

INDIA NON JUDICIAL

महाराष्ट्र MAHARASHTRA

● 2019 ●

AU 118189

अनु. क्र. ५४७ दि. १०/१२/८२ पु. श. रत्नाग ५० १२२५८

वस्तुतया नही था बाबा शिव दया

दरत को जंगल का हैल का ? होच/अर्ध।

मिळवणी दिवस : २०/०५/२०२०

सुखान्तः

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सौ. जयशंकर सिंह, जेलकर
17/04/2019
824 2, गानेशर पेठ पुणे-3

ज्या कारणासाठी म्यानी मुद्रांक खरेदी केला त्यांनी त्याच कारणासाठी मुद्रांक खरेदी करण्यासुद्धा नव्हिन्यात वापरणे बांधनकारक आहे.

AWARD

IN ARBITRATION IN INDRP CASE NO.1140

WWW.URENCO.NET.IN

Urenco Limited
Urenco Court Sefton Park, Bells Hill
Stoke Poges, Buckinghamshire
SL2 4JS, United Kingdom.

THE COMPLAINANT

V/S

Chidananda G D
No.50, 7th CR, Pooruikahilaya
Muneshwara Nagar, TC Palya Road
Bengaluru. Karnataka. 560084

**THE RESPONDENT /
THE REGISTRANT**

IN THE MATTER OF DISPUTED DOMAIN NAME: - 'URENCO.NET.IN'

**ARBITRATION PANEL: - MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.
SOLE ARBITRATOR**

**DELIVERED ON THIS 21st DAY OF SEPTEMBER TWO THOUSAND
NINETEEN AT PUNE, INDIA.**

I] SUMMARISED INFORMATION ABOUT THE DISPUTE: -

SR. NO.	PARTY TO THE DISPUTE	NAME	ADDRESS
01	COMPLAINANT	Urenco Limited	Urenco Court Sefton Park, Bells Hill, Stoke Poges, Buckinghamshire, SL2 4JS, United Kingdom.
02	AUTHORISED REPRESENTA TIVE OF THE COMPLAINANT	David Yeomans	Keltie LLP, 1 London Bridge, London, SE1 9BA, United Kingdom.
03	RESPONDENT / RESPONDENT	Chidananda G D	No.50, 7 th CR, Pooruikahilaya, Muneshwara Nagar, TC Palya Road, Bengaluru. Karnataka. 560 084. India
04	DOMAIN NAME REGISTRAR	Endurance Domains Technology LLP	Endurance Domains Technology LLP

III] CALENDER OF MAJOR EVENTS:-

Sr. No.	Particulars	Date (All communications in electronic mode)
01	Arbitration case referred to me by NIXI	21.08.2019
02	Acceptance given by me	21.08.2019
03	Complainant directed to file Power of Attorney / Vakalatnama	27.08.2019
04	Power of Attorney filed by the Complainant	02.09.2019
05	Notice of Arbitration issued, with the period to file reply, if any, latest by 13.09.2019	03.09.2019
06	Period to file say by Respondent extended with instruction to file his say if any, latest by 19.09.2019	16.09.2019
07	Notice of closure of arbitration issued	20.09.2019
08	Award passed	21.09.2019

III] PARTICULARS OF DISPUTED DOMAIN NAME & REGISTRATION:

1. Disputed domain name is 'URENCO.NET.IN'.
2. Date of registration of disputed domain name by Respondent is 26.11.2018
3. Registrar is Endurance Domains Technology LLP

IV] PROCEDURE FOLLOWED IN ARBITRAION PROCEEDINGS: -

- 1) Arbitration proceedings were carried out as per .In Domain Name Dispute Resolution Policy (INDRP) read with INDRP Rules of Procedure, Indian Arbitration Act, 1996 (including amendments thereto) and Code of Civil Procedure, wherever necessary.
- 2) The parties were requested to expedite their submissions so as to enable this panel to pass award within the prescribed time frame of 60 days.
- 3) Copies of all communications were marked to both the parties and NIXI.
- 4) No personal hearing was requested / granted / held.

V] BRIEF INFORMATION OF THE COMPLAINANT: -

The Complainant in these arbitration proceedings is Urenco Limited. According to the Complainant it owns Urenco brand. The Complainant is a nuclear fuel company operating uranium enrichment plants in Germany, Netherlands, United States and United Kingdom. It supplies nuclear power stations in about 15 countries. Its revenue for the year ended 31.12.2018 was Euro 1957.7 M. The Complainant enjoys 27% market share of the world.

The Complainant claims that it is owner of trademark 'Urenco' in various countries including India. Among them in India it has registered trade mark No. 1400161 for the term URENCO registered on 18.11.2005. Second trademark is registered on 17.06.2016 bearing registration No. 1222844. Additionally the Complainant owns about 150 trademarks all over the world.

VII] SUMMARY OF THE COMPLAINT: -

The Complaint is, Inter-alia, based on the following points, issues, representations or claims in brief:-

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

i. The Complainant has furnished copies of registered marks in India which were registered on 18.11.2005 and 17.06.2016 respectively. This was much prior to the registration of disputed domain name which was registered on 26.11.2018.

ii. According to the Paragraph 3 of INDRP it is the responsibility of the Respondent to find out before registration that the domain name which he is going to register does not violate the rights of any brand owner. The Respondent has failed in his responsibility to carry out his responsibility.

iii. Mere addition of ccTLDs can be disregarded when comparing a domain name and trademark.

(B) NO RIGHT OR LEGITIMATE INTEREST IN DISPUTED DOMAIN NAME (PARA 4(ii) OF INDRP): -

i. The Respondent does not own any registered rights in any trademarks which comprise part or the entirety of the disputed domain name..

ii. The term URENCO is not descriptive in any way nor does it have any generic, dictionary meaning. There is no relationship between the Complainant and Respondent and the Complainant has not licensed or otherwise permitted the Respondent to use the name URENCO in an domain name registration or in any other manner.

iii. The Respondent's use of disputed domain name is for commercial gain and misleadingly diverts the Complainant's consumers. He does not own any legitimate enforceable rights. It is the Respondent's responsibility to prove that he has legitimate rights or interests in the disputed domain name. (Mondich and American Wine Biscuits v Brown – Case No. D2000-0004).

(C) REGISTRATION AND USE IN BAD FAITH (PARA 4(iii) OF INDRP): -

- i. Since the registration of trademarks by the Complainant was prior to the registration of disputed domain name by the Respondent, it leads to the conclusion that the Respondent has registered it in bad faith.
- ii. By registering the disputed domain name, the Respondent has intentionally attempted to attract for commercial gain, internet users to the disputed domain website by creating likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name.
- iii. The website is designed to take the advantage of the reputation of the Complainant. The use of the Complainant's logo is conclusive evidence that the Registrant has no cause to use the said logo, which is protected by the Indian Designation of International Trade Mark Registration No.1222844.
- iv. The contact details on the disputed website are genuine telephone numbers of some of the Complainant's offices. But the email id provided does not belong to the Complainant. Therefore there is significant risk that the disputed domain name is being use to phish for, otherwise misappropriate, sensitive and / or confidential data. Visitors to the website may well send emails to the bogus email addresses in the mistaken belief that they are contacting the Complainant. There is a clear and obvious risk or harm associated with this.
- v. The Respondent appears to be intentionally trading on the goodwill of the marks in which the Complainant has rights and such trading cannot constitute a bonafide offering of goods or services. (Aon PLC and Ors. V Guanrui INDRP/633, Wells Fargo & Co. And Anr. V SreeDas Kumar INDRP /666)

(D) REMEDIES SOUGHT BY THE COMPLAINANT: -

On the above background of the Complaint and reasons described therein the Complainant has requested for TRANSFER OF DISPUTED DOMAIN to the Complainant and award of costs in its favour.

VII] RESPONDENT'S DEFENSE: -

The Respondent did not respond to the Notice of Arbitration even within the extended time.

VIII] REJOINDERS OF THE PARTIES: -

In view of non-filing of any say / reply by the Respondent, no rejoinder was called for.

IX] EVIDENCE RELIED UPON: -

This panel has, *inter-alia*, placed reliance upon the following evidences / details thereof, submitted by the Complainant: -

1. Copies of trademarks registered in India and in other countries in the name of the Complainant
2. Copy of printout of the *whois* details

X] FINDINGS: -

Based on the complaint, contentions and annexures attached to it, this panel makes following observations: -

1. The Complainant is an owner of registered trade / service marks incorporating the word URENCO in which it has legitimate interests and rights.
2. The registration of these marks is prior to the registration of the disputed domain name by the Respondent.
3. The Complainant has not authorised / licensed to the Respondent to use the word 'URENCO' in any manner, nor the Respondent has claimed such authority having issued by the Complainant in his say.
4. The fact that the Respondent has used the Complainant's logo on his disputed domain name, leads to the conclusion that the Respondent was well aware of the Complainant, its registered trademark, his rights and legitimate interests as also the nature of his business, before registration of the disputed domain name.

6. The Respondent is not known by the word URENCO or any resembling word to it.

7. The Respondent is not making use of disputed domain name for non-commercial or charitable purposes.

8. The Complainant is engaged in the business of nuclear fuel company operating uranium enrichment plants in different countries. It is beyond doubt that if any information about its business, its customers, processes, shipping details etc. reach unscrupulous hands, it may create serious threats not only to the Complainant, but also to innocent people in any part of the world. This is likely to happen since the logo and telephone numbers placed on the disputed website by the Respondent genuinely belong to the Complainant, but the email id provided on it does not belong to the Complainant. There is every possibility that the Respondent may get information which very sensitive and may pass it on to unscrupulous people for gaining monetary benefits illegally.

XII] CONCLUSION: -

On the basis of the averments in the Complaint, citations, documentary evidence and other substantiating points, this Arbitration Panel has come to the following conclusions: -

a. the disputed domain name contains registered trade / service mark of the Complainant in its entirety and is totally identical or confusingly similar to a name, trademark in which the Complainant has legitimate rights and interests.

b. placing logo and genuine telephone numbers of the Complainant on the disputed website by the Respondent, clearly indicates that the Respondent was well aware of the Complainant, his business, and his registered trademark before registration of disputed domain name and hence this has to be treated as mala fide registration in complete violation of the Complainant's rights and legitimate interests in the registered trademarks.

c. the Respondent has no rights or legitimate interests in respect of the domain name. He has not been authorised, licensed / permitted to use the said domain name, nor has he been known individually or by his business by the name of disputed domain name or any closely resembling term to it.

d. the disputed domain name is registered in bad faith by the Respondent and allowing him to continue to own the same would make injustice and loss to the Complainant as also it may pose serious threats to innocent people anywhere in the world.

XIII] AWARD: -

On the basis of above findings on issues, foregoing discussion, conclusion and as per the remedies requested by the Complainant, this panel passes the following award: -

a. The disputed domain name 'URENCO.NET.IN' be transferred to the Complainant.

b. The Respondent shall pay to the Complainant all costs related to these arbitration proceedings.

Date: - 21.09.2019

Place: - Pune, India


(S.C. INAMDAR)
SOLE ARBITRATOR
NATIONAL INTERNET
EXCHANGE OF INDIA