



महाराष्ट्र MAHARASHTRA

CZ 920582

नंबर ..... ११९१ ..... रुपये १००/११९१  
दिनांक ..... १६/६/१० .....  
नाव ..... वि.शि.पु. उ.मा.श.पु. .....  
पत्ता ..... २६४/१५, गणेशच.पु. १, स्यादशेकर  
हरते ..... रा.के.श. मा.पु. शनिवार पेठ, पुणे-३०  
सौ. जयश्री बेलसारे, स्टॅम्प व्हेंडर, ला.नं. - हवेली 1/36/१९९५  
४२५ ब, शनिवार पेठ, पुणे-३०



## AWARD

### «N ARBITRATION

**Bills & Melinda Gates Foundation**  
P.O.Box 23350. Seattle, Washington 98102  
U.S.A.

THE COMPLAINANT

AND

**Mr.Syed shahzad**  
403/179, Chaupatiyan, Chowk  
Lucknow. Uttar Pradesh. 226003  
India.

THE RESPONDENT

IN THE MATTER OF DISPUTED DOMAIN NAME:

**gatesfoundation.org.in**

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**I] PRELIMINARY: -**

- 1) M/s Bill & Melinda Gates Foundation, having its office at P.O. Box No.23350, Seattle, Washington. 981p2, U.S.A. **(The Complainant)** have filed complaint with National Internet Exchange of India (NIXI) disputing the registration of domain name **gatesfoundation.org.in (the disputed domain name / domain name)..**
- 2) Since the Complainant claimed to have applied for service BILL & MELINDA GATES FOUNDATION in India, it has disputed registration of domain name '**gatesfoundation.org.in**' in the name of **Mr. Syed Shahzad of SDZYN WEB (The Respondent).**
- 3) Major events took place as enumerated in the above table.

**II] PROCEDURE FOLLOWED IN ARBITRAION PROCEEDINGS: -**

01. In accordance with INDRP read with INDRP Rules of Procedure, notice of arbitration was sent to the Respondent on 4<sup>th</sup> June 2010 with the instructions to file his say latest by 14<sup>th</sup> June 2010.
02. The Respondent did not to respond to this notice. Hence a reminder giving final opportunity was sent on 15<sup>th</sup> June 2010.
03. The Respondent hurriedly filed his reply to the Complaint by 18<sup>th</sup> June 2010 admitting that he had done wrong by registering the disputed domain name.
04. The Respondent also willingly and voluntarily offered to transfer the disputed domain name without hesitation.

**III SUMMARY OF THE COMPLAINT: -**

- (A) The Complainant has raised, *inter-alia*, following important objections to registration of disputed domain name in the name of the Respondent and contended as follows in his Complaint: -



- a) The Complainant has applied for registration of the mark Bill & Melinda Gates Foundation in India which is pending. However the Complainant is a registered owner of the service mark in U.S. bearing registration NO.2638659.
- b) The Complainant is a charitable organization that works to help all people lead healthy, productive lives. In developing countries it focuses on improving people's health and to lift themselves out of hunger and extreme poverty.
- c) In 2003 the complainant launched the India AIDS Initiative by establishing office in New Delhi.
- d) The primary website of the Complainant is [www.gatesfoundation.org](http://www.gatesfoundation.org). Apart from it owns a number other domain names like [www.gatesfoundation.in](http://www.gatesfoundation.in), [www.gatesfoundation.co.in](http://www.gatesfoundation.co.in) and so on.
- e) The disputed domain name is virtually identical to the Foundation's trade name and registered service mark and its primary website domain name. Hence it is highly likely that potential grantees of the Foundation seeking to find the official Gates Foundation website on the internet, will mistakenly be diverted to the Respondent's website. The logo on the Respondent's website is exactly the same, and the font and colors are also the same. There is also a button provided for 'Apply Now' on the Respondent's site by which the users are directed to a page where they are directed to fill in a sheet of information about themselves, though it is not clear as to how this gathered information is actually being used by the Respondent.
- f) The Complainant has not sponsored, endorsed, approved of or affiliated in any way with the disputed website or the Respondent.
- g) The domain name was registered and is being used by the Respondent in bad faith.



- h) The potential for harm is even greater where users are asked to provide personal information that they incorrectly believe is being requested for charitable purposes. Such action damages Complainant's reputation and valuable goodwill of its registered service marks.

**IV] REPLY TO THE COMPLAINT / STATEMENT OF DEFENSE: -**

In response to the contentions of the Complainant, the Respondent has sent an Apology Letter dated 18.06.2010 and has offered unconditionally to transfer the disputed domain name to the Complainant. Similarly by another mail he has also furnished technical details directly to the Complainant. .

**ISSUES & FINDINGS: -**

Since the Respondent has admitted his mistake and also furnished unconditional apology addressed to the Complainant there is no need for going further into the details of the merits of contentions of each party. Similarly the Respondent has offered to voluntarily, unconditionally and without consideration, the disputed domain name to the Complainant, I have not framed issues and gone into the findings of the case.

However I must mention and bring on record that an act of the Respondent of registering such domain name appears clearly to be with ill intentions and in bad faith.



**IX] AWARD: -**

On the basis of foregoing discussion I pass the following award: -

01. The Complainant is entitled to the disputed domain name - www.gatesfoundation.org.in and hence it shall be transferred to the Complainant.

02. No order as to the costs.

Dated: - 19.06.2010



(S.C. INAMDAR)  
ARBITRATOR