



उत्तर प्रदेश UTTAR PRADESH

BF 502288



**Dr. Bodhisatva Acharya**

**ARBITRATOR**

(Appointed by .IN Registry-National Internet Exchange of India)

**ARBITRATION AWARD**

DISPUTED DOMAIN NAME :< [www.xeroxpoint.in](http://www.xeroxpoint.in) >

In the matter of:

Xerox Corporation

45 Glover Avenue

Norwalk, Connecticut 06856-4505, USA

Filed by its authorized representative attorney -

Manish Gupta

Fidus Law Chambers

C- 39, Sector-20, Noida - 201301, U.P.

E-mail: [shwetaree@fiduslawchambers.com](mailto:shwetaree@fiduslawchambers.com)

Tel: +91 120 4284447, Fax No: +91 120 4272149

.....Complainant.

Vs.

Mani Kannan  
Quick2soft Technologies  
Renga Road, Alwarpet, Chennai -600 028  
Also at No. 3, Bagavantham Street,  
Near Ventakanarayana (Tirupati Devastana) Temple,  
T.Nagar, Chennai - 600 017.

.....Respondent.

## A W A R D

### 1. The Parties:

The complainant in this arbitration proceeding is Xerox Corporation, 45 Glover Avenue, Norwalk, Connecticut 06856-4505, USA filed by its **authorized representative attorney** Manish Gupta, Fidus Law Chambers ,C- 39, Sector-20, Noida - 201301, U.P.

**Respondent** Mani Kannan, Quick2soft Technologies, Renga Road, Alwarpet, Chennai - 600 028, Also at No. 3, Bagavantham Street, Near Ventakanarayana (Tirupati Devastana) Temple, T.Nagar, Chennai - 600 017

### 2. The Domain Name, Registrar & Registrant:

The disputed domain name is www.xeroxpoint.in

### 3. Procedural History:

The Complainant, through its authorized representative, filed this complainant to NIXI regarding the disputed domain name www.xeroxpoint.in following the clause 4 of the policy of .IN Registry and .IN Registry appointed **Dr. Bodhisatva Acharya** (The Arbitrator) as Sole Arbitrator under clause 5 of the policy. The Arbitrator submitted his statement of acceptance and declaration of Impartiality and the Independence and the complaint was produced before the Arbitrator on March 11<sup>th</sup>, 2013 and the Arbitrator sent a notice, to the Respondent through his email for the Arbitration

Proceeding on March 19<sup>th</sup>, 2013, to submit his reply but nothing was submitted to Arbitrator till the date of award hence the AWARD is being declared on the May 15<sup>th</sup>, 2013 as Ex-parte.

#### 4. Factual Background:

- (a) The Complainant, Xerox Corporation, is a company incorporated under the laws of USA, having its principal place of business at 45 Glover Avenue, Norwalk, Connecticut 06856-4505, USA. Mr. Manish Gupta is the authorized signatory for the Complainant. The Complainant is a US\$22 billion technology and services Fortune 500 Company with operations spread over more than 160 countries and 140,000 employees worldwide. The complainant offers the world's most pre-eminent and widely accepted array of innovative document solutions, services and systems, including photocopiers, printers, digital presses, publishing systems, facsimile machines, multifunction devices, toners, paper, ink, associated supplies, software and support especially designed for office and production printing environments.
- (b) The Complainant's business globally is carried out under its well-known and iconic trademark/trade name 'XEROX'. The Complainant's association with the trademark XEROX dates back to the year 1948 when no such word was known or in use. Ever since its adoption, the Complainant has extensively and continuously used the said trademark worldwide, including in India, where it has directly carried out operations through its Indian subsidiary, Xerox India Limited, since 1983. The Complainant also operates the website <http://www.xerox.com> from the United States and accessible around the world and has held and operated the said domain name since January 9, 1986.
- (c) Around the month of August, 2012, the Complainant was made aware of the existence of domain name <http://www.xeroxpoint.in>. This website advertises 'Xeroxworld', which appears to be a brand/trade name of photocopiers/printers/ multifunction devices and/or related services along with the following description on the lead page:"

"The streamlined design fits easily on your desktop, and the toner cartridge is simple to access and replace, and requires minimum storage space. The Hi-Q LED print engine same break through technology found in some of our higher-end devices."

The said page also contains a list of 'Other sites' (which also redirect to <http://www.xeroxpoint.in>) and links to sections titled 'About Us', 'Services', 'Price List', 'Contact Us' and 'Search'. However, none of these links are accessible and appear to be dead links. The domain name details for the website <http://www.xeroxpoint.in>, including the results of WHOIS Lookup Search on the .IN Registry website.



- (d) Following the discovery of the activities of the Respondent as narrated above, the Complainant, through its Indian subsidiary Xerox India Limited, sent a legal notice dated August 24, 2012 to the Respondent, outlining the legal rights of the Complainant in the trademark XEROX and calling on the Respondent to cease and desist from using the trademark/ trade name XEROX and thus violating the rights of the Complainant therein. Upon receiving no response to the said notice, the complainant sent another legal notice to the Respondent at its alternate address on September 25, 2012, reiterating the contents of the earlier notice and requesting the same by October 1, 2012. The Complainant has not received any response to or acknowledgement of its communications from the Respondent.
- (e) Lastly the complainant filed this complaint for Arbitration proceeding and the Arbitrator submitted his statement of acceptance and declaration of Impartiality and the Independence and the complaint was produced before the Arbitrator on March 11<sup>th</sup>, 2013 and the Arbitrator sent a notice, to the Respondent through his email for the Arbitration Proceeding on March 19<sup>th</sup>, 2013, to submit his reply but nothing was submitted to Arbitrator till the date of award hence the AWARD is being declared on the May 15<sup>th</sup>, 2013 as Ex-parte

## **5. Parties Contentions:**

- (a) Complainant contends that
- (i) The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
  - (ii) The Registrant has no rights or legitimate interests in respect of the domain name; and
  - (iii) The Registrant's domain name has been registered or is being used in bad faith, and the domain name be transferred to the Complainant.
- (b) Respondent contends that

The respondent gave no response.

## **6. Discussion & Findings:**

- (i) Disputed domain name/URL being identical to the registered trademark of the Complainant as well as being extremely similar to the international website of the Complainant <http://www.xerox.com> operated by the Complainant, ordinary internet users are likely to be confused by the presence of the disputed domain name/URL on the internet ostensibly



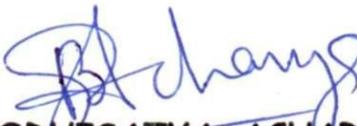
offering goods and services similar/identical to the Complainant and thus cause loss of business and reputation of the Complainant.

- (ii) Complainant, as the registered proprietor of the trademark XEROX and the continuous user of the same for several decades, is the sole and genuine rights/holder in the trademark/trade name XEROX and the Respondent, who ostensibly carried out business in photocopiers/printers/multifunction devices and or related services, by registering the disputed domain name/URL is blatantly seeking to cash in on the brand value and reputation of the Complainant's trademark XEROX for the Respondent's personal gain. Disputed domain name/ URL has been registered by the Respondent despite having no affiliation, past or present, with the Complainant also clearly suggest that the Respondent has no legitimate rights or interests in respect of the disputed domain name/URL.
- (iii) Disputed domain name/URL has only been created as recently as May 26, 2012 and the Respondent also runs several other websites, all of which feature identical content and use the Complainant's trademark XEROX or some confusingly similar word(s)/name(s) clearly prompts the conclusion that the Respondent and that the same has been done purely for the purpose of promoting the Respondent's own business and causing loss of business and reputation to the Complainant and therefore, the Registration and use of the disputed domain name/URL by the Respondent is clearly in bad faith.
- (iv) The Complainant thus has satisfied the Arbitrator on all the parameters as mentioned in the Paragraph 4 of the Policy (INDRP).

## **7. Decision:**

Hence the Arbitrator decides, the Disputed Domain Name www.xeroxpoint.in is identical or confusingly similar to registered trademark of the Complainant and Respondent has no right to use the disputed domain name and the Respondent domain name has been registered in bad faith.

The Arbitrator further decides and orders that the domain name www.xeroxpoint.in shall be transferred to the Complainant with immediate effect.

  
**Dr. BODHISATVA ACHARYA**  
SOLE ARBITRATOR  
NIXI

DATED: May 15<sup>th</sup>, 2013,  
PLACE: NEW DELHI,  
INDIA