

उत्तर प्रदेश UTTAR PRADESH

AW 038417

18 NOV 2011

**BODHISATVA ACHARYA**  
**ARBITRATOR**

(Appointed by IN Registry-National Internet Exchange of India)  
Case No. .... Of 2012.

ARBITRATION AWARD: DISPUTED DOMAIN NAME: [www.pvrcinemas.in](http://www.pvrcinemas.in)

In the matter of:  
**M/s PVR Limited**  
61, Basant Lok,  
Vasant Vihar,  
New Delhi-110057

Filed by its authorized representative attorney -

a) **Mr. Prahlad Singh**  
S/o Late Shri R.S. Singh  
61, Basant Lok,  
Vasant Vihar,  
New Delhi-110 057

b) **Mr. Sahil Sethi**  
C/o Saikrishna & Associates,  
D-5, 2<sup>nd</sup> Floor,  
Sector 10,  
NOIDA-201 301  
U.P.  
India.  
Email: [sahil@saikrishnaassociates.com](mailto:sahil@saikrishnaassociates.com)

....Complainant

**Vs.**

Chandan,  
#82, II Main,  
Bangalore-560061,  
Karnataka.  
E-mail: [chandan.123@gmail.com](mailto:chandan.123@gmail.com)

.....Respondent.

## **A W A R D**

### **1. The Parties:**

The complainant in this arbitration proceeding is M/s PVR Limited, 61, Basant Lok, Vasant Vihar, New Delhi-110057 filed by its authorized representative Mr. Prahlad Singh S/o Late Shri R.S. Singh, 61, Basant Lok, Vasant Vihar, New Delhi-110 057 & Mr. Sahil Sethi C/o SaiKrishna & Associates, D-5, 2<sup>nd</sup> Floor, Sector 10, NOIDA- 201301, U.P., India , with email address as [sahil@saikrishnaassociates.com](mailto:sahil@saikrishnaassociates.com)

Respondent in this arbitration proceeding is Chandan, #82, II Main, Bangalore-560061, Karnataka. E-mail: [chandan.123@gmail.com](mailto:chandan.123@gmail.com)





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

The disputed domain name is [www.pvrcinemas.in](http://www.pvrcinemas.in)

## **3. Procedural History:**

The complainant, through its authorized representative, filed this complaint to NIXI regarding the disputed domain name [www.pvrcinemas.in](http://www.pvrcinemas.in) following the clause 4 of the policy of .IN Registry and .IN Registry appointed **Mr. 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 on December 31<sup>st</sup>, 2011 and the complaint was produced before the Arbitrator on January 18<sup>th</sup>, 2012 and the Arbitrator sent a notice of Arbitration proceeding to Respondent on January 20<sup>th</sup>, 2012 through the email of Respondent but Respondent neither replied nor filed therefore the complaint is being decided as Ex-parte on February 25<sup>th</sup>, 2012.

## **4. Factual Background:**

M/s PVR Limited, its predecessors in business, subsidiaries, Affiliates and sister concerns. M/s PVR Limited was incorporated on April, 1995, pursuant to a joint venture agreement between Priya Exhibitors Private Limited and Village Roadshow Limited and hence, the mark PVR which is an abbreviation for Priya Village Roadshow came into existence. The Complainant pioneered the multiplex revolution in the country by establishing the first multiplex cinema in 1997 at Saket, New Delhi. The opening of the first multiplex heralded a new era in the Indian cinema viewing experience and which also changed the industry forever. From then on, PVR Limited initiated many path breaking innovations in the industry.



The Complainant's cinema circuit in India consists of 36 cinemas with 158 screens spread over 20 major cities namely, Delhi, Faridabad, Gurgaon, Ludhiana, Ghaziabad, Mumbai, Bangalore, Hyderabad, Chennai, Lucknow, Indore, Aurangabad, Baroda, Allahabad, Ahmedabad, Udaipur, Chandigarh, Surat, Latur. In the financial year 2011 the PVR brand has

been successful in entertaining more than 19 million esteemed patrons across its properties. Presently, the complainant contributes 20-25% of domestic box office collections of any leading Hollywood movie and 12-13% of any leading Bollywood movie, highest across the Indian film Exhibition space. The company also operates a film distribution and production business through PVR pictures, a 100% subsidiary of PVR Limited. The movie co-produced by PVR pictures includes "Taare Zameen Par", "Jaane Tu Ya Jaane Na", "Aisha" etc. Apart from the movies distributed by PVR include "Ghajini", "Golmaal Returns", "Sarkar Raj", "Lions of Punjab", "Tum Mile", "Aviator", "Chicago", "Hannibal Rising", "Don", "Twilight Series", "Action Replay" to name a few.

The Complainant adopted the mark PVR, in respect of its services in the year 1995. The marks PVR and PVRCINEMAS also feature on the web address of the complainant, [www.pvrcinemas.com](http://www.pvrcinemas.com), the domain of which was registered on April 24, 2001. Since its incorporation in the year 1995, the complainant has used the trademark/trade name PVR voluminously, continuously and extensively in respect of its services, to the extent that the same has always been perceived as indicative of the complainant with respect of entertainment services. The PVR trademark/trading style has therefore, acquired substantial goodwill and is an extremely valuable commercial asset of the complainant company. The complainant is also the registered proprietor of the trademarks PVR and PVRCINEMAS in various classes in India.

For promoting, advertising and popularizing its services under the trademarks/service marks PVR and PVRCINEMAS, the Complainant maintains a formidable and extensive presence on the internet through its website [www.pvrcinemas.com](http://www.pvrcinemas.com). The domain name <pvrcinemas.com> was registered by the Complainant on 24<sup>th</sup> April 2001.

Arbitrator sent a notice to the Respondent through his email on January 20<sup>th</sup>, 2012 for the Arbitration Proceeding with a 10 days





deadline to submit his reply but the respondent never filed any proper reply however he sent a mail to arbitrator and mentioning that

*Dear Sir*

*the said domain is registered for developing a review site on pvr cinemas , multiplexes.*

*I have registered the domain for the project as it was available that time.*

*but due to my other work i havent made any development so far. And i just got your email regarding the domain*

*The domain is regged for a review site and not for any abuse of pvr limited also i not got any communication from pvr limited so far abt.*

*so they can have the domain now. The legal cost i cant pay because i never intend to make the site for any kind of abuse to the pvr limited rather its intend to a review site.*

*thanks and regards  
Chandan*

Except the above mentioned e-mail the Respondent never filed his reply in a proper way.

Hence the Award is giving as Ex-parte on February 25<sup>th</sup>, 2012.

## **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 never filed his reply properly.

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

Under the Paragraph 4 of the Policy (INDRP) Any Person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

- (i) The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has right.
- (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 with bad faith

After having gone through the records, documents, produced by the Complainant, **Arbitrator's findings** are:

- (i) That the disputed domain name <pvr cinemas> is identical to Complainant's trademark PVR CINEMAS which also forms part of the Complainant's URL/website located at [www.pvr cinemas.com](http://www.pvr cinemas.com) owning to the identity of the Complainant's domain name, an internet user who is not familiar with the complete web address of the Complainant, is highly likely to be misled into visiting the Respondent's web address. As domain names and URL's form part and parcel of the identity of an entity and service the function of its trade/service mark upon the internet, the act of the Respondent in registering the domain name, <pvr cinemas.in>, is in contravention of the trademark rights of the Complainant in the marks PVR, PVR CINEMAS and the domain name <pvr cinemas.com>. Not only does the domain name



pvr cinemas.in> incorporates the trademarks of the Complainant in its entirety, but is also identical to the web address <pvr cinemas.com> of the Complainant, which makes confusion and deception inevitable.

- (ii) The trade/mark service mark PVR consists of a unique combination and collection of letters, as a result of the abbreviation of "Priya Village Roadshow" and Respondent could have no justification for registering a domain name incorporating the well-known trademarks PVR and PVR CINEMAS of the complainant in its entirety. The registration of the disputed domain name <pvr cinemas.in>, registered on August 13, 2011, is subsequent to the date of adoption of the trademarks/service marks PVR and PVR CINEMAS by the Complainant. Even the domain name <pvr cinemas.com> was registered way back on April 24, 2001. While the Complainant is the registered proprietor of the marks PVR and PVR CINEMAS has extensively and continuously using the same since 1995, there is no a single instance where the Respondent has made a *bonafide* offering of goods/services under the mark PVR or PVR CINEMAS. The mere intent behind registering the disputed domain name is to commercially gain by misleadingly diverting internet users to another online entertainment websites, namely, BMS, KZ and www.gaana.com.
- (iii) The Complaint produced evidence to bring it to the notice of his Hon'ble Tribunal that the respondent appears to be a professional squatter. The reverse *whois* lookup of the email id [chandan.123@gmail.com](mailto:chandan.123@gmail.com) <http://whois.domaintools.com/pvr cinemas.in>, the contact given by the Respondent to register the impugned domain name <pvr cinemas.in> shows that the same is used for registration of around 440 domain names and the copy thereof produced herein. It is unlikely that the Respondent who does not appear to be carrying on any *bonafide* business would have interests in around 440 domain names. It is obvious that a Respondent is a professional squatter who has continuously indulged in the practice of commercially gaining by unlawfully registering well-known trademarks as domain names. It is clear that the disputed domain name






<pvr cinemas.in> registered in the name of the Respondent comes with fraud and deception, which is causing considerable damage to the Complainant's business interests, apart from prejudicing substantial public interest and the illegal registration of disputed domain name and constant diversion of internet traffic to websites of its competitors is causing irreparable damage and injury to the Complainant's reputation and business interests.

- (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.pvr cinemas.in](http://www.pvr cinemas.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.pvr cinemas.in](http://www.pvr cinemas.in) shall be transferred to the Complainant with immediate effect.

  
**BODHISATVA ACHARYA**  
SOLE ARBITRATOR  
NIXI  
25/02/2012

DATED: February 25<sup>th</sup>, 2012,  
PLACE: NEW DELHI,  
INDIA.