



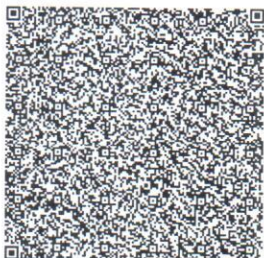
सत्यमेव जयते

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Certificate Issued Date	: 06-Dec-2016 03:42 PM
Account Reference	: IMPACC (IV)/ dl712203/ DELHI/ DL-DLH
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Purchased by	: Divya Balasundaram
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
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Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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Before the Sole Arbitrator, Divya Balasundaram
C/O National Internet Exchange Of India

In the matter of :

WWF – World Wide Fund For Nature Vs. Alok Sony (Harmony Infotech)

Divya Balasundaram

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BEFORE THE SOLE ARBITRATOR, DIVYA BALASUNDARAM

.IN REGISTRY

C/o NATIONAL INTERNET EXCHANGE OF INDIA

ARBITRATION AWARD

WWF - WORLD WIDE FUND FOR NATURE
(FORMERLY WORLD WILDLIFE FUND)

Avenue du Mont-Blanc 27
1196 Gland, Switzerland

Complainant

Versus

Alok Sony
(Harmony Infotech)
Shop No.4A, 2nd Floor
Yasavi Plaza, (Opposite to Chitralaya Theatre)
Vishakapatnam
Andhra Pradesh - 530020

Respondent

1. The Parties

- 1.1 The Complainant is WWF - WORLD WIDE FUND FOR NATURE, (FORMERLY WORLD WILDLIFE FUND), of the address Avenue du Mont-Blanc 27, 1196 Gland, Switzerland, represented by counsel Mr. Julick Isaiah of DePenning&DePenning, 120 Velachery Main Road, Guindy, Chennai - 600 032, India.
- 1.2 The Respondent is Alok Sony (Harmony Infotech) of the address Shop No.4A, 2nd Floor, Yasavi Plaza, (Opposite to Chitralaya Theatre) Vishakapatnam, Andhra Pradesh - 530020.

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2. **The Domain Name and Registrar**

- 2.1 The disputed domain name is <wwf.co.in> registered with .IN Registrar d.b.a. The said domain name was registered on 3rd May 2015.

3. **Procedural History**

- 3.1 Arbitrator received an email on October 27, 2016 inquiring if NIXI can avail its services as an arbitrator for the dispute pertaining to the domain name wwf.co.in. Arbitrator confirmed availability by email of same day and also sent the signed Statement of Acceptance and Declaration of Impartiality and Independence as required by the Rules.
- 3.2 The .IN Registry appointed Divya Balasundaram as the Sole Arbitrator on November 01, 2016 and Arbitrator received soft copy of the Complaint along with Annexures as well as hard copy.
- 3.3 Arbitral proceedings were commenced by Arbitrator on November 05, 2016 by issuance of a notice by email to the Respondent directing him to file his reply within 15 days.
- 3.4 The Arbitrator received an email dated November 21, 2016 from Respondent stating its case. Subsequent to receiving the email, the Arbitrator sent email dated December 9, 2016 confirming receipt of the Respondent's email and stating that award would be passed after reviewing both the Complaint and reply.
- 3.5 The language of these proceedings is English.

4. **Background of the Complainant and its rights in the trademark WWF as stated in the Complaint**

- 4.1 The Complainant is a foundation organized and existing under the laws of Switzerland. The complainant was formed on September 11, 1961 by a group of scientists, naturalists, business and political leaders.

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- 4.2 The Complainant's mission is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature by conserving the world's biological diversity; ensuring that the use of renewable natural resources is sustainable; and promoting the reduction of pollution and wasteful consumption; and to gather, manage and commit funds to this end. The Complainant participates, organizes, sponsors and supports diverse activities towards achieving its mission. The Complainant works with a large number of different groups to achieve its mission, including other NGO's, governments, business, investment banks, scientists, fishermen, farmers and local communities.
- 4.3 The Complainant is the global secretariat of and operates the WWF Network with member offices in over 70 countries including but not limited to India, UK, USA, Canada, Russia, Australia, Brazil, China, France, Germany, Hong Kong, Japan, Singapore and South Africa ("WWF Offices").
- 4.4 In India, the WWF Office is World Wide Fund for Nature - India (WWF-INDIA), which was founded as a charitable public trust on 27 November 1969 with the express objective of ensuring the conservation of India's wildlife and natural habitats. WWF-India is not only India's largest voluntary organization in the field of conservation, it has also grown into a network with a country wide presence in the area of biodiversity, enviro-legal action, policy studies and advocacy etc. Over the last 40 years, WWF-India with its strong network of offices across different geographical regions of India has made trailblazing efforts in the field of nature conservation. The Complainant's local offices are situated in Assam, Goa, Gujarat, Telangana, Jammu & Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Himachal Pradesh, Rajasthan, Chennai, West Bengal and Amritsar.
- 4.5 The Complainant is the original adopter and user of the trade mark WWF. The prominent aspect of the Complainant's corporate name, trading style, trademark, service mark and domain name is WWF. The Complainant is the registered owner of several trademarks and domain names consisting of 'WWF' in India and many other countries. On account of use and registrations, the term WORLD WIDE FUND FOR NATURE and its abbreviation WWF have come to be exclusively associated with the Complainant. The Complainant has actively protected and enforced its rights in the same.

Sujata Suresh

- 4.6 The Complainant has provided a list of its trademark registrations in India, as tabulated below:

TRADE MARK	NUMBER	CLASS	Date of Application
WWW WORLD WILDLIFE FUND	379095	16	30 th July 1981
WWF	588671	9	18 th January, 1993
WWF	588672	16	19 th January, 1993
WWF	588673	25	18 th January, 1993
WWF	588674	28	18 th January, 1993
WWF-PANDA log	809812	25	13 th July, 1993
WWF-PANDA logo	840829	5	11 th February, 1999
WWW-PANDA logo	887202	1	18 th November, 1999
Wwfindia.org wwfindia.net	1668022	1, 3, 5, 8, 9, 14, 16, 21-25, 28-32, 26, 40, 42, 45	24 th March, 2008

- 4.7 Tabulated below is the list of oppositions in India filed by the Complainant against several entities attempting to register WWF marks in India, all have been allowed:

S. No	TM No.	Trademark	Class	Applicant	Opposition No.
1	1528677	WWW BUILDER SWEET MASALA & DEVICE OF MAN & STARS	31	LIKE VIEW MALTIPACK CO	BOM-760773
2	839460	WONDER WASH FABRIC	24	BHIWANI TEXTILE MILLS	DEL-734303
3	1223339	VVV	4	SUPREME OIL TRADERS	AMD-720592
4	1233775	WWF BASMATI RICE & MANS DEVICE	30	BASMATI HOUSE	BOM-186924

Jurje Balesundaram

- 4.8 The Complainant and various WWF Offices (under license granted by the Complainant) are the owners / proprietor and registrant of various domain name registrations for "WWF" at international level. The details of some of these domains are as follows:

S.No.	Domain Name	Created on
1	wwf.org	30 th January 1992
2	www.findia.net	16 th August 2001
3	wwfindia.org	14 th June 2012
4	wwfindia.co	14 th June 2012
5	wwfindia.net.in	14 th June 2012
6	wwfindia.info	14 th June 2012
7	wwfindia.co.in	6 th June 2012
8	hawksobillwwf.org	17 th December 2004
9	onewwf.org	5 th September 2012
10	radiowwf.cl	7 th April 2005
11	tedxwwf-com,	18 th February 2011
12	wwfbassinducongo.org	10 th June 2013
13	wwf-congobasin.org	10 th June 2013
14	wwf-dev.org	1 st September 2015
15	wwf.biz	27 th March 2002
16	wwf.cl	29 th September 2002
17	wwf.eu	22 nd April 2006
18	wwf.us	16 th May 2002
19	wwfcarpo.org	10 th March 2003
20	wwfint.org	11 th February 2000
21	wwfpanda.cl	7 th May 2001
22	wwfpanda.org	1 st September 2010

- 4.9 Use of the keyword WWF in any leading search engine automatically throws the web pages of the Complainant among the leading hits. The brand familiarity ranking also substantiates the familiarity and constant recognition that WWF has accrued.

5. **Contentions of the Complainant in establishing the 3 elements required under the INDRP**

Surje Balaram-danem

Element 1 - In support of this element, i.e., the disputed domain name is identical or confusingly similar to Complainant's trademark, the Complainant has submitted that:

- 5.1 The Complainant is the lawful owner of the trade mark WWF. The said trade mark is coined and hence inherently distinctive. The trade mark endures as a symbol of efficacy, dependability and reliability of the products in relation to which it is used and enjoys vast reputation and enviable goodwill associated with the Complainant in several countries.
- 5.2 The Respondent's domain name www.wwf.co.in is nothing but a blatant imitation of the Complainant's trade mark. The Respondent is making calculated approach which is bound to result in conflict and confusion and will lead to dilution of the reputation associated with the Complainant's mark. As a result, the Complainant's search engine ranking would be adversely impacted thereby directly resulting in quantifiable drop of reputation.
- 5.3 The Respondent's domain name is identical to that of the Complainant. The very existence of the Respondent's domain name would cause the public to believe that the Respondent and their domain name is sponsored by or affiliated to the Complainant.
- 5.4 The Respondent's domain name without any due cause is taking and would take unfair advantage of and / or be detrimental to the distinctive character and repute of the Complainant's mark and domain names.
- 5.5 The Respondent's domain name is liable to be prevented by Courts of Law by way of an injunction or appropriate order, thereby protecting the Complainants intellectual property rights.
- 5.6 The Respondent has created and registered the disputed domain name subsequent to the Complainant's conception, adoption and usage of the trade mark and domain name WWF. Further, the Respondent's domain name has been created subsequent to the registration and the launch of www.wwf.org owned and operated by a WWF Office under license by the Complainant.
- 5.7 The Respondent is not the bona-fide owner, honest adopter or true / actual user of the disputed domain name and created it being fully aware of the

Inje Balas-daren

Complainant's trade mark WWF and their domain names, so as to trade and benefit from the Complainant's repute and goodwill.

- 5.8 The trademark WWF and the associated domain names of the Complainant are highly distinctive and qualify WWF as a well-known mark under Trade Marks Law. Under the circumstance if the Respondent is allowed to proceed to operate the website under the disputed domain name, the potential customers would be induced to: subscribe to the services of the impugned website and deal with Respondent believing it to be licensed or authorized by the Complainant; believe that the Respondent is carrying on activities that have been endorsed by the Complainant; believe that the Respondent is a part of the Complainant.

Element 2 - In support of this element, i.e., the Respondent has no rights claims, or legitimate interests in respect of the disputed domain name, the Complainant has submitted that:

- 5.9 The Complainant by itself and its offices had adopted and registered the domain wwf.org since the origins of the Internet boom, in 1992 and actively used it since. As tabulated hereinabove, the Complainant and its offices adopted and registered several domains with WWF as the predominant element. These domains act as a fulcrum in providing information to its current and potential supporters / donors around the world. The disputed domain name has been registered by the Respondent much subsequent to the adoption and use of the domain www.wwf.org by Complainant. At this time, the Complainant had already established considerable reputation in the trade mark WWF and had been actively using the website.
- 5.10 On account of the long and consistent use of the trade mark WWF, it is stated that it has attained certain distinctiveness and has become famous and is associated solely and exclusively with the Complainant worldwide including in India. So far as use of the trade mark WWF is concerned, the Complainant has been continuously using their said trade mark for more than a decade. Whereas the disputed domain name was created by the Respondent many years after the adoption and use of the trade mark WWF by the Complainant. The disputed domain name clearly incorporates the trade mark WWF of the Complainant in its entirety without any addition and deletion. Therefore it is beyond doubt that the disputed domain name is identical to the trade mark of the Complainant.

Sanje Balas-daren

- 5.11 The Complainant believes that the Respondent is not or has never been known by the name WWF or by any confusingly similar name and assuming but not admitting that even if the Respondent has accrued any rights in the disputed domain name www.wwf.co.in since its registration, any such rights would be significantly predated by the Complainant's rights.
- 5.12 The Respondent's registration and use of the disputed domain name is a clear case of cyber-squatting, whose intention is to take advantage of the Complainant's substantial reputation and its prominent presence on the internet in order to confuse the public, divert business, tarnish the reput and goodwill of the Complainant and unduly gain in all aspects to the detriment of the Complainant.

Element 3 - in support of this element, that the disputed domain name was registered and is being used in bad faith, the Complainant contends that:

- 5.13 The Complainant states that at the time of creation and registration of the disputed domain name by the Respondent, the Complainant has already a well-established presence globally. The Respondent has not been authorized, licensed or otherwise consented by the Complainant to use the trade mark WWF or to seek any sort of registration incorporating the said mark and domain name of the Complainant.
- 5.14 No doubt being aware of the Complainant's aforesaid trademarks, domain names, the reput, recognition and goodwill that the Complainant has achieved worldwide, the Respondent has subsequently in all mala-fide intention adopted the disputed domain name incorporating the said trade mark of the Complainant.
- 5.15 The registration of the disputed domain name and its subsequent use by the Respondent has a purpose of defrauding the public and is a deliberate attempt to attract, for commercial gain, internet users to another onlinelocation by creating a likelihood of confusing with the Complainant's 'WWF' trade mark, trade name and domain name such that the public would in all likelihood falsely believe that the disputed domain name is sponsored, endorsed or authorized by or in association with the Complainant. The Complainant claims this has been done for fraudulent purposes.

Sujeet Belesundaram

6. **Contentions of the Respondent**

- 6.1 The reply of the Respondent is reproduced below in italics:
- 6.2 *That the domain name in question is identical to the Complainant's registered trade mark. - It looks like that but then any abbreviation in the world can have multiple full forms.*
- 6.3 *That the Respondent has no claims, rights or legitimate interests in respect of disputed domain name. - Does it mean no one in the world now can invent or shorten up anything like wwff? What if we want to create a "World Wide Framework" or "World Wide Fusion" group. For eg. wwff.co.uk is being used by a firm called "Whatley Weston & Fox".*
- 6.4 *That the impugned domain name 'www.wwff.co.in' has been registered in bad faith. - Strongly Disagree. We are a small web agency and love acronyms and we intended to use the domain for one of our projects. The complainant is already using wwffindia.org so not sure why they want this domain. And in their complaint they have listed out some of the domains owned by them but almost all of them have been registered long back. If they were serious about this domain, they would have registered this domain also. How serious are they to protect their trademarks if it is still possible to register domain names with just wwff in it.*
- 6.5 *That WWF is an invented word and is a principal trademark of the Complainant; that the Complainant has obtained registration and made applications for registration of the trademark WWF in India. - Do they have trademark in all the possible classes? If not then a company should be allowed to use an acronym which can possibly be used to abbreviate other words.*
- 6.6 *That various domain names including www.wwff.org, www.wwff.biz, www.wwffindia.net, are owned and operated by either the Complainant or WWF Offices (under license granted by the Complainant). - Not all variants are owned by them. For eg. wwff.com, wwff.net, wwff.co.uk*
- 6.7 *The disputed domain name apart from being identical to the trade mark WWF is also identical to the Complainant's primary domain name. - The complainant primary domain name in India is wwffindia.org. There is difference between wwff and wwffindia.*

Surje Balasundaram

- 6.8 *The activity of the disputed domain holder is nothing but an act of cyber-squatting. - Strongly Disagree. Cyber Squatting is practice of registering domain names in hope of reselling them. Whereas we intended to develop the domain and use it for our own project. Neither the complainant nor their representative had approached us and nor we approached them to discuss any kind of monetary transaction.*
- 6.9 *Saying that we understand that it no longer makes any sense for us to use the domain name commercially as at the time of registration we weren't aware of the legal implications involved in using such a name. We didn't researched much into trademark and registered the domain name as it was available and assumed that we should be able to use it. Availability of domain names particularly the shorter ones generally implies that no one is/was interested in it. But we would rather invest our time/energy into developing web properties than fighting over a domain name which may or may not make much difference to our work. My suggestion for the complainant would be to register all the available variants of wwf and stop wasting money on legal fees. If any variants of wwf aren't available to register, people/companies can no longer think of using them."*

7. Discussions

- 7.1 At the outset, it is to be mentioned that the Arbitral Tribunal has been properly constituted. From a detailed reading of the Complaint and supporting annexures as well as the Respondents reply, the Arbitrator notes the following:
- 7.2 The Complainant is a foundation existing for several decades (since 1961) and is an international body with a presence across the globe. The Complainant also has a long standing and extensive presence in India.
- 7.3 The Complainant is the original adopter and user of the trade mark WWF which is the prominent aspect of its corporate name, trading style, trademark and domain name.
- 7.4 The Complainant is the registered owner of several trademarks and domain names consisting of 'WWF' in India and many other countries. On account of use and registrations, the term WORLD WIDE FUND FOR NATURE and its abbreviation WWF have come to be exclusively associated with the Complainant. The Complainant has actively protected and enforced its rights in the same.

Inje Balesundran

- 7.5 The impugned domain name <wwf.co.in> is identical to the trademark WWF of the Complainant since the suffix .co.in is not relevant for the purpose of determination of the identity or confusing similarity between impugned domain name and the word "WWF". The contention of the Respondent that the Complainant's primary domain name in India is wwfindia.org and that there is difference between wwf and wwfindia is unjustified and cannot be accepted.
- 7.6 The adoption by the Respondent of the impugned domain name is much subsequent to Complainant's adoption and use of the said mark.
- 7.7 The Respondent is deemed to have knowledge of the WWF trademarks and the Respondent has not denied knowledge of the same.
- 7.8 Use of the impugned domain name by the Respondent is bound to create confusion in the mind of the internet consumers/users as to the source of the same, and lead them to believe that the Respondent is connected/affiliated with the Complainant or otherwise authorized by it to use the impugned domain name; which is not the case.
- 7.9 The use of the impugned domain name by the Respondent is detrimental to and will lead to dilution of the reputation of the Complainant's mark.
- 7.10 Whilst the contention of the Respondent that WWF is an acronym and can be used for an expanded version is correct, and even accepting that the Respondent is a small web agency which loves to use acronyms, it is relevant to note that the Respondent is not commonly known by the acronym WWF nor any expanded version thereof. There appears to be no bona-fide reason for the Respondent to have adopted the impugned domain name. Further, the Respondent has not used nor made demonstrable preparation of use in respect of <wwf.co.in> before the commencement of these proceedings. It is the Respondents own admission that they only intended to use the impugned name for one of their projects.
- 7.11 Whilst it may be correct that the Respondent did not register the impugned domain name for purposes of re-selling, and no monetary transaction was involved, it still does not grant the right to the Respondent to register the impugned domain name given the Complainant's prior rights in the same. Mere availability of the domain name does not imply that Respondent can register/use the same. The other contentions of the Respondent are legally

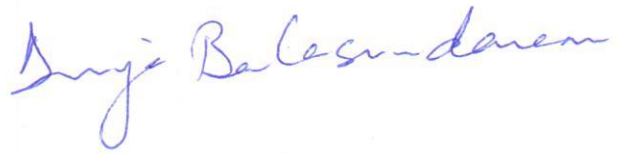
Dr. J. Balaraman

misconceived and unsustainable.

- 7.12 The Arbitrator concludes that each of the three elements required under paragraph 4 of the INDRP are established and the Respondent has not been able to produce any argument to effectively counter the same.

8. Decision

- 8.1 For all the foregoing reasons, the Complaint is allowed.
- 8.2 It is hereby ordered in accordance with paragraph 10 of the INDRP that the disputed domain name <wwf.co.in> be transferred to the Complainant.
- 8.3 The Parties shall bear their own costs.



DIVYA BALASUNDARAM
ARBITRATOR

Date: December 30, 2016
Place: New Delhi, India