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BEFORE SH. SANJAY KUMAR SINGH, ARBITRATOR
IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

Hotel Cipriani S.p.A --- Complainant -
vs.

Hriday Tulsiani --- Respondent.

Sanjay Kumar Singh
16/12/19

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BEFORE SHRI SANJAY KUMAR SINGH ARBITRATOR

IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

IN RE:

Hotel Cipriani S.p.A,
Giudecca 10, Venice,
Italy, 30133;
Through its authorized representatives
Shwetasree Majumder,
Saurabh Nandrekar and Vasundhara Majithia,
Fidus Law Chambers,
F-12 Ground Floor, Sector-8, Noida-201301
Email: shwetasree@fiduslawchambers.com;
saurabh@fiduslawchambers.com;
vasundhara@fiduslawchambers.com

COMPLAINANT

VERSUS

Hriday Tulsiani
140/6, Mittal Industrial Estate
Andheri Kurl Rd
Andheri East, Mumbai
Maharashtra-400059, India
E-mail: hridaytulsiani@gmail.com

RESPONDENT

1. THE PARTIES:

(I) COMPLAINANT:

Hotel Cipriani S.p.A, Giudecca 10, Venice, Italy, 30133; through its authorized representatives Shwetasree Majumder, Saurabh Nandrekar and Vasundhara Majithia, Fidus Law Chambers, F-12 Ground Floor, Sector-8, Noida-201301 Email: shwetasree@fiduslawchambers.com; saurabh@fiduslawchambers.com; vasundhara@fiduslawchambers.com.

(II) RESPONDENT:

Hriday Tulsiani, 140/6, Mittal Industrial Estate, Andheri Kurl Rd, Andheri East, Mumbai, Maharashtra-400059, India, E-mail: hridaytulsiani@gmail.com.

Sanjay Kumar Singh
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2. **DOMAIN NAME AND TRADEMARK IN DISPUTE:**

Domain name of the respondent is "www.cipriani.in"

The trademark of the complainant is "CIPRIANI". The registry is National Internet Exchange of India (NIXI).

3. **BRIEF BACKGROUND:**

This arbitral proceeding commenced in accordance with IN Dispute Resolution Policy (INDRP) and rules framed thereunder.

The complainant submitted his complaint in the registry of NIXI. Shri Sanjay Kumar Singh was appointed as Sole Arbitrator in the matter by NIXI.

The complainant has submitted that the disputed domain name is identical and deceptively similar to the domain name and trademarks of the complainant.

The complainant has submitted that Hotel Cipriani S.p.A is the proprietor of one of the most prestigious hotels in the world. The complainant has its roots back in the year 1956 when it was established by Mr. Giuseppe Cipriani along with others. In 1958, the Hotel bearing the name CIPRIANI opened to the public. Today, HOTEL CIPRIANI, is considered as one of the finest luxury accommodations in the world. The complainant has annexed the brochure of Hotel CIPRIANI has been annexed by complainant as Annexure-A.

The complainant has further submitted that it is registered proprietor of the marks CIPRIANI having the below details:

Trademark	Registration No.	Registration date	Class
CIPRIANI	1772591	January 09, 2009	42
Hotels and Restaurants Services, Provision of Food and accommodation			
CIPRIANI	1772591	January 09, 2009	42

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Sale, Leasing and Rental of Apartments, Homes and Condominiums;
Real Estate Services for Apartments, Homes and Condominiums Especially,
Sale Listing, Leasing, Finance And Managing Commercials, Residential
And Hotel Properties; Real Estate Acquisition, Management, brokerage,
Apparcial And Consulting Services.

The complainant has annexed the copies of the extracts from the Registry's Website and/or the renewal certificates of the trade mark as ANNEXURE-II.

The complainant has submitted that it owns the following domain names comprising the trademark CIPRIANI:

Domain Name	Creation Date
hotelcipriani.it	November 23, 1998
hotelcipriani.net	September 1, 2000
cipriani.info	October 5, 2001
hotelcipriani.biz	November 16, 2001
hotelcipriani.com	April 29, 2002
hotelciprianivenice.com	September 27, 2007
hotelcipriani.cn	November 1, 2007
hotelcipriani.com.cn	November 1, 2007
hotel-cipriani.cn	November 1, 2007
hotel-cipriani.com.cn	November 1, 2007
ciprianihotel.com	November 23, 2009
ciprianihotelcollection.com	January 28, 2013
ciprianihotelcollection.com	January 28, 2013
hotelciprianicollection.com	January 28, 2013
hotelciprianicollection.com	January 28, 2013

The complainant has also submitted that respondent lacks or has no rights or legitimate interests in respect of the disputed domain name that is the subject of the complainant.

Seymour K. Aigle
16/12/2019

The complainant has further submitted that the disputed domain name was registered in bad faith.

The complainant as such has prayed for an award in the above matter for transfer of the domain name "www.cipriani.in" in favour of the complainant.

ARBITRAL PROCEEDINGS & AWARD:

A copy of complaint has already been sent to the respondent by the .In Registry through e-mail.

Upon receipt of the complaint, the Arbitrator sent a notice dated 23-11-2019 to the respondent to send the defense / counter to the complaint along with supportive documents / evidence at his e-mail address within 10 days from receipt of notice. But the respondent did not come forward and did not send any defense / counter or reply to the complaint.

The respondent replied vide an email dated 02-12-2019 from the e-mail ID of the respondent stating that "Apologies as I was unaware regarding Cipriani.com. I fact I was developing my website Cipriani.in.

Kindly let me know how to proceed in transferring the domain

Thanks

H Tulsiani "

The arbitrator informed the respondent vide email dated 02-12-2019 to send the reply whether the respondent intends to transfer the domain name "cipriani.in" to the complainant.

The arbitrator vide email dated 03-12-2019 further directed the respondent to submit the reply / response to the complaint of the complainant within FIVE days positively from receipt of the notice failing which the complaint shall be decided on the merit of the complaint and as per law of the land.

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The Respondent sent an email dated 05-12-2019 wherein the respondent has stated that the respondent intends to transfer the domain "www.cipriani.in" to the Complainant.

The email of the Respondent dated 05-12-2019 is reproduced below:

"Dear Mr Singh,

Yes I intend to transfer the domain name "cipriani.in" to the complainant. However, I would like to know:

1. The procedure
2. The implications

As per the call made by Fidus law yesterday to me, they have stated that the transfer only requires a letter stating the same and that there are no legal implications or any other.

Thank you

Regards "

The respondent has not filed any reply or documents despite of notices and opportunities. Therefore, this matter is being decided in view of the email of the respondent dated 02-12-2019 & 05-12-2019 sent from the e-mail ID of the respondent and as per law of the land. The contents of email of the respondent dated 02-12-2019 & 05-12-2019 from the email ID hridaytulsiani@gmail.com are reproduced hereinabove.

It has been held Apex court in Indian decision **M/s Satyam Infoway Ltd. Vs. M/s Sifynet Solution (P) Ltd.** JT. 2004 (5) SC 541, that Domain name has all characteristics of trademark. As such principles applicable to trademark are applicable to domain names also. In the said case the words, "Sify" & "Siffy" were held to be phonetically similar and addition of work 'net' in one of them would not make them dissimilar.

4. FINDINGS

After going through the submission of the complainant, the law of the land and considering the email of the respondent dated 02-12-2019 & 05-12-2019

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sent from the e-mail ID of the respondent, the conclusion is that the respondent has got registered his domain name "**www.cipriani.in**" in bad faith and the respondent has no right or legitimate interest in the domain name.

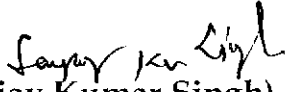
In above facts and circumstances the complainant has established the right over the above domain name "**www.cipriani.in**".

5. CONCLUSION:

The domain name "**www.cipriani.in**" of the respondent is identical and confusingly similar to trademark of complainant. The respondent also does not have right or legitimate interest in the domain name. The respondent has got it registered in bad faith; as such respondent is not entitled to retain the domain name. The complainant is entitled to transfer of domain name "**www.cipriani.in**" as the complainant has established the bonafide rights in trademark and in view of the email of the respondent dated 02-12-2019 & 05-12-2019 sent from the e-mail ID of the respondent. The complainant is entitled to transfer of domain name "**www.cipriani.in**". Hence I direct that the Domain name be transferred to the complainant by registry.

No order as to costs.

Delhi
Date: 16-12-2019.


(Sanjay Kumar Singh)
Arbitrator