



उत्तर प्रदेश UTTAR PRADESH

FF 551357

INDRP ARBITRATION

THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]

ADMINISTRATIVE PANEL DECISION

SOLE ARBITRATOR: ANKUR RAHEJA, FCS LLB MCA

WORLD WRESTLING ENTERTAINMENT INC. V WATCH WRESTLING

<watchwwe.in>

In the matter of:

WORLD WRESTLING
ENTERTAINMENT INC.

1241 East Main Street Stamford
CT 06902 USA

...Complainant

Versus

WATCH WRESTLING

A 12, Sai Chnad Tara, Los Angeles,
California 90001, USA

...Respondent

A. Raheja
07 MAY 2020

ARBITRATION AWARD

Disputed Domain Name: watchwwe.in

1. The Parties:

Complainant is World Wrestling Entertainment Inc. ("Complainant"), USA represented by Col. (Retd.) J.K. Sharma, Ms. Vaishali Mittal, Mr Siddhant Chamola, Devyani Nath of M/s Anand and Anand, Noida, India. Respondent is Watch Wrestling ("Respondent"), USA self-represented.

2. The Domain Name and Registrar:

The domain name at issue is <watchwwe.in>, created on 29th October 2019, registered with Endurance Domains Technology LLP.

3. Procedural History:

The Complaint was originally filed with .IN Registry. Arbitrator received an email, inquiring if Nixi can avail of its services as an arbitrator for the dispute pertaining to the domain name <watchwwe.in>. Arbitrator confirmed availability and sent the signed Statement of Acceptance and Declaration of Impartiality and independence as required by rules.

Arbitral Proceedings commenced on 20th February 2020 by issue of a notice by the Arbitrator by email to the Respondent, directing Respondent to file his

response to the Complaint by 04th March 2020, which was successfully delivered on the WHOIS Email ID.

In the meantime, Nixi served a soft copy of the Complaint with Annexure, while the hard copy of the same was dispatched through courier to the WHOIS address of the Respondent. That on 3rd March 2020, the Respondent communicated that they intend to voluntarily surrender the domain name.

On 10th March 2020, Complainant's Representative was asked to provide information as to the Power of Attorney annexed with the Complaint. But soon thereafter India went into complete lockdown (*except provision of essential services*) amid COVID-19 pandemic and some relaxations were announced 04th May 2020 onwards.

On 6th May 2020, the Complainant's Representative filed duly signed Power of Attorney and the same was taken on record. Hence, the INDRP Proceedings exceeded the normal timeline of 60 days, mainly due to COVID-19 and the lockdown thereto all over India, announced by the Government of India.

No personal hearing was requested / granted / held. The language of these proceedings is in English.

4. Factual Background:

The Complainant is an integrated media organization, a recognized leader in global entertainment, and a publicly traded company with a market capitalization of approximately USD \$4/89 billion as of January, 2020.



The Complainant has invested hundreds of millions of dollars and taken painstaking efforts to advertise and promote its goods and services offered under the trademark WWE all across the globe, including in India.

The wrestling events of the Complainant feature professional athletes cum wrestlers having distinct appearances and styles. These wrestlers, often commonly referred to as WWE SUPERSTARS, sport fictitious and unique character names, which evoke the image which is sought to be projected by such characters. The names and images of these wrestlers enjoy tremendous popularity and goodwill amongst fans.

The unique names associated with every individual wrestler and the intellectual property rights vested therein are well recognized by the public.

5. Parties Contentions

A. Complainant

- (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.

B. Respondent



On 20th February 2020, Respondent acknowledge receipt of the Complaint and stated as follows:

"This is to confirm that we have received the documents.

With little or very less knowledge about do's and don'ts of registering a domain in .in domain registry, We were not aware that we cannot use such names while registering a domain name, We would like to inform you that the website has been made down, and will not be used in coming future in any form.

We respect the Laws, And Lawmakers, and we apologize for the inconvenience caused.

Please let us know what else we can do, in order to resolve this dispute."

The Respondent was communicated by the Arbitrator that the Complainant has mainly prayed for the transfer of the domain name **WATCHWWE.in**, as indicated in the notice. To this, they communicated on 3rd March 2020:

"Please let us know the procedure to handover the domain watchwwe.in to the concerned party. Or will it be overtaken automatically?"

6. Discussion and Findings:

The Arbitrator has reviewed all the documents placed before it by the parties. The Complainant in its complaint has invoked Para 4 of the INDRP, wherein the Complainant is supposed to satisfy all three conditions provided under Para 4 of the .IN Domain Name Dispute Resolution Policy (INDRP).

A. Identical or Confusingly Similar

Though the Respondent has agreed to transfer the domain name but still it was necessary to analyze the first condition of the INDRP, as held in the matter of Homer TLC, Inc. v. Jacek Woloszek [NAF Claim Number: FA1504001613637]. A necessary prerequisite to Complainant obtaining its requested relief, even where Respondent agrees to such relief, Complainant must demonstrate that it has rights in a mark that is confusingly similar or identical to the at-issue domain name.

Complainant's trademark registrations in various jurisdictions for the mark **WWE** and variants shows Complainant's rights in the mark under INDRP. While in India as well, mark **WWE** and its variants are registered in respect to goods and services covered under numerous classes - 9, 16, 25, 41 and so on.

Undoubtedly, the disputed domain name is confusingly similar to a trademark in which Complainant has rights. While the Complainant also owns more than 300 domain names incorporating **WWE** mark.

It has been long held that the trademark registration constitutes prima facie evidence of the validity of trademark rights. Therefore, the Arbitrator concludes that the disputed domain name is confusingly similar to Complainant's mark.

B. Rights or Legitimate Interests

It is well established that the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain

name, and then the burden shifts to the Respondent to come forward with concrete evidence of such rights or legitimate interests.

The Respondent in the response has voluntarily agreed to surrender the Domain Name, therefore the Arbitrator need not address the element of legitimate interests and Bad Faith.

C. Registered and Used in Bad Faith

The Respondent has voluntarily agreed to surrender the Domain Name, therefore the Arbitrator need not address the element of legitimate interests and Bad Faith. It was held in the matter of Amazon Technologies, Inc. v. Sushil Kumar / individual [Claim Number: FA1912001875480] that Respondent's consent to transfer the at-issue domain name permits the Arbitrator to order that the domain name be transferred to Complainant without further analysis regarding paragraph 4(a)(ii) or 4(a)(iii) of the Policy.

WIPO Overview Para 4.10 states, where the Respondent has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the Complainant, many panels will order the requested remedy solely on the basis of such consent. In such cases, the panel gives effect to an understood party agreement as to the disposition of their case (whether by virtue of deemed admission, or on a no-fault basis).

Similar stance has been taken under various INDRP decisions Nanushkaclothing.in (**INDRP/604** - "In view of the undertaking given by the Respondent, I deem fit and proper to allow the prayer of the Complainant in its favour"); Lenovo.in (**INDRP/708** - Therefore, as held by the learned panel in previous decisions **INDRP/174, INDRP/230, INDRP/571, INDRP/629, INDRP/660** on the basis of the Respondent's consent to transfer the Domain

Name, no further consideration or discussion of the Policy is deemed necessary by the Arbitrator"); Starthosting.in (**INDRP/821** - "the Respondent having agreed to transfer the domain name to the Complainant, no useful purpose would be served in going into merits of the case").

7. Decision:

For the foregoing reasons, in accordance with INDRP Policy and rules thereunder, the Arbitrator orders that the disputed domain name <**watchwwe.in**> be transferred to the Complainant.

Further, transfer being a result of settlement between the parties, the NIXI is directed to instruct the domain Registrar to remove the locks and initiate domain transfer immediately without waiting for the appeal period of 90 days to implement the award [*INDRP/821 - Your Holding B.V. v. Jibu James*].



Ankur Raheja, MCA FCS LLB
Sole Arbitrator, NIXI, India
Date: 07th May 2020
Place: Agra, India