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# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

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Unique Doc. Reference : SUBIN-DL91680335030907864226S  
Purchased by : VIKRANT RANA  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : VIKRANT RANA  
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BEFORE THE SOLE ARBITRATOR UNDER .IN DISPUTE RESOLUTION POLICY  
(Appointed by .IN Registry- National Internet Exchange of India)

#### ARBITRATION AWARD

Disputed Domain Name: <BEACHBODY.IN>

#### IN THE MATTER OF

Beachbody, LLC  
3301 Exposition Boulevard,  
3rd Floor Santa Monica, CA 90404,  
United States of America

... Complainant

-----versus-----

Domain Master  
let it ring gmbh  
Von Basse Str. 1  
Borken  
Nordrhein-Westfalen 46325  
DE

... Respondent

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*Vikrant Rana*

## 1. The Parties

The **Complainant** in this arbitration proceeding is **Beachbody, LLC**, which was founded in 1998 and is a company involved in creating and providing in-home fitness, health, wellness and weight loss solutions, including nutritional supplements products, different in-house exercise and fitness DVD-based workout kits and exercise gear. As per the documents placed on record by the Complainant, “**BEACHBODY**” is the trade name of the Complainant, and the Complainant is also the owner of various **BEACHBODY** formative marks as well as domain names incorporating **BEACHBODY** in many countries around the world including in India.

The **Respondent** in this arbitration proceeding is **Domain Master of let it ring gmbh** located at the address **Von Basse Str. 1, Borken, Nordrhein-Westfalen, Germany**.

## The Domain Name, Registrar and Registrant

The present arbitration proceeding pertains to a dispute concerning the registration of domain name <**BEACHBODY.IN**> with the .IN Registry. The Registrant in the present matter is “**Domain Master of let it ring gmbh**”, and the Registrar is **NIXI Holding Account**.

## 2. Procedural History

The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI).

NIXI vide its email dated December 02, 2020, had sought consent of Mr. Vikrant Rana to act as the Sole Arbitrator in the matter. The Arbitrator informed of his availability and gave his consent vide Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure vide email on the same day, i.e. December 02, 2020. Thereafter the Arbitrator received soft copies of the Domain Complaint and the annexures thereto (along with a copy of the complete/un-redacted WHOIS records of the disputed domain name) on December 07, 2020 from NIXI. The Complainant acknowledged receipt of the same via email on December 07, 2020, and shortly thereafter sent a soft copy of the final accepted complaint along with annexures, to the Arbitrator.

Shortly thereafter, vide email on the same date, i.e. December 07, 2020, the Arbitrator was copied on an email from the Respondent inter alia expressing their astonishment that the impugned domain is still in their control and further stating that they had enabled the transfer of same to the Complainant on April 09, 2009. In this regard, the Respondent has attached email correspondence dated April 09, 2009 wherein it appears that the transfer of the domain was requested and an authorization code was provided for the same. Nevertheless, the Respondent has communicated their agreement to transfer the domain <**BEACHBODY.IN**> to the Complainant. Copy of the email as received from the Respondent has been pasted below:

*“I am a little amazed that the domain is still in our account, as we enabled the transfer to the Complainant on April 9, 2009. I cannot understand why the Complainant did not transfer the domain. Please find attached the email exchange as a pdf. The next time I'm in Santa Monica, I'll tell Carl that there are better ways to waste time and money. Anyway, since the domain has been in Nixi Hold status for a long time, the domain must be approved by Nixi.*”




*Murant Lane*

*I hereby authorize Nixi to transfer the domain beachbody.in to Beachbody LLC."*

The Arbitrator acknowledged receipt of the above correspondence and attachment via email on December 08, 2020, and reserved the award to be passed on the basis of all material on record and in accordance with the law as applicable.

### 3. Factual Background and Complainant's Contentions

Complainant has inter alia submitted that they offer its customers a wide range of health and fitness programs under the trademark **BEACHBODY**, which also forms the operative part of their trade name. Complainant has further submitted that such proprietorship of the Complainant over the trademark **BEACHBODY** is further augmented by the fact that it enjoys statutory protection and common law rights in the name and trademark **BEACHBODY** and

variations such as  **BEACHBODY**,  **BEACHBODY**, **BEACHBODY PERFORMANCE**, **BEACHBODY CHALLENGE DU JOUR**, **BEACHBODY ON DEMAND**, **BEACHBODY'S ULTIMATE RESET**, **TEAM BEACHBODY**,  **BEACHBODY ULTIMATE**,

etc. ('**BEACHBODY Marks**') spanning across various classes in multiple jurisdictions of the world including Australia, Brazil, Canada, China, European Union, France, Germany, Hong Kong, **India**, Italy, Japan, Malaysia, Philippines, Saudi Arabia, Singapore, Thailand, United Arab Emirates, United Kingdom and United States of America. The Complainant has also provided a representative list of their worldwide portfolio of **BEACHBODY Marks** from major jurisdictions as **Annexure 3**.

Notably, the earliest registration for the Complainant's **BEACHBODY** Mark, has been valid and subsisting on the Register of USPTO (its home country) since as early as **May 17, 2000** and in India since as early as **September 05, 2006**.

Complainant has further submitted that they own and operate their official website at **WWW.BEACHBODY.COM**, which was registered on **August 17, 1999** and has annexed an extract from the WHOIS database as **Annexure 4**. Further, Complainant is also the owner of the India specific domain <**TEAMBEACHBODY.IN**>, which was registered on and regularly renewed since **February 04, 2009**. Complainant has also submitted details of other India-specific domains incorporating the mark **BEACHBODY** in **Annexure 6** as well as other country-specific domains and websites in major markets such as Canada <**beachbody.ca**>, European Union <**beachbody.eu**>, France <**beachbody.fr**>, Japan <**beachbody.jp**>, Singapore <**beachbody.sg**>, United Kingdom <**beachbody.uk**> and United States of America <**beachbody.us**> as **Annexure 7** and **Annexure 8**.

Complainant has further submitted evidence of promotion of the mark **BEACHBODY** on their social media websites such as Facebook, Twitter, Instagram and YouTube and third-party websites and annexed the relevant webpages as well as a list of results on Google as **Annexure 9**. Further evidence of promotion on news media and the Complainant's infomercial has been annexed as **Annexure 10** and **Annexure 11**, respectively.

Additionally, Complainant has also submitted instances of media coverage, online articles, blogs, press releases as **Annexure 12** and a list of awards bestowed on the Complainant as **Annexure 13**.

*Murant Sana*



Complainant has submitted that they recently learnt of the Respondent's registration of the disputed domain name and use of its corresponding pay-per-click website at [www.beachbody.in](http://www.beachbody.in) ('impugned website') which displays a link as 'BEACHBODY WORKOUT' evidenced by **Annexure 14**.

Complainant thereafter conducted a WHOIS search on the official website of .IN Registry which revealed that the Disputed Domain Name is registered since **June 27, 2008** in the name of 'Domain Master' of 'let it ring gmbh' located in Nordrhein-Westfalen, Germany. However, no other information about the Registrant was available or accessible.

#### **Other Legal Proceedings**

The Complainant has submitted that there are no other legal proceedings that have been commenced, are continuing or have been terminated by the Complainant in connection with or relating to the domain name <**BEACHBODY.IN**>.

#### **Reliefs claimed by the Complainant**

The Complainant has claimed for the disputed domain name, i.e. <**BEACHBODY.IN**> to be transferred to them.

#### **4. Respondent's Contentions**

The Respondent vide their email dated December 07, 2020, has inter alia submitted the below:

*"I am a little amazed that the domain is still in our account, as we enabled the transfer to the Complainant on April 9, 2009. I cannot understand why the Complainant did not transfer the domain. Please find attached the email exchange as a pdf. The next time I'm in Santa Monica, I'll tell Carl that there are better ways to waste time and money. Anyway, since the domain has been in Nixi Hold status for a long time, the domain must be approved by Nixi.*

*I hereby authorize Nixi to transfer the domain beachbody.in to Beachbody LLC."*

As stated above, vide the said email, the Respondent has inter alia expressed their astonishment that the impugned domain is still in their control and further stated that they had enabled the transfer of same to the Complainant on April 09, 2009. In this regard, the Respondent has also attached email correspondence dated April 09, 2009 wherein it appears that the transfer of the domain was requested and an authorization code was provided for the same.

Nevertheless, the Respondent has communicated their agreement to transfer the domain <**BEACHBODY.IN**> to the Complainant.

#### **5. Discussion and Findings**

In a domain complaint, the Complainant is required to satisfy three conditions as outlined in Paragraph 4 of the .IN Domain Name Dispute Resolution Policy, i.e.:-

*Murant Sana*

- a. The Registrant's domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights;
- b. The Registrant has no rights and legitimate interest in respect of the domain name;
- c. The Registrant's domain name has been registered or is being used in bad faith.

However, based upon the facts and circumstances and further relying on the materials as available on the record, as the Respondent herein has agreed to voluntarily surrender the disputed domain name to the Complainant and has requested that the same be transferred to the Complainant, I feel no need to substantially deliberate upon the merits of the case.

i. **The Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights**  
**(Paragraph 4(a) of the .IN Domain Name Dispute Resolution Policy)**

Notwithstanding the Respondent's commitment towards surrendering the disputed domain name to the Complainant, it is necessary to analyze the first element of the Policy, to inter alia ascertain whether the Complainant has rights in a mark which is identical or confusingly similar to the disputed domain name.

In this regard, the Complainant has established its rights in the mark **BEACHBODY**, by way of trademark registrations, in India as well as globally, and common law rights arising out of longstanding use and promotion thereof.

The domain name in question, **<BEACHBODY.IN>**, incorporates the mark **BEACHBODY** in toto (barring the necessary ccTLD suffix, .IN).

In view of the aforesaid, the Arbitrator finds that the Complainant has successfully established the requirements as under Paragraph 4(a) of the .IN Domain Name Dispute Resolution Policy, and that the disputed domain name **<BEACHBODY.IN>** is confusingly similar to the Complainant's trade mark(s).

ii. **The Registrant has no rights and legitimate interest in respect of the domain name**  
**(Paragraph 4(b) and Paragraph 6 of the .IN Domain Name Dispute Resolution Policy)**

As the Respondent has voluntarily agreed to surrender the disputed domain name, I will not be addressing this element of the Policy.

iii. **The Registrant's domain name has been registered or is being used in bad faith**  
**(Paragraph 4(c) and Paragraph 7 of the INDRP)**

As the Respondent has voluntarily agreed to surrender the disputed domain name, I will not be addressing this element of the Policy.

*Murant Same*

## 6. Decision

Based upon the facts and circumstances and further relying on the materials as available on the record, I am of the view that the Complainant has established legitimate proprietary rights over the name/mark **BEACHBODY**.

In view of the Respondent's response dated December 07, 2020, and in accordance with the Policy and Rules thereto, I hereby allow the prayer of the Complainant and direct the .IN Registry to take the necessary steps to transfer the domain <BEACHBODY.IN> to the Complainant.

As the Respondent has no-objection to the transfer and has undertaken as much vide their response, the Arbitrator directs the .IN Registry to immediately facilitate the transfer of the disputed domain name to the Complainant, without waiting for the standard implementation period of ninety (90) days, as has been held by prior INDRP panels in *World Wrestling Entertainment Inc. v. Watch Wrestling [INDRP/1208]* and *Your Holding B.V. v. Mr. Jibu James [INDRP/821]*.

The Award is accordingly passed and the parties are directed to bear their own costs.



**Vikrant Rana, Sole Arbitrator**

**Date: December 10, 2020.**

**Place: New Delhi, India.**