

# INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

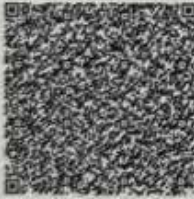


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**BEFORE THE ARBITRAL TRIBUNAL**

**V.P.PATHAK**

**SOLE ARBITRATOR**

**ARBITRAL AWARD**

V. P. PATHAK  
H.J.S.  
Former Judge  
Sole Arbitrator

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**BEFORE THE .IN REGISTRY OF INDIA**  
**INDRP CASE NO. 1906**  
**IN THE MATTER OF AN ARBITRATION UNDER THE .IN DOMAIN NAME**  
**DISPUTE RESOLUTION POLICY; THE INDRP RULES OF PROCEDURE**  
**AND THE ARBITRATION CONCILIATION ACT, 1996**

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*V.P. Pathak*  
V. P. PATHAK  
H.J.S.  
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ICICI LOMBARD  
 General Insurance Company Limited.  
 ICICI LOMBARD House,  
 414, Veer Savarkar Marg  
 Near Siddhivinayak Temple  
 Prabhadevi, Mumbai- 400025

.... Complainant

**Versus**

Chinmay  
 Street 45, 5th Main,  
 Bangalore  
 Karnataka- 560001

....Respondent

**DISPUTE RELATING IN THE DOMAIN DISPUTE NAME www.icicilombard.in**

**Award Dated- 18.02.2025**

**BEFORE V.P.PATHAK**  
**SOLE ARBITRATOR**  
**AT NEW DELHI**

➤ **DISPUTED DOMAIN NAME & REGISTRAR-**

The disputed domain name is registered through the Registrar of the disputed domain name www.dynadot.com LLC, which is accredited with the .IN registry and is listed on the website of the .IN registry.

➤ **ARBITRATION TRIBUNAL-**

1. The Complainant has filed this complaint for the disputed domain name www.icicilombard.in, to be transferred to it. To decide this complaint, NIXI has appointed the undersigned as Arbitrator. A consent letter with a

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declaration of impartiality by the undersigned to decide this case was sent to NIXI on 11.01.2025. This Tribunal resumed this matter on 21.01.2025, by sending notice to the Respondent for reply. Further, in the interest of justice, the Tribunal gave an extension to the Respondent of 5 days till 11.02.2025, but there was no response even though the Complainant has sent a hard copy of the complaint to the Respondent.

2. As per **Rule 5 of the INDRP Rules** the Tribunal issued a notice dated 21.01.2025 calling upon the Respondent to file its reply on the Complaint within fifteen days from the date of receipt of the notice and rejoinder within fifteen days thereafter.
3. The Tribunal is constituted under the INDRP Policy and Rules. Under rule 13, the arbitration proceedings have to be conducted according to the Arbitration and Conciliation Act, 2019 (as amended up to date) read with the Arbitration & Conciliation Act, Rules, Dispute Resolution Policy and its by-laws, and guidelines, as amended from time to time.
4. As mentioned above, the Respondent has not replied to any of the notices hence, this Tribunal is bound to proceed Ex Parte against the respondent.

➤ **PARTIES TO THE ARBITRATION-**

5. The Complainant is India's largest private general insurance company duly registered with IRDA (Insurance Regulatory Development Authority of India).
6. The Complainant has filed the instant Complaint challenging the registration of the domain name [www.icicilombard.in](http://www.icicilombard.in) under the ".in" Domain Name Dispute Resolution Policy (INDRP) and the rules framed there under. The Complainant has preferred this arbitration by raising this dispute for the reprisal of its grievances.
7. **Rule 2 of INDRP Rules of Procedure** provides for communication/services of Complaint. Per this rule, the Respondent was sent a copy of the Complaint on the email shown in the domain name registration data in the .IN Registry's WHOIS database.
8. There is no reply to the complaint so, we are unaware of the Respondent's version.

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➤ **FACTS OF THE CASE -**

● **Complainant-**

9. The Complainant is India's largest private general insurance company duly registered with IRDA (Insurance Regulatory Development Authority of India). The Complainant is the registered proprietor of the Trade Marks "LOMBARD" in classes 5, 16, 35, 36, and 42 in India. The Trade Mark ICICI belongs to and is duly registered in the name of ICICI Bank Ltd, its promoter, and the Complainant is suing for the ICICI trademark under license executed between ICICI Bank and "ICICI LOMBARD". **(ANNEXURE B)**
10. The Complainant has a Gross Written Premium (GWP) of Rs 255.94 billion for the year ended 31.03.2024 and has issued over 36.2 million policies and settled over 2.9 million claims. **(ANNEXURE C)**
11. The Complainant was founded in 2001 as a joint venture between ICICI Bank Ltd, and Fairfax Financial Holding Ltd (a Canadian-based holding company). The Complainant offers a well-diversified range of products, including motor, health, crop/weather, fire, personal accident, marine, engineering and liability insurance, through multiple distribution channels to its customers. In August 2015, the joint-venture agreement entered between Fairfax Financial Holdings and ICICI Bank had been terminated under a termination agreement dated 3.07.2015. Thereafter, the Trade Mark LOMBARD was assigned to the Complainant, and the necessary requests were made to bring the Complainant on record as the Trade Mark was also filed at the Trade Marks Registry in India. **ANNEXURE E.**
12. The adoption of the LOMBARD trademark by the Complainant through its predecessors can be traced back to the year 1804 continuously and extensively used for over 200 years now, and is solely associated with the Complainant. The Complainant, under its trademark/trading style "ICICI LOMBARD", has been assigned the iAAA rating by the ICRA (Investment Information and Credit Rating Agency) indicating the highest claims-paying ability for the third consecutive year in 2008. **ANNEXURE F.**
13. The Complainant is an extremely well-known company under the trademark/trading style "ICICI LOMBARD" and has received numerous awards

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over the years. Documents evidencing the awards and accolades received by the Complainant are annexed. **ANNEXURE G.**

14. The trademark ICICI belongs to the Complainant's promoter and licensure ICICI Bank Lts and the same is a well-known trade mark in India. The Complainant has also submitted that the Hon'ble High Court of Delhi has mentioned the mark ICICI in the following judgements and order-

A. *ICICI Bank Ltd v. Chuandoing Xu & Anr.* D+ [CS (OS) 2606/2008] dated 22.12.2011 and held that-

Plaintiff, ICICI is a well-known trademark in India and all over the world. It is one of the most written-about brands in recent times, which is evident from the voluminous material filed along with the present proceedings.

B. *ICICI Bank Ltd v. Ashok Thakeria & Ors* [CS (OS) 1744/2013] dated 9.09.2013. The copies of court orders substantiating the cases mentioned above are annexed as **ANNEXURE H.**

15. In light of the Complainant's prior adoption of the mark and the reputation and goodwill created by the Complainant, it is recognized as the proprietor of the said mark, which is perceived and identified by consumers and members of the trade, as the Complainant's mark alone.

16. Thus, the adoption and use of a mark by a third party, that is similar and/or identical to the Complainant's trade mark and trading style "ICICI LOMBARD" with respect to any of the diversified fields of activities, will lead to confusion and deception amongst the relevant class of consumers and the members of the trade.

- Respondent-

17. The Respondent has not replied to the complaint.

➤ **CONTENTIONS OF THE PARTIES-**

- By the Complainant-

18. The Complainant owns statutory and common law rights in the Trade Mark "ICICI LOMBARD". It is submitted that the disputed domain name *icicilombard.in*.

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includes the Complainant's Trade Mark "ICICI LOMBARD" in its entirety, hence it is identical to the Complainant's Trade Mark. **ANNEXURE I**

19. The disputed domain name completely incorporates the trademark/service mark of the Complainant and the gTLD *.in* (According to Google, gTLD means- a generic Top-Level Domain – the last part of a domain name after the final dot (that makes up the URL of a web address aka the site's domain name) will not distinguish the disputed domain name from the Complainant's Trade Mark.
20. The Respondent herein has registered the domain name *icicilombard.in* on 15.08.2012. It is submitted that the impugned domain name incorporates the Complainant's reputed mark and trading style "ICICI LOMBARD" entirely. **ANNEXURE J.**
21. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use their registered and famous trademark "ICICI LOMBARD". The Respondent's domain name is identical to the trading style and trade mark in which the Complainant has prior rights.
22. It is also submitted that the Complainant already owns and operates the domain name *icicilombard.com* and many other country-specific websites. Therefore, the disputed domain name *icicilombard.in* would inevitably confuse and deceive the consumers, the members of the trade and the public that the disputed domain name also belongs to the Complainant in India, which is not true.
23. The disputed domain name is only registered and parked to capitalize on the Complainant's enormous reputation and goodwill in the "ICICI LOMBARD" trade mark and trading style, which has been entirely and unauthorizedly incorporated into the disputed domain name registered by the Respondent.
24. The Respondent is using the disputed domain name to intentionally make commercial gains. This is evident from the fact that the disputed domain name mentions that the said domain name may be available for sale, and it redirects to the webpage at the URL <http://www.icicilombard.in/listing>, wherein it states "this domain name (without content) may be available for sale or lease by its owner through Bodis's domain sales platform." The disputed domain name also entertains visitors to the said page to make an offer to purchase the disputed domain name. This leaves no doubt that the Respondent is using the disputed

domain name to mislead viewers and consumers looking for the Complainant's goods and services by parking the domain name to make commercial gains by selling or leasing the domain name out to third parties. **ANNEXURE K.**

25. The Complainant has been continuously and extensively using the registered trademark "LOMBARD" in commerce for many years. The mark ICICI has been used by the Complainant's licensor, ICICI Bank Ltd since 1955, and the said mark has been used by the Complainant under license from ICICI Bank Ltd. The Complainant owns and operates the website using the domain name [www.icicilombard.com](http://www.icicilombard.com), which has been registered in the Complainant's name since 10.07.2001. Thus, the Complainant's rights in the "ICICI LOMBARD" trademark and trading style and the domain name [www.icicilombard.com](http://www.icicilombard.com) are well established. **ANNEXURE L.**
26. The impugned domain name <https://www.icicilombard.in> fully incorporates the essential element of the Complainant's trading style "ICICI LOMBARD" and registered trademark "LOMBARD" entirely, and is thus identical to the Complainant's trade mark, trading style and domain name [www.icicilombard.com](http://www.icicilombard.com). The replacement of the top-level domain name ".com" with ".in" makes no difference to the impugned domain name, since the impugned domain name is likely to be perceived as an India-specific website belonging to the Complainant.
27. It is also submitted that WIPO (World Intellectual Property Organisation) panellists have, over the years, arrived at a consensus that if a Complainant owns a trade mark registration, then it generally satisfies the threshold requirement of trade mark rights. Most importantly, IN is a country code & non-distinctive. It is an essential part of every domain name. Thus, the .IN part of the impugned domain name does not distinguish the impugned domain name from the Complainant's trade mark and trading style "ICICI LOMBARD", the Complainant registered domain name icicilombard.com as held in - *Accenture Global Services Pvt Ltd vs. Sachin Pandey*, INDRP/828 (November 28, 2016).
28. The Complainant has relied on a few cases-

*Dell Inc v. George Dell and Dell Net Solutions*, Case No: D2004-0512 (WIPO August 24, 2004) it was held that- it is well established that the addition of a generic term to a trade mark does not necessarily eliminate a likelihood of

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**confusingly similar to the trademark or service mark in which the Complainant has rights.?**

As per the Complainant, the website [www.icicilombard.com](http://www.icicilombard.com) was registered on 6.05.2010. In August 2015, the joint-venture agreement entered between Fairfax Financial Holdings and ICICI Bank had been terminated under a termination agreement dated 3.07.2015. Thereafter, the Trade Mark LOMBARD was assigned to the Complainant, and the necessary requests were made to bring the Complainant on record as the Trade Mark was also registered at the Trade Marks Registry in India. Here, it is important to understand that a domain name is registered so that there is an internet address. A trademark is registered to identify a product or service. The meaning of the word "domain name" is "a unique name that identifies a website on the internet" which in this case is "ICICI LOMBARD" which came into use when the Complainant came into business even before 2012. The domain name then further ends with an extension, without which the website is incomplete and cannot be opened such as - .in, .com, .org and so on. This extension is called gTLD (generic Top-Level Domain)- the last part of a domain name after the final dot (that makes up the URL of a web address aka the site's domain name). Thus the Respondent's domain name is identical and similar to the trademark or service mark to that of the Complainant.

In *ITC Limited vs. Travel India (INDRP Case No. 065)* it was opined that- the fact that a disputed domain name wholly incorporates a Complainant's Trade Mark is sufficient to establish the identity or confusing similarity for the purpose of INDRP.

This proves that the Respondent is running its business under the Complainant's domain name making the Respondent's domain name unauthentic. Thus, the Respondent's domain name is identical and confusingly similar to the trademark or service mark in which the Complainant has rights and the Respondent should not think of it as its own and run its business using this name.

**B. Whether the Respondent has any rights or legitimate interests in respect of the domain name?**

The Respondent has not replied to the Complaint. This point was to be proved by the respondent. The Complainant's domain name and the Respondent's domain

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name are similar since it has used the gTLD “.in” and the Complainant has used “.com” which are identical and confusing. It is clear from record that the Complainant started its business with the domain name icicilombard.com in 2010, which establishes that the Complainant is the first and only user of the domain name "ICICI LOMBARD" and not the Respondent. It is also pertinent to mention that the word "ICICI LOMBARD" is the disputed domain name and any the gTLD after this name does not matter as the Complainant is the sole holder of this disputed domain name. In the decision of INDRP in the case-

*Nike Inc. v. Nike Innovative CZ Zhaxia (Case No- INDRP/804)* which said that- the disputed domain name completely incorporates the trademark/service mark of the Complainant and the gTLD “.in” will not distinguish the disputed domain name from the Complainant's Trade Mark. It is a settled principle that gTLD is not to be considered when determining the similarity of the domain name with a mark under the first element.

So, to answer the above-mentioned question, it is clear that the Respondent has no rights or legitimate interests concerning the domain name “icicilombard.in”.

**C. Whether the Respondent's domain name is registered or is being used in absolute bad faith?**

The Complainant in its statement supported with evidence has contended that the Respondent is prominently advertising the disputed domain name for sale and this has been going on since its registration by the Respondent, without any substantive use of the website only to mislead and divert customers and to tarnish the trademark or service mark “"ICICI LOMBARD".” It is to be noted that, the practice of selling domain names is a common practice but the practice is valid only when the domain name is of the rightful and legitimate owner.

*Legacy Health System v. Nijat Hassannov WIPO ( Case No- D2008-1708,)* it was found that the Respondent had no rights or legitimate interests as “the sole purpose of the disputed domain name is to resolve pay-per-click advertising websites and collect click-through revenue from advertising links.

The applicant registered the domain name “icicilombard.com” earlier in time (May 2010) in comparison to the Respondent which was registered in August 2015. Again, the registration by the Respondent was for resale purposes. Re-selling is

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nothing but gaining profit and the Respondent was fully aware of the facts of registration of the Complainant's domain name in 2010 and even then the Respondent company registered their domain name using the word "ICICI LOMBARD" in 2015 for reselling. This fact itself makes it clear that the whole activity by the Respondent was for maliciously gaining profit. The facts themselves disclose the malice of the Respondent.

Answering the above-mentioned question- the Respondent's domain name registered is being used in absolute bad faith and such use demonstrates that the Respondent has used the disputed domain name to derive a commercial benefit and to tarnish the Complainant's website and domain name image.

➤ **CONCLUSION-**

34. Considering the above facts, this Tribunal believes that the complaint has merit. The Respondent did not have the Complainant's permission to use its domain name and hence it had no right to treat the domain name as its own. It is being mentioned again, that without the domain name, there is no gTLD. So, even though the Respondent's domain name is "icicilombard.in", the name "ICICI LOMBARD" belongs to the Complainant. The whole dispute in this complaint is for the domain name and the mere alteration of a domain name or its extension does not affect or alter the ownership thereof.
35. The Complainant brought the name "ICICI LOMBARD" to life, so the Respondent does not have any standing in this domain name anymore.
36. In addition to everything mentioned above, it is pertinent to mention that the Respondent is using the Complainant's domain name but it has not once responded to the complaint made against it. The Respondent was given notice by the complainant and by the tribunal. The hard copy of the complaint was also sent to it through courier[receipt enclosed]. This clearly shows that the Respondent has nothing to say and is not interested in its domain name and it's all just fable.
37. The Complainant has the full right and ownership of the domain name "ICICI LOMBARD" & "icicilombard.com." So the complaint has to be allowed.
38. This Award is being passed as per Clause 5 (e) of the INDRP Rules, and Arbitration Act, 1996.

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➤ **ORDER-**

39. The.IN Registry of NIXI is directed to transfer the disputed domain name “icicilombard.in” to the Complainant forthwith. Registry to do the needful.

40. Parties to bear their own costs.

41. This Award is passed today at New Delhi on 18.02.2025.

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**Date- 18.02.2025**