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नंबर ५४२२ रुपये १००००००००००
दिनांक १०/२/११
नाव शिबीष चिंतामणी बलभार
पत्ता ३६४ ५ शनिवार पेठ, पुणे
नरेश/अडिटे
हरले शिबीष चिंतामणी बलभार
सौ. जयश्री बेलसरे, स्टॅम्प व्हेंडर, ला.नं. - हवेली 1/३६/१९९५
४२५ अ, शनिवार पेठ, पुणे-३०



AWARD

IN ARBITRATION

The Metropolitan Life Insurance Company
1095 Avenue of the Americas
New York, 10036
UNITED STATES

THE COMPLAINANT

AND

Mr. Bharat Jain
Bharat Domains Services Limited
1800 Amphitheatre Parkway
Mountain View, California. 94043
UNITED STATES

THE RESPONDENT

IN THE MATTER OF DISPUTED DOMAIN NAME: - metlifebank.co.in

CASE NO. - NOT ALLOTTED BY NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

BEFORE MR.S.C.INAMDAR, B.COM., LL.B., F.C.S.

SOLE ARBITRATOR

DELIVERED ON THIS 17th DAY OF FEBRUARY TWO THOUSAND ELEVEN AT PUNE.

SUMMARISED INFORMATION ABOUT THE DISPUTE: -

01. Names and addresses

Metropolitan Life Insurance Company.

Of the Complainant: -

1095, Avenue of the Americas
New York, 10036.
UNITED STATES

Through its authorized
Representative

Anand & Anand, Advocates
B-41, Nizamuddin East
New Delhi. 110013. India

**02. Name and address of
The Respondent: -**

Mr.Bbarat Jain
Bharat Domains Services Limited
1800, Amphitheatre Parkway
Mountain View, California. 94043.
UNITED STATES

03. Calendar of Major events

Sr. No.	Particulars	Date (Communications in electronic mode)
01	Arbitration case was referred to me	18/01/2011
02	Acceptance was given by me	18/01/2011
03	Hard copy of the complaint was received	25/01/2011
05	Notice of arbitration was issued	29/01/2011
05	Submission of say by the Respondent	No say submitted
06	Reminder sent to the Respondent to submit his say, if any	09/02/2011
07	Submission of say by the Complainant	No say submitted
10	Award	17/02/2011



I] PRELIMINARY: -

- 1) M/s Metropolitan Life Insurance Company, having its office at 1095, Avenue of the Americas, New York, 10036, United States (**The Complainant**) have filed complaint with National Internet Exchange of India (NIXI) disputing the registration of domain name **metlifebank.co.in** (**the disputed domain name / domain name**).
- 2) Since the Complainant claimed to be the holder of trademark / service mark with the word **METLIFE**, it has disputed registration of domain name **metlifebank.co.in** in the name of **Mr. Bharat Jain, 1800, Amphitheatre Parkway, Mountain View, California, 94043, United States. (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 29th January 2011 with the instructions to file his say latest by 9th February 2011.
02. The Respondent failed to file his reply to the Complaint by 9th February 2011.
03. Thereafter the reminder was sent to the Respondent to submit his say, if any, on the Complaint by allowing extension till 16th February 2011.
04. The Respondent replied to the notice of arbitration by merely stating that he was ready to transfer the disputed domain name to the Complainant if he is paid US \$ 200. Similar reply was sent by him in response to the reminder to submit his say.
05. Apart from above the Respondent failed / neglected to file his say / reply to the Complaint of the Complainant within the stipulated time.

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 i.e. Metropolitan Life Insurance Company is a US based Life Insurance. The Complainant is a leader in the markets of insurance, annuities, pension fund, non-medical health and property and casualty insurance, savings and retirement products and rendering services to individuals, small businesses and large institutions.
- b) The Complainant is a registered proprietor of "METLIFE' and is famous for the goods and services which the said mark represents since 1968. Its business has been growing and sales have reached a level of billions of dollars by using the said mark. It is also a leader in residential and commercial mortgage, lending, real estate brokerage and management services. It is the largest life insurer in North America. The Complainant serves approx. 37 million employees and family members through their plan sponsors and is currently ranked at 36 on Fortune 500 list and at 194 on FT Global 500 list.
- c) In the year 1994 the Complainant has also registered domain name "metlife.com' and in 1998 it has also registered domain name metlifebank.com. The Complainant has its own website www.metlife.com and www.metlifebank.com which give more particulars about its business and relevant issues.
- d) Metlife has major operations, affiliates and representative offices throughout the Americas, Europe and Asia in 10 countries serving approx. 8 million customers. Its business in India started in 1992. As of October 2009 it has over 1 Million individual policy holders in India and more than 70000 sales agents, with 700 office locations.



- e) METLIFE mark has become distinctive and famous throughout the world. Due to this Courts in United States and several arbitral panels have upheld its claims, rights and interests in the said mark.
- f) Metlife bank, Metlife, Metlife Investors are some of the trademarks registered in US. In India it has registered METLIFE, METROPOLITAN LIFE, MET as its registered marks. All these marks are valid and subsisting as on the date of filing this complaint.
- g) The Complaint has been based on the following main grounds: -
1. The Registrant has registered domain name based on third party trademarks in bad faith with this registry. The Respondent has also registered another US based financial institution's registered trademark as a '.co.in' domain name.
 2. The Complainant conducted a WHOIS search in November 2010 and found that domain name 'metlifebank.co.in' has been registered by Bharat Jain (the present Respondent). Accordingly on 1st December 2010 a letter was sent via email and hard copy was mailed by first class mail requesting immediate transfer of the domain name. On the same day the Respondent replied via email, offering to transfer the domain name for 'under US 1500'. The Complainant promptly replied on December 2, 2010 stating that the Respondent ought to have verified if his registration of the disputed domain name was infringing other's intellectual property rights. Since the Complainant had refused to pay for the domain name as asked by the Respondent, the Respondent replied that he would not transfer the domain name to the Complainant without paying the Respondent a fee. The Complainant has attached copies of all this correspondence.
 3. The Respondent is using www.metlifebank.co.in to host links to Complainant's own website www.metlife.com and also to third party competitors' websites. The Respondent has listed various competitive websites like americanexpress.com, bankrate.com, discoverbank.com, hcsbonline.com etc. which promote products directly competing with that of the Complainant.

4. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.
 5. The Respondent has not legitimate rights or interests in respect of the domain name.
 6. The Respondent has registered its mark in US in 1968, in India in 1994, registered Metlife Bank in 2002, metlifc.com domain name in 1994 and metlifebank.com domain name in 1998. As against this the Respondent has registered the disputed domain name "metlifebank.co.in" in 2010.
 7. The Respondent has registered and has been using disputed domain name in bad faith.
 8. The Respondent has registered domain name primarily for selling to the Complainant having registered trademark for valuable consideration in excess of the Registrant's documented out of pocket expenses.
 9. The Complainant reasonably infers the Respondent's offer of 'under US \$1500' to mean a windfall to the Respondent that costs less than the amount to file a domain name arbitration complainant, typically between US \$ 1300 TO \$ 1500.
 10. The Registrant is habitual registrant of registering domain names with inclusion of other trademark holders marks as part of its name.
 11. The Registrant has registered the domain name with the intention to attract internet users to his website by creating a likelihood of confusion with the Complainant's METLIFE mark as to source, sponsorship, affiliation, or endorsement of the Respondent' website.
 12. The Registrant has furnished a non-existent mailing address to the .IN Registry which indicates his bad intentions.
- h) The Complainant has sought the remedies in the form of transfer of the disputed domain name to it and also for the costs of the arbitral proceedings.

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

In response to the contentions of the Complainant, the Respondent has failed / neglected to file any reply or say, except offering to transfer domain name for US \$ 200 directly sent to the Arbitrator.

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.

SR. NO.	ISSUE	FINDING
01	Whether the Complainant could establish his nexus with the registered trade marks and as such whether he is entitled to protect their rights / interests in the same?	Yes
02	Whether the Registrant's domain name is identical or confusingly similar to a name or trademark in the Complainant has rights?	Yes
03	Whether the Respondent is holder of any registered trademark or service mark and accordingly has any right or legitimate interest in respect of disputed domain name?	Not known
04	Whether the Registrant / Respondent has registered domain name in bad faith?	Yes
05	Whether the Registrant has commonly been known by the domain name?	No

VII] BASIS OF FINDINGS: -

(A) Whether the Complainant could establish his nexus with the registered trade marks and as such whether he is entitled to protect their rights / interests in the same?

The Complainant has produced a list of various trademarks registered all over the world including India. It has also furnished a list of various domain names registered in various countries. Against this the Respondent has failed / neglected to submit his say in the arbitral proceedings.

Therefore my finding on the first issue is affirmative.

(B) Whether the Registrant's domain name is identical or confusingly similar to a name or trademark in the Complainant has rights?

The disputed domain name has been registered containing words 'metlife' which is identical to the trademarks and registered domain names including TLDs of the Complainant.

My finding on this issue is affirmative.

(C) Whether the Respondent is holder of any registered trademark or service mark and accordingly has any right or legitimate interest in respect of disputed domain name?

The Respondent has not bothered to file any say / reply to the complaint.

My finding on this issue is negative.

(D) Whether the Registrant / Respondent has registered domain name in bad faith?

The Respondent has not made out his case by filing his say / reply to the complaint. The domain name has several links to the Complainant's own official website as also to websites of its competitors. The Registrant has offered to transfer domain name for valuable consideration. The mailing address furnished by the Respondent to .IN Registry has proved to be non-existent. The intentions of the Respondent are clearly to attract internet users to his website falsely and to suggest patronage / support / sponsorship by the Complainant itself.

My finding on this issue is therefore affirmative.

(E) Whether the Registrant has commonly been known by the domain name?

The name of the Respondent / Registrant is Mr.Bharat Jain and his firm's name is Bharat Domains Services Limited, which have no similarity, nexus, or resemblance to the word metlife.

My finding on this issue is therefore negative.



IX] AWARD: -

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

01. The Complainant is entitled to the disputed domain name - metlifebank.co.in' and accordingly the same shall be transferred to the Complainant.
02. The Respondent shall pay all documented expenses / costs of the arbitral proceedings to the Complainant.

Dated: - 17.02.2011


(S.C.INAMDAR)
ARBITRATOR