



Registration and Stamp Department  
Madhya Pradesh



Certificate of Stamp Duty

E-Stamp Details

E-Stamp Code 01010515062021013565  
 Total E-Stamp Amount 200  
 Govt. Stamp Duty (Rs.) 200 Municipality Duty (Rs.) 0  
 Janpad Duty (Rs.) 0 Upkar Amount (Rs.) 0  
 Exempted Amount(Rs.) 0  
 E-Stamp Type NON-JUDICIAL  
 Issue Date & Time 15/06/2021 16:20:54  
 Service Provider or Issuer Details ANUBHUTI JAIN/SP010541604201700013  
 SP/SRO/DRO/HO Details 24 BDA NEAR JAIN MANDIR PANCHSHEEL NAGAR BHOPAL 462003 HUZUR  
 BHOPAL

Deed Details

Deed Type Award without Property  
 Deed Instrument Award without Property  
 Purpose ARBITRATION AWARD (AWARD WITHOUT PROPERTY)

First Party Details

Organization Name APPLEBEE'S INTERNATIONAL,INC.  
 Address 450 NORTH, BRAND BLVD. 7TH FLOOR, GLENDALE,CA,UNITED STATES OF AMERICA BHOPAL Madhya Pradesh INDIA  
 Number of Persons 1

Second Party Details

Organization Name DING RIGUO  
 Address 8F,NO. 199, SHIFU ROAD,TAIZHOU,ZHEJIANG,CHINA BHOPAL Madhya Pradesh INDIA  
 Number of Persons 1

ARBITRATION AWARDNAME OF ARBITRATOR-SHRI RAJESH BISARIA

**BEFORE THE ARBITRATOR RAJESH BISARIA  
 UNDER THE  
 .IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)  
 [NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)]**

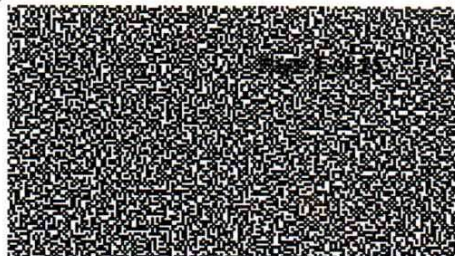
**ARBITRAL AWARD**

**Date-16.06.2021**

**Disputed Domain Name: www.applebees.in**

**INDRP Case no -1361**

Digitally signed by ANUBHUTI JAIN  
 Date: 2021.06.15 16:20:57  
 IST



## THE PARTIES

The **Complainant** is Applebee's International, Inc., 450 North Brand Blvd., 7th Floor, Glendale, CA – 91203, United States of America

The **Respondent** is Ding RiGuo , 8F, No. 199, Shifu Road, Taizhou, Zhejiang - 318 000 , China , E-mail: juc@qq.com

## THE DOMAIN NAME AND REGISTRAR

The disputed domain name: **www.applebees.in** is registered with Endurance Domains Technology LLP

### **Registrar address-**

Endurance Domains Technology LLP  
Unit No. 501, 5th Floor  
IT Building 3, Nesco IT Park  
Nesco Complex, Western Express Highway  
Goregaon (E), Mumbai – 400 063  
Maharashtra, India

## PROCEDURAL HISTORY

1

<b>Initially Shri Neeraj Aarora was appointed as Arbitrator to adjudicate this case , as per NIXI mail dated 17.03.2021. The proceedings of this case during his tenure are as follows:</b>	
Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per paragraph 4(c) of INDRP Rules of Procedure, marking a copy of the same to Complainant's authorized representative and NIXI .	17.03.2021
Due date of submission of Statement of Claim by Complainant (instructed by mail dated 15.04.2021)	02.04.2021
Complainant's response by submitting their Statement of Claim. Soft copy	17.03.2021
Due date of submission of Statement of Defence by Respondent (instructed by mail dated 17.03.2021)	02.04.2021
Extended due date of submission of Statement of Defence by Respondent (instructed by mail dated 03.04.2021)	13.04.2021
Respondent's response by submitting their Statement of Defence against the due date of submission as 30.04.2021 & 10.05.2021	Not submitted
Complainant's response by submitting their Rejoinder. (Statement of Defence not submitted by Respondent )	Not required



Complainant's response by submitting proof of delivery of complaint along with all annexures to Respondent- Soft copy	17.03.2021,
Intimation that the Respondent failed to submit the documents in said time limit ie by 13.04.2021, therefore they lost their right to entertain it and the proceeding of this case is kept closed for Award..	14.04.2021
.IN Registry/NIXI informed by mail to all concerning about the sad demise of the Ld Arbitrator Shri Neeraj Aarora.	27.05.2021
<b>The NIXI appointed RAJESH BISARIA as Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of procedure vide their mail dated 07.06.2021 and this case was handed over my me along with all the documents of the proceeding by previous Arbitrator late Shri Neeraj Aarora. The proceeding of this case by me are as follows-</b>	
Keeping in view the interest of justice, a further last opportunity was provided to the Respondent to submit the reply by 14.06.2021.	08.06.2021
Complainant's response by submitting proof of delivery of complaint along with all annexures to Respondent- Soft copy	07.06.2021 15.06.2021
Mail sent to all mentioning that the Respondent once again failed to submit their reply by 14.06.2021 therefore now the case is kept closed and the matter will be decided ex-parte on the basis of the material on record with this tribunal as per INDRP policy.	15.06.2021
The language of the proceedings.	English

## FACTUAL BACKGROUND

### 2 The Complainant :

Applebee's International, Inc.  
450 North Brand Blvd., 7th Floor  
Glendale, CA – 91203  
United States of America

The Complainant's authorized representative in this administrative proceeding is:

Remfry & Sagar  
Remfry House at the Millennium Plaza  
Sector-27, Gurgaon-122009  
Email: remfry-sagar@remfry.com; mohini.v@remfry.com  
aarti.aggarwal@remfry.com  
Fax: 0124-2806101; 2572123  
Phone: 0124-2806100; 4656100



### 3 The Respondent:

Ding RiGuo  
8F, No. 199, Shifu Road  
Taizhou, Zhejiang - 318 000  
China  
E-mail: juc@qq.com

### 4 Complainant's Activities:

- (a) The Complainant 'Applebee's International, Inc.', a subsidiary of Dine Brands Global, Inc., owns and franchises the Applebee's Neighborhood Grill and Bar restaurant under and in connection with the name/mark APPLEBEE'S/. The inception of the Complainant's services under the name/mark APPLEBEE'S dates back to the year 1980 when Bill Palmer along with TJ Palmer opened 'T.J. APPLEBEE'S Rx for Edibles and Elixirs' in Atlanta, Georgia, United States of America (USA). Soon thereafter, in the year 1986, the first Applebee's franchise restaurant was opened in Kansas City, USA under the name/mark 'APPLEBEE'S NEIGHBORHOOD GRILL & BAR' and the 100th restaurant was opened in Nashville, Tennessee, USA in the year 1989.
- (b) The 1990s saw exceptional growth for the Complainant and from operating around 500 restaurants in the year 1994 under the name/mark APPLEBEE'S/, the Complainant went on to open its 1000th restaurant in Aurora, Colorado, USA in the year 1998 and recorded system-wide sales of \$2.35 billion with 1,168 restaurants in the year 1999.
- (c) The 2000s saw the Complainant expand its international reach by opening restaurants under the name/mark APPLEBEE'S/ in Brazil, Chile, China, Ecuador, Jordan, Middle East, and Singapore. As of September 30, 2020, the Complainant has around 1,728 restaurants and presence across 49 states of the USA as well as in Puerto Rico, Guam and 11 other countries world over with almost 2,000 locations and approximately 28,000 employees companywide, making it one of the world's largest casual dining brands in the world.
- (d) Started in 1980 with the same philosophy that the Complainant embodies today - "Eatin' Good in the Neighborhood", the Complainant is renowned for having the hospitable vibe of a neighborhood restaurant where family and friends can gather to enjoy delicious food at great value. The Complainant's restaurants welcome people of all age brackets and lifestyles offering a fun and family- friendly atmosphere along with its signature bar and grill menu. The Complainant is



further building upon the American heritage with its restaurant and leveraging its scale to differentiate itself and has successfully maintained a brand position at the top of the casual dining segment. Most Applebee's restaurants are owned and operated by entrepreneurs dedicated to serving their communities and offering quality food and drinks with genuine, neighborly service.

- (e) As one of the world's largest casual dining brands, the Complainant's 'Applebee's Neighborhood Grill + Bar' offers guests a dining experience that combines simple American fare with classic drinks and local drafts. APPLEBEE'S restaurants that are franchised are owned and operated by franchisees dedicated to the neighborhoods they serve. The Complainant strives to provide genuine and neighborly service, appetizers, drinks and entrees and limited-time offers. The Complainant's food menu features a selection of grill and bar fare, such as appetizers, bar snacks, burgers, pasta entrees and lighter fare, as well as cocktails, beers and desserts.
- (f) The Complainant's business/services enjoy a high reputation and are popular amongst consumers. The Complainant is a recipient of many prestigious awards/recognitions namely, Chain of the Year by Restaurant Hospitality Magazine; Excellence in Retention Award by Nation's Restaurant News, People and Performance Award Council; Heart of the Workplace Award by People Report; Top Performer in Management Retention Award by People Report; Catalyst Award by People Report; Project Excellence and Team Excellence Awards by the International Food Service Technology Exposition; and One of America's Best Managed Companies by Forbes Magazine, and continues to set the standards for best practices in the restaurant industry. Submitted and annexed as Annexure-A are relevant extracts from the Complainant's website 'www.applebees.com' depicting its rich history, background, awards, etc

## 5 Complainant's Trade Marks And Domain Names :

- (a) The Complainant's website 'www.applebees.com' marks its primary presence on the Internet for global promotion. The internet is the most powerful medium of exposure today to potential customers/ members of trade and the Complainant's website being operated under the domain name 'applebees.com' comprising its registered name/mark APPLEBEE'S has contributed immensely to the popularity and renown of the Complainant world over. The website is accessible worldwide, including in India, and the public can gather extensive information about the Complainant and its services under the APPLEBEE'S brand/mark. The Complainant's worldwide recognition and appreciation can further be evidenced from social networking sites. For instance, the Complainant has more than 5



million followers on Facebook, more than 600K followers on Twitter and more than 500K followers on Instagram. Extracts of the said social media accounts pertaining to the Complainant are submitted and marked as Annexure-B.

- (b) Complainant has taken utmost care to secure statutory rights in the mark APPLEBEE'S as well as variations thereof such as and its intellectual property is very valuable to the Complainant. Complainant owns various trade mark registrations for the mark APPLEBEE'S//variations thereof in various jurisdictions world over, including without limitation, Australia, Canada, Chile, EUIPO, Iceland, Indonesia, Kenya, Mexico, Mozambique, Namibia, Singapore, United Kingdom, USA, WIPO including India, with the earliest registration for the mark 'APPLEBEE'S' secured by the Complainant dating back to October 17, 1995 in USA. The mark APPLEBEE'S has been used extensively since at least the year 1996 in connection with the Complainant's restaurant business. A list of the Complainant's registrations in respect of the trade mark 'APPLEBEE'S' in a few jurisdictions is as under:

COUNTRY	REGISTRATION NUMBER	DATE OF APPLICATION	DATE OF REGISTRATION
Brazil	827544294	June 29, 2005	December 18, 2007
Canada	TMA665767	February 17, 2005	June 07, 2006
China	4712777	June 10, 2005	January 21, 2009
Indonesia	IDM000239491	July 03, 2008	March 08, 2010
Mexico	878372	February 16, 2005	April 26, 2005
United Kingdom	UK008955755	November 26, 2007	November 26, 2007
USA	1927107	February 09, 1994	October 17, 1995
WIPO	955755	November 26, 2007	November 26, 2007

The goods/services for which the aforesaid registrations have been secured are:

Class 35 – franchising; namely, offering technical assistance in the establishment and operation of restaurants



Class 43 – Restaurant and bar services; accommodation, food and drink The aforesaid marks are valid and subsisting. Submitted and marked as Annexure-C is a list of trade mark registrations/pending applications secured/filed by the Complainant internationally for the mark APPLEBEE'S. Submitted and marked as Annexure-D are extracts from the online records of the Trade Marks Registry(ies) for some of the aforementioned trade mark registrations secured by the Complainant.

(c) In India, Complainant has secured the following registrations for the mark APPLEBEE'S/variations thereof:

Registration No./Dated	Trade Mark	Status	Class / Goods
1312192 September 30, 2004	APPLEBEE'S	Registered	42 restaurant and bar services
1752790 November 11, 2008	APPLEBEE'S	Registered	43 restaurant and bar services, including restaurant carryout services
IRDI- 3019826 April 02, 2015	APPLEBEE'S	Protection Granted	43 restaurant services
IRDI- 3261232  September 22, 2015	APPLEBEE'S	Protection Granted	35 Offering business Franchising assistance in the establishment and operation of restaurants  43 restaurant and catering services

Submitted and marked as Annexure-E are extracts from the online records of the (Indian) Trade Marks Registry for the aforementioned trade mark registrations secured by the Complainant.



(d) Further, the Complainant has also registered various domain names comprising the mark APPLEBEE'S. A few of the domain names comprising the mark APPLEBEE'S along with their 'creation date' are mentioned herein below:

DOMAIN NAME	CREATION DATE
(i) applebees.com -----	July 19, 1995
(ii) applebees.net -----	January 30, 1997
(iii) applebeescareers.com -----	September 17, 2001
(iv) discoverapplebees.com -----	March 14, 2002
(v) applebees.eu -----	June 06, 2006
(vi) applebeesneighborhood.com--	May 09, 2007
(vii) applebeescanada.com -----	July 28, 2008
(viii) applebeesme.com -----	August 22, 2012
(ix) applebeesnow.com -----	July 08, 2014
(x) applebeesinternational.com -----	February 27, 2017
(xi) applebees.asia -----	November 05, 2019
(xii) applebeesmenus.com-----	July 21, 2020

As established, the Complainant is not only the registered proprietor of the mark APPLEBEE'S but also owns various domain names containing the mark APPLEBEE'S. A list of domain name registrations secured by the Complainant is submitted and marked as Annexure-F. WHOIS details of some of the aforesaid domains are submitted and marked as Annexure-G.

(e) From the above, it is apparent that the goodwill and reputation of the Complainant as regards the mark APPLEBEE'S, pervades both the real world as well as the cyber space. Therefore, it is evident that the mark APPLEBEE'S has on account of extensive and continuous use and trade mark registrations, become exclusively identified with the Complainant and its business and the Complainant's name/mark APPLEBEE'S has all the characteristics of a 'well known' mark and with the Complainant's global presence, has acquired widespread goodwill and reputation in the aforesaid mark. The aforesaid can further be substantiated by way of several online articles published on the Internet pertaining to the Complainant and its business/services under the name/mark APPLEBEE'S, having circulation in India as well as internationally, submitted and annexed as Annexure-H.

(f) The Complainant not only possesses statutory rights by virtue of its registrations for the mark APPLEBEE'S, but also common law rights due to extensive use of the same. The mark APPLEBEE'S/variations thereof are representative of the Complainant's brand identity, business reputation and public identification world over. The Complainant has invested years of time, capital, efforts and resources





and attained immense goodwill and reputation in the trade mark APPLEBEE'S and without doubt, the same has acquired a secondary meaning and is exclusively identified with the Complainant. Needless to say, the Complainant regards the trade mark APPLEBEE'S as one of its most valuable intellectual property asset and vigilantly and vigorously enforces and defends its intellectual property rights vesting therein against any act of violation/misuse. The Complainant has also successfully enforced its rights in the name/mark APPLEBEE'S in the case of Applebee's Restaurants LLC v. Whois Privacy Services Pty Ltd., Domain

Hostmaster, Customer ID: 48322810485706 / Domain Administrator, DigiMedia Holding and Whois Privacy Services Pty Ltd. Domain Hostmaster, Customer ID: 69322815172352 / Yeonju Hong, Dzone, Inc, WIPO Case No. D2015- 2328 against misuse of the same as part of impugned domain names 'applebeesrestaurant.com' and 'applebeesrestaurants.com' wherein the repute and renown of the Complainant under its mark APPLEBEE'S was reinforced. Annexed hereto and marked as Annexure-I is a copy of the said WIPO decision pronounced in favour of the Complainant

#### **6 Respondent's Identity and activities :**

- (a) The Respondent is Ding RiGuo , 8F, No. 199, Shifu Road, Taizhou, Zhejiang - 318 000 , China , E-mail: [juc@qq.com](mailto:juc@qq.com)
- (b) The identity and other activities of the Respondent are not known as, they failed to submit Statement of Defence or any of the documents, within the given time schedule.

#### **SUBMISSIONS BY COMPLAINANT**

- 7 Complainant submitted Domain name complaint with pages 1 to 26 and annexure from pages from 27 to 120 As per the INDRP Rules of Procedure, Clause 4(a) – *The (maximum) word limit shall be 5000 words for all pleadings individually (excluding annexure). Annexure shall not be more than 100 pages in total. Parties shall observe this rule strictly subject to Arbitrator's discretion.*

The application is submitted as per INDRP Rules of Procedure.



## THE CONTENTIONS OF THE COMPLAINANT

### **8 The domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights:**

- (a) The impugned domain name 'applebees.in' is identical to and comprises in its entirety Complainant's name/mark APPLEBEE'S which is a registered trade mark of the Complainant and thus the said domain name is infringing the statutory rights of the Complainant. It is submitted that the Registrant has registered the impugned domain name with the mala fide intent to trade upon the vast goodwill and reputation enjoyed by the Complainant by virtue of its well-known and registered name/mark APPLEBEE'S and thereby gain undue leverage and make illicit pecuniary gains. It is evident that the impugned domain name has no meaning or significance independent of the Complainant's name/mark APPLEBEE'S. The well-known nature of the Complainant's trade mark APPLEBEE'S and the Registrant's use of the same subsequent to the Complainant, clearly establishes that the Registrant registered the impugned domain name with full knowledge of the Complainant, its business activities and intellectual property rights.
- (b) The unmistakable identity between the Complainant's corporate name and mark on one hand and Registrant's choice of its domain name comprising 'APPLEBEES' on the other hand, is patently misleading to the consuming public. The Complainant states that the impugned domain name 'applebees.in' is identical to the domain names comprising APPLEBEE'S registered in the name of the Complainant.
- (c) It is further submitted that as per WHOIS records, the impugned domain name 'applebees.in' was registered on April 21, 2012, whereas the Complainant's earliest registration for the mark APPLEBEE'S dates back to the year October 17, 1995 and the domain 'applebees.com' was created/registered many years before the impugned domain name on July 19, 1995. Thus, the Complainant's adoption and use of the name/mark APPLEBEE'S is much prior to the Registrant's registration of the impugned domain name 'applebees.in'. In view of the same, it is apparent that the Complainant has prior rights in the name/mark APPLEBEE'S vis-à-vis the Registrant.

### **9. The Respondent has no rights or legitimate interests in respect of the domain name:**

- (a) As regards Clause 6(a), it is submitted that Registrant's adoption, use of, and offering for sale a dishonestly adopted and identical domain name does not amount to a 'bona fide' offering of goods and services. Given the Complainant's mark's well known nature and widespread use and repute world over, intentional



ignorance of the Registrant in not conducting a trade mark search as part of its due diligence prior to adopting/using the mark APPLEBEE'S as part of its domain name evidences its mala fide. It is trite law in respect of domain name proceedings that use which dishonestly and intentionally rides on the repute of another mark cannot constitute 'bona fide' offering of goods and services. Moreover, the Registrant's mala fide in adoption is amplified by the fact that the domain name which was registered more than 8 years ago by the Registrant in the year 2012, to date does not resolve to a website in connection with any bona fide offering of goods/services and instead resolves to a parked webpage offering the domain for sale in order to make illicit pecuniary benefits there from. There is nothing to suggest that the Registrant has used or made demonstrable preparations to use the domain name or a website corresponding to the domain name in connection with bona fide offering of goods/services. Therefore, by no stretch of the imagination, can the Registrant demonstrate any use relating to a bona fide offering of goods or services before any notice of this dispute or at any point in time whatsoever.

- (b) Regarding Clause 6(b), it is submitted that the Registrant is not commonly known by the domain name 'applebees.in' and is not authorized or licensed by the Complainant to use its mark/name APPLEBEE'S. The Complainant is the prior and first registered proprietor of the name/mark APPLEBEE'S and due to the extensive and continuous use of the APPLEBEE'S trade marks by the Complainant, the same have become well-known and come to be exclusively associated with the Complainant and no one else. Hence, the Registrant cannot establish any association with the impugned domain name for any reason/s whatsoever. Upon conducting a search using the term 'APPLEBEE'S' onto the Google search engine, the search results displayed pertain solely to the Complainant evidencing the extensive reputation associated with the Complainant and its mark APPLEBEE'S. On the contrary, a simple Google search for the Registrant's name reveals no connection whatsoever with the mark APPLEBEE'S and instead has revealed various other INDRP decisions wherein Awards have been passed against the Registrant for similar practice of mala fide adoption of trademarks of third parties as part of its domain name(s) as mentioned in paragraph No. 15 above.
- (c) With respect to Clause 6(c), it is submitted that the Registrant is not making any legitimate non-commercial or legitimate fair use of the impugned domain name. In fact, the conduct of the Registrant as highlighted above cannot come under the definition of bona fide use. Registration of the impugned domain is aimed to benefit from the immense goodwill and reputation of the Complainant's trade mark APPLEBEE'S, siphon internet traffic and divert visitors/customers by creating initial Internet confusion and thereby commercially profit from the sale of the domain name. Thus, the Registrant is indulging in (i) unfair use of the domain name with an intention to reap profits there from, and (ii) tarnishing the goodwill and reputation enjoyed by the Complainant's well-known name/mark



APPLEBEE'S. The Registrant, therefore, cannot justify any legitimate interest in the domain name 'applebees.in'.

**10. The domain name was registered and is being used in bad faith:**

- (a) As regards Clause 7(a), it is obvious that the Registrant has registered the domain name 'applebees.in' for the primary purpose of selling, renting or otherwise transferring it for valuable consideration as the domain name registered in the year 2012 does not resolve to any website to date but a parked webpage hosting the impugned domain name for sale evidencing the mala fide of the Registrant in registering the domain name only to make quick/illicit profits from its sale.
- (b) Insofar as Clause 7(b), it is reasonable to conclude that the Registrant, was aware and had actual notice of Complainant's prior rights in its registered marks, as well as its business, and yet chose to adopt a suspiciously identical domain name 'applebees.in'. Registration of the impugned domain name is detrimental to the Complainant's statutory rights in the registered trade mark APPLEBEE'S. The impugned domain name comprising the mark APPLEBEE'S is being unnecessarily held by the Respondent, thereby preventing the Complainant i.e. rightful holder of the mark APPLEBEE'S to register and use the same in relation to its business/services/products and the Registrant evidently has a pattern of such abusive domain name registrations, as has been reinforced by various other panels constituted under the INDRP by virtue of Awards passed against the Registrant.
- (c) As regards Clause 7(c), use of the mark APPLEBEE'S as part of the domain name 'applebees.in' by itself proves the mala fide of the Registrant to attract Internet users to its website by using the mark/name of the Complainant and consequently creating a likelihood of confusion as to the source, sponsorship, affiliation of the Registrant's website in order to be able to offer the domain name for sale to the highest bidder. Further, Internet users desirous of accessing the Complainant's website will inevitably get confused and therefore be led to the impugned website. Thus, Registrant's website may be accessed believing it to be affiliated with/originating from the Complainant.

Considering that the current status of the webpage corresponding to the domain name 'applebees.in' is a parked webpage offering the domain for sale, the same without doubt constitutes passive/parked holding of the domain, further evidencing that the domain name was registered by the Registrant with the ulterior motive to make illicit profit from its sale/transfer. Further the bad faith of the Registrant becomes all the more apparent from a perusal of the Awards passed by various other panels constituted under the INDRP against the Registrant as enumerated under paragraph No. 15 above, thereby exposing the modus operandi of the Registrant of being a habitual cyber squatter engaged in a pattern of registering and using in bad faith domain names corresponding to well-known trade names/marks of third parties.



## 11. Remedy Sought:

The Complainant most humbly prays that:

- (a) In accordance with Clause 13(a) of INDRP Policy and subject to all provisions thereof, order the Registrant not to transfer the domain name 'applebees.in' until conclusion of the arbitration proceedings;
- (b) The impugned domain name 'applebees.in' presently in the name of Ding RiGuo be transferred in favour of the Complainant;  
and
- (c) An order for costs of the proceedings as may be deemed fit be passed in accordance with Clause 10 of the INDRP Policy.

## 12. Other Legal Proceedings:

The Complainant submitted that no other legal proceedings have been initiated and/or are ongoing against the Respondent.

## RESPONSE BY THE RESPONDENT

13. As per mail of Late Shri Neeraj Aarora Ld arbitrator dated 17.03.2021 & 03.04.2021, Respondent was directed to submit their Statement of Defence by 02.04.2021 & 13.04.2021 respectively. Thereafter after taking over of this case, keeping in view the interest of justice, further last opportunity was given to Respondent (vide my mail dated 08.06.2021) to submit their reply by 14.06.2021. Sufficient time and opportunity was given to Respondent to submit required documents but Respondent failed to submit their 'Statement of Defence along with all annexure' within mentioned time limit.
14. It was intimated to all concerning by my mail dated 15.06.2021 that Respondent failed to submit the documents in said time limit ie by 14.06.2021, therefore now the case is kept closed and the matter will be decided ex-parte qua Respondent on the basis of the material on record with this tribunal as per INDRP policy.

## REJOINDER BY THE COMPLAINANT

15. Since Respondent failed to file the Statement of Defence, so there is no question of submitting the Rejoinder by the Complainant.



## **DISCUSSION AND FINDINGS**

16. After going through the correspondence, this AT comes to the conclusion that the Arbitral Tribunal was properly constituted and appointed as per Clause 5 of the INDRP Rules of Procedure and Respondent has been notified of the complaint of the Complainant. In fact, no parties raised any objection over constitution of this Tribunal.
17. Under Clause 4, of the .IN Domain Name Dispute Resolutions policy (INDRP), the Complainant must prove each of the following three elements of its case:
- (a) The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
  - (b) The Respondent has no rights or legitimate interest in respect of the domain name; and
  - (c) The Respondent's domain name has been registered or is being used in bad faith.

**18. The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:**

**Facts & Findings**

On the basis of the facts and due to non submission of Statement of Defence or any other document by Respondent, the Arbitral Tribunal concludes that the Complainant has established 4(a) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

**19. The Respondent has no rights or legitimate interest in respect of the domain name:**

**Facts & Findings**

On the basis of the facts and due to non submission of Statement of Defence or any other document by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(b) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.



20. The Respondent's domain name has been registered or is being used in bad faith:

**Facts & Findings**

On the basis of the facts and due to non submission of Statement of Defence or any other document by Respondent, the Arbitral Tribunal concludes that the Complainant has established Clause 4(c) of the .IN Domain Name Dispute Resolution Policy (INDRP) and accordingly satisfies the said Clause of policy.

**ARBITRAL AWARD**

21. Now I, Rajesh Bisaria , Arbitrator, after examining and considering the statements of the parties and documentary evidence produced before and having applied mind and considering the facts, documents and other evidence with care, do hereby publish award in accordance with Clause 12 & 13 of the INDRP Rules of Procedure and Clause 10 of .IN Domain Name Dispute Resolution Policy (INDRP) , as follows:

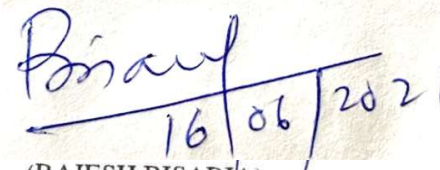
*Arbitral Tribunal orders that the Respondent disputed domain name www.applebees.in be transferred to the Complainant.*

*Further AT takes an adverse view on the bad faith registration of impugned domain by the Respondent and to restrict the act for future misuse, fine of Rs 10000/- (Rs Ten thousand only) is being imposed on the Respondent, as per the provision in clause 10 of .IN Domain Name Dispute Resolution Policy (INDRP) to be paid to .IN Registry for putting the administration unnecessary work.*

AT has made and signed this Award at Bhopal (India) on 16.06.2021 (Sixteen Day of June, Two Thousand Twenty One).

Place: Bhopal (India)

Date: 16.06.2021

  
(RAJESH BISARIA)

Arbitrator

