



महाराष्ट्र MAHARASHTRA

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फक्त प्रतिज्ञापत्राची (अमुकते)

(सदर मुद्रांक विणु न्यायिक)

हावीशन केरी ठांकी

श्री श्री विंताजी स्वामी

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19 APR 2014

प्रथम मुद्रांक लिपीक कोषागार पुणे करित

AWARD  
IN ARBITRATION

'IDEAMONEY.CO.IN'

Idea Cellular Limited  
Suman Towers, Plot No.18  
Sector 11, Gandhinagar, 382001

THE COMPLAINANT

AND

Mr.Rama Ranga Swamy  
64, Rangaswamy Street  
Old Pallavaram, Abhiramapuram.  
Chennai. 600117

THE RESPONDENT /  
THE REGISTRANT

**IN THE MATTER OF DISPUTED DOMAIN NAME: - 'IDEAMONEY.CO.IN'  
BEFORE MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.**

**SOLE ARBITRATOR**

**DELIVERED ON THIS 19<sup>th</sup> DAY OF APRIL TWO THOUSAND FOURTEEN  
AT PUNE, INDIA.**

**SUMMARISED INFORMATION ABOUT THE DISPUTE: -**

**01. Names and addresses**  
Of the Complainant: - **Idea Cellular Limited .**  
Suman Towers, Plot No.18  
Sector 11, Gandhinagar 382001

Through its authorized  
representative **Bharucha & Partners**  
Cecil Court, 4<sup>th</sup> Floor  
M.K.Bhushan Marg  
Mumbai.400 039.

**02. Name and address of**  
**The Respondent: -** **Mr.Rama Ranga Swamy**  
64, Rangaswamy Street  
Old Pallavaram, Abhirampuram  
Chennai. 600117.

**03. Calendar of Major events:**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Date (Communications in electronic mode)</b>
01	Arbitration case referred to me & acceptance given by me	07.04.2014
02	Hard copy of complaint received	11.04.2014
03	Notice of Arbitration issued (with the instructions to file say / reply latest by 21.04.2014)	11.04.2014
04	Reply from the Registrant received	17.04.2014
05	Notice to the Complainant for rejoinder (25/04/2014)	17.04.2014
06	Notice of closure of arbitration	18.04.2014
06	Award passed	19.04.2014

## **I] PRELIMINARY: -**

- 1) Idea Cellular Ltd. is a limited company registered under the provisions of the Companies Act, 1956, having its office at Suman Towers, Plot No.18, Sector 11, Gandhinagar 382100 (**The Complainant**) has filed complaint with National Internet Exchange of India (**NIXI**) disputing the registration of domain name '**IDEAMONEY.CO.IN**' (**the disputed domain name / domain name**), through its authorized representative **Mr.Rama Ranga Swamy**.
- 2) The Complainant has disputed registration of domain name '**IDEAMONEY.CO.IN**' in the name of **Mr.Rama Ranga Swamy (The Respondent / Registrant)**.
- 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 11<sup>th</sup> April, 2014 with the instructions to file his reply / say latest by 21<sup>st</sup> April, 2014.
02. The Registrant filed his say / reply to the Notice of Arbitration / Complaint on 17.04.2014.
03. A notice was sent on 17<sup>th</sup> April 2014 to the Complainant to file his rejoinder, if any, latest by 25<sup>th</sup> April 2014.
04. In view of the reply of the Registrant, the Complainant did not find it necessary to file any rejoinder and hence no further re-joinder was called for from the Registrant.
05. On 18<sup>th</sup> April 2014 notice of closure of arbitration procedures was issued.
06. Copies of notices were marked to the Complainant's authorised representative, Respondent and NIXI every time.
07. No personal hearing was requested / granted / held.

## **III] SUMMARY OF THE COMPLAINT OF THE COMPLAINANT: -**

The Complaint is based on the following points / issues in brief: - -

### **(A) OWNER OF REGISTERED TRADEMARKS AND DOMAIN NAMES:**

1. The Complainant stated that the domain name registered by the Respondent is both similar and identical to 'IDEA MONEY', which is the trade mark and service mark of its wholly owned mobile banking subsidiary Idea Mobile Commerce Services Ltd. and of which it is proprietor. The said subsidiary company has made an application under Application no.2672958 for the registration of the trade mark IDEA MONEY specifically.

2. The Complainant has been providing GSM mobile services across India under the Trade/ Service Mark 'IDEA'. The said trademark is identified with the Complainant's brand Idea of which the Complainant is sole proprietor.

**(B) IDENTITY OR CONFUSING SIMILARITY OF THE DOMAIN NAME WITH THE TRADEMARKS OF CIC: -**

1. The Registrant's domain name contains the word IDEA which is an integral part of the brand and trade / service mark of the Complainant and also identical to that of the Complainant's name in which the Complainant has right and it would confuse the customers in India due to this similarity.
2. The Registrant has no rights or legitimate interests in respect of the domain name. The Respondent is not using the site in connection with a bonafide offering of goods and services.
3. The Registrant is not known as Idea or any combination thereof.
4. The Registrant is not making any legitimate non-commercial or fair use of the domain name.
5. The Registrant has nothing to do with the Complainant or its business including Idea brand.
6. The Registrant has registered the said domain to unjustly enrich himself and / or squat and / or hoard the same.
7. The Registrant has violated the policy adopted by ICANN and the Rules framed thereunder.
8. The Registrant is likely to use the said domain in bad faith.
9. The Registrant has attempted to attract, for commercial gain or otherwise, internet users to his website, by creating a likelihood of confusion with the Complainant's brand as to the source, sponsorship, affiliation or endorsement of the said domain name.

**(C) REMEDIES SOUGHT BY THE COMPLAINANT: -**

On the background of the Complaint and reasons described therein the Complainant has requested for transfer of the Registrant's domain name and also the costs and fees for this arbitration proceedings. .

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

The Registrant has filed his reply based on the following contentions: -

1. The domain name "ideamoney" is inspired by the character "ஐடியா மணி" (Idea Mani) popularized by the veteran Tamil actor Goundamani. He has given a link of the movie clip, "My dear Marthandan" for perusal.  
<https://www.youtube.com/watch?v=n112tRmt-Xk>
3. Mani is a popular name in Tamil Nadu and even in other Southern states of India. Money is creative rendition of the name Mani, which is again popularized by the actor Goundamani himself. He has also furnished a link of a clipping from the movie "Thedinen Vandhadhu".  
<https://www.youtube.com/watch?v=NYliK-HSBdU>
4. The name ஐடியா மணி is popular than Idea Money among Tamil speaking people. He has also given the link of Google Search Results for ஐடியா மணி. The term has been widely used by people across different strata of the society.  
[https://www.google.co.in/search?q=%E0%AE%90%E0%AE%9F%E0%AE%BF%E0%AE%AF%E0%AE%BE+%E0%AE%AE%E0%AE%A3%E0%AE%BF+&ie=utf-8&oe=utf-8&aq=t&rls=org.mozilla:en-GB:official&client=firefox-a&channel=sb&gfe\\_rd=cr&ei=uV5PU4uKDYiDuATCg4D4BA](https://www.google.co.in/search?q=%E0%AE%90%E0%AE%9F%E0%AE%BF%E0%AE%AF%E0%AE%BE+%E0%AE%AE%E0%AE%A3%E0%AE%BF+&ie=utf-8&oe=utf-8&aq=t&rls=org.mozilla:en-GB:official&client=firefox-a&channel=sb&gfe_rd=cr&ei=uV5PU4uKDYiDuATCg4D4BA)
4. Since it is not possible to buy a domain name in Tamil, he has bought "ideamoney.co.in" and there were no other intentions in buying it. The objective of the website is to sell ideas and creative solutions to regional businesses in Tamil Nadu. But due to lack of funds, the company never took off. But he has still renewed the domain for future use. The website is still under construction and is not uploaded the Tamil Content due to lack of expertise.  
<http://ideamoney.co.in/home/>
5. Even after being Idea Cellular's customer the Registrant was not aware of idea Money mobile payment services. It didn't exist when he bought the domain from net4india in December 23, 2012.
6. Being an individual who bought the domain just for the joy of creating a website he cannot afford to continue with the legal proceedings.
7. **He respects the efforts gone into building the brand Idea Cellular Limited and understands their concerns over my domain name.**

At the end of the reply the Registrant has agreed to transfer the domain name to the Complainant against the payment of registration charges.

In the mail subsequent to the Registrant's filing above reply, the Complainant also has agreed to pay the registration charges to the Registrant for transfer of the disputed domain name.

## **VI] REJOINDERS OF THE PARTIES: -**

In view no rejoinder filed by the Complainant, no rejoinder was call for from the Registrant.

## **VIII] ISSUES & FINDINGS: -**

On the basis of policies and rules framed by NIXI in respect of dispute resolution as also on the basis of submissions of both the parties I have framed following issues. My finding on each issue is also mentioned against it respectively.

<b>SR. NO.</b>	<b>ISSUE</b>	<b>FINDING</b>
01	Does the Complainant have trade mark or service mark directly related to the disputed domain name?	<b>Yes</b>
02	Whether the Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights?	<b>Yes</b>
03	Whether the Registrant is owner of trade mark or service mark corresponding to the disputed domain name?	<b>No</b>
04	Whether the Registrant has commonly been known by the domain name?	<b>No</b>
05	Whether the Registrant has any legitimate interests in the disputed domain name?	<b>No</b>
06	Whether the Registrant's domain name has been registered or is being used in bad faith?	<b>Yes</b>
07	Has the Registrant registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name?	<b>Yes</b>
08	Whether the Registrant has intentionally attempted to attract internet users to the Registrant's website or other online location by creating likelihood of confusion with the Complainant's name or mark?	<b>Yes</b>
09	Whether the Registrant has registered the disputed domain name for selling or otherwise transferring it for valuable consideration?	<b>No</b>

## IX] BASIS OF FINDINGS: -

1. Does the Complainant have trade mark or service mark directly related to the disputed domain name?

The Complainant has stated that it owns the brand IDEA and its subsidiary company has filed an application for registration of the service mark IDEA MONEY which is pending.

*Therefore my finding on this issue is in affirmative.*

2. Whether the Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights?

The word 'IDEA' is an integral / prominent component of subject domain name and also is an integral / prominent component of the registered Trademarks of the Complainant. It is well established beyond doubt by several arbitral decisions in India as also WIPO cases that mere addition of suffix like .in / .org does not differentiate the domain name from the marks. Looking at the stature of the Complainant, its national presence as also its strong presence on the internet it is very hard to believe that the Registrant was not aware of the same.

Against this the Respondent has not claimed having any registered trade mark or service mark consisting of the word 'IDEA'.

*Therefore my finding on the first issue is affirmative.*

3. Whether the Registrant is owner of trade mark or service mark corresponding to the disputed domain name?

The Registrant has not claimed nor mentioned of being owner or applicant of any trade mark or service mark corresponding to the disputed domain name.

*Therefore my finding on this issue is in negative.*

4. Whether the Registrant has commonly been known by the domain name?

The name of the Registrant, as on the Whois records is Mr.Rama Ranga Swamy. As such he has not commonly been known by the domain name or any variation thereof.

*Therefore my finding on this issue is in negative.*

5. Whether the Registrant has any legitimate interest in the disputed domain name?

The Registrant has no registered trademark or service mark which includes the words 'Idea'. He is not commonly known by that name or any variation or

combination thereof. He has not established that he has been using the registered domain name for bona fide business activities or for non-commercial purpose. He has not shown any other nexus of his business with the disputed domain name or any authority by the Complainant in this behalf.

*Therefore my finding on this issue is negative.*

6. Whether the Registrant's domain name has been registered or is being used in bad faith?

The domain name is registered but website is not yet built. However when it will be built and ready for use, any internet user when searches for this domain name, he would get confused about the Complainant, its business and present domain name.

*Therefore my finding on this issue is affirmative.*

7. Has the Registrant registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name?

The Registrant has failed to establish his bona fides and nexus with the disputed domain name. Therefore it is established that such registration by the Registrant has resulted into denying the Complainant his lawful right to register and use the disputed domain name for his business purposes.

*Therefore my finding on this issue is in affirmative.*

8. Whether the Registrant has intentionally attempted to attract internet users to the Registrant's website or other online location by creating likelihood of confusion with the Complainant's name or mark?

The website is not yet built. But whenever anyone searches for IDEAMONEY.CO.IN he is directed to this webpage. Hence it can be said that internet users are being attracted to the website as if it is of the Complainant.

*Therefore my finding on this issue is affirmative.*

9. Whether the Registrant has registered the disputed domain name for selling or otherwise transferring it for valuable consideration?

The Registrant has cited some links in support of his coining the word ideamoney for his domain name. He has agreed to transfer the domain name on receipt of registration fees and not any mark up is claimed.

*Therefore my finding on this issue is Negative.*

## **IX] CONCLUSION AND BASIS OF AWARD: -**

From above discussion this panel has reached the conclusion that: -

1. The disputed domain name includes the registered marks and registered domain names of the Complainant. It means the Complainant's rights, interests and reputation are at stake in the disputed domain name.
2. The Registrant / Respondent does not have any registered trade mark / service mark in his name containing the words 'Idea' and hence does not have any legitimate interest in the same and resultantly in the disputed domain name. He has not been authorised by the Complainant to register the said domain name.
3. The Registrant has not been commonly known by the disputed domain name.
4. The Registrant is not making bona fide and fair use of the disputed domain name for his bona fide business purposes, much less for non-commercial purpose.
5. The Respondent / Registrant has failed to establish his nexus, rights or interests in or with the disputed domain name in any way.
6. The Registrant has offered to transfer the domain name for registration charges to the Complainant.

From all findings on the issues framed, it can be concluded that the Registrant has registered domain name without any legitimate interests in it.

On the basis of my findings on issues and foregoing discussion I pass the following award: -

01. **The Complainant is entitled to the disputed domain name – 'IDEAMONEY.CO.IN' and hence the same be transferred to the Complainant.**
02. The Complainant shall pay to the Registrant the costs of registration of domain name.

Dated: - 19.04.2014  
Place: - Pune

  
(S.C. INAMDAR)  
SOLE ARBITRATOR