant, may be in a modified or enhanced way. This would surely create confusion or impression in the internet users, surfers and visitors to the website, that the website is associated in some or the other way with the Complainant, which is not the fact.

(d) It is duty cast by law, on every person aspiring to register any domain name, to first verify the existing trademarks, similarity with existing domain names of others, prior use of the domain name by others and INDRP with Rules made thereunder. Ignorance of law is no excuse. Therefore pleading innocent subsequent to dispute, cannot be held as reasonable and acceptable defense in disputes related to domain names. Similarly defense that the intention to develop this website was to share news and events of WWE with friends is not acceptable due to third party links and space for ads. No prudent person would spend so much amount just for sharing news or events with friends.

(e) The Registrant has proposed to transfer the domain name for US \$ 500, which she claims to have spent on buying the domain name and developing the website. However she has failed to substantiate this claim. This is the price much higher than any reasonable expenses required to be incurred for registration of the domain name and developing the website in India. The Complainant cannot be expected to compensate for website development expenses, presumably incurred by the Respondent.

(f) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights according to the requirement of para 4(a)(i) of the INDRP Rules

(g) The Registrant / Respondent has no rights or legitimate interests in respect of the domain name as required by Para 4(a)(ii) of the Rules.

(h) If use of disputed domain name by the Registrant / Respondent, is allowed in future, the same would lead to creation of confusion in the minds of internet users regarding its ownership, association with the Complainant or authority vested in the Respondent by the Complainant. This would also lead to losses to the Complainant as loss of business and would also result in damage to the Complainant's goodwill and creditworthiness.

From all above findings, it can be concluded that the Complainant has proved its case for the entitlement to the disputed domain name.

On the basis of my findings on issues and foregoing discussion I pass the following award: -

The Complainant is entitled to the disputed domain name – 'WWELIVEINDIA.IN' and hence the same be transferred to the Complainant.

Dated: - 14.06.2016
Place: - Pune


(S.C.INAMDAR)
SOLE ARBITRATOR