



उत्तर प्रदेश UTTAR PRADESH

FH 201275

MUKESH KUMAR
DY. CASHIER

INDRP ARBITRATION

THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]

ADMINISTRATIVE PANEL DECISION

SOLE ARBITRATOR: ANKUR RAHEJA, FCS LLB MCA

22 JUL 2020

TREASURY, AGRA

Disputed Domain Name: <accenture.org.in>

In the matter of:

Accenture Global Services Ltd. ...Complainant

3 Grand Canal Plaza
Upper Grand Canal Street,
Dublin 4, Ireland

Versus

Tech Narayana Software Pvt. Ltd. ...Respondent

No. 63/1, 4th Main Road,
Gangappa Block, Ganganagar,
Bangalore, Karnataka - 560032

A. Raheja
04-08-20

ARBITRATION AWARD

Disputed Domain Name: <accenture.org.in>

1. The Parties:

The Complainant is Accenture Global Services Limited (“Complainant”), Dublin, Ireland represented by Mr. Vikrant Rana of M/s S.S. Rana & Co, Advocates, New Delhi, India. Respondent is Tech Narayana Software Pvt. Ltd. (“Respondent”), Bangalore, India self-represented.

2. The Domain Name and Registrar:

The domain name at issue is <accenture.org.in>, created on 17th July 2019, registered with Godaddy.com, LLC.

3. Procedural History:

The Complaint was originally filed with .IN Registry. Arbitrator received an email, inquiring if Nixi can avail of its services as an arbitrator for the dispute pertaining to the domain name <accenture.org.in>. Arbitrator confirmed availability and sent the signed Statement of Acceptance and Declaration of Impartiality and independence as required by rules.

Arbitral Proceedings commenced on 30th July 2020 by issue of a notice by the Arbitrator by email to the Respondent, directing Respondent to file his

response to the Complaint, which was successfully delivered on the WHOIS Email ID.

In the meantime, Nixi served a soft copy of the Complaint with Annexure, while the service of the hard copy has been dispensed with, due to the ongoing COVID Pandemic.

On 1st August 2020, the Respondent communicated that they intend to voluntarily surrender the domain name. The same was accepted as formal Response and the same was communicated to the Respondent by the Arbitrator, to which no further response was received.

No personal hearing was requested / granted / held. The language of these proceedings is in English.

4. Factual Background:

The Complainant is an international business that provides a broad range of services and solutions in strategy, consulting, digital, technology and operations under the name ACCENTURE and is the owner of the ACCENTURE trademark and company name, and marks fully incorporating the ACCENTURE trademark (collectively the "ACCENTURE Marks").

The Complainant began using the mark ACCENTURE in connection with various services, including management consulting, technology services and outsourcing services on January 1, 2001. Reliance is placed on previous decisions of this Panel finding that Complainant has rights in the mark ACCENTURE in the matters of INDRP/829, INDRP/998 and INDRP/999.

Since January 2001, Complainant has extensively used and continues to use the mark ACCENTURE in connection with various services and specialities. Today, Complainant has offices and operations in more than 200 cities in 56 countries. Further, Complainant has developed substantial goodwill in its ACCENTURE name and mark, as well as its official domain names ACCENTURE.COM and ACCENTURE.NET that were registered by Complainant on August 30, 2000 and October 09, 2000 respectively.

As Complainant's business expanded globally, it began operating websites that use Country Code Top-Level Domain Names that are specific to Individual countries including ACCENTURE.IN (2005), ACCENTURE.CO.IN (2004) and ACCENTURE.NET.IN (2012). Further, the Complainant filed it's first Trademark in the US in 2000 and owns over 1000 such registrations in over 140 jurisdictions. In India, Complainant also owns over numerous registered Trademarks, applied since October 2000.

The annual worldwide revenue generated under the ACCENTURE marks total many billions of dollars. Reputable brand consulting companies have recognized the ACCENTURE mark as a leading global brand. Further for the last 16 years, it has been listed in the Fortune Global 500, which ranks the world's largest companies. As a result of over 20 years of extensive use and promotion the ACCENTURE marks have become distinctive and famous globally and have enjoyed such distinctiveness and notoriety since long prior to the date on which Respondent registered the disputed domain name.

5. Parties Contentions

A. Complainant

(i) the Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;

(ii) the Registrant has no rights or legitimate interests in respect of the domain name; and

(iii) the Registrant's domain name has been registered or is being used in bad faith.

B. Respondent

On 1st August 2020, Respondent or maybe a representative through WHOIS email ID, stated as follows:

*"hi whomsoever concerned,
since we have no connection with this domain..."*

The Domain is a transfer process done according to below mail received from the accenture team ...

.....

Hello,

Please have the domain name unlocked and provide the AUTH code so that we can facilitate transfer.

Sincerely,

Suzanne

The Respondent was communicated by the Arbitrator on 01st August 2020 itself:

“I understand that you have forwarded an email from the Respondent, who wishes to voluntary transfer the Domain Name <accenture.org.in> to the Complainant. Accordingly, an Arbitral Award / Order for the Transfer of the Disputed Domain Name would be passed by next week and the domain would be transferred by .IN Registry / NIXI, without requiring the Auth Code.

But in case you have anything more to add, kindly let us know. Otherwise assumption would be there, that you do not intend to formally reply to the Complaint, except for what has been stated in your following email.”

No further response was received from the Respondent till the date of the award.

6. Discussion and Findings:

The Arbitrator has reviewed all the documents placed before it by the parties. The Complainant in its complaint has invoked Para 4 of the INDRP, wherein the Complainant is supposed to satisfy all three conditions provided under Para 4 of the .IN Domain Name Dispute Resolution Policy (INDRP).

A. Identical or Confusingly Similar

It was necessary to analyze the first condition of the INDRP, though the Respondent has agreed voluntarily to transfer the domain name, as previously held in the matter of Homer TLC, Inc. v. Jacek Woloszuk [NAF Claim Number: FA1504001613637]. A necessary prerequisite to Complainant

obtaining its requested relief, even where Respondent agrees to such relief, Complainant must demonstrate that it has rights in a mark that is confusingly similar or identical to the at-issue domain name.

Complainant's rights in the mark **ACCENTURE** under INDRP are proved by Complainant's trademark registrations in numerous jurisdictions for the said mark and variants. The Complainant filed its first Trademark in the US in 2000 and owns over 1000 such registrations in over 140 jurisdictions including India.

Undoubtedly, the disputed domain name is confusingly similar to a trademark in which the Complainant has rights, as the disputed domain includes the Complainant's mark in its entirety. It has been long held that the trademark registration constitutes prima facie evidence of the validity of trademark rights.

Therefore, the Arbitrator concludes that the disputed domain name is confusingly similar to Complainant's mark.

B. Rights or Legitimate Interests

It is well established that the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name, and then the burden shifts to the Respondent to come forward with concrete evidence of such rights or legitimate interests.

The Respondent in the response has voluntarily agreed to surrender the Domain Name, therefore the Arbitrator need not address the element of legitimate interest.

C. Registered and Used in Bad Faith

The Respondent has voluntarily agreed to surrender the Domain Name, therefore the Arbitrator need not address the element of registration and use in Bad Faith. It was held in the matter of Amazon Technologies, Inc. v. Sushil Kumar / individual [Claim Number: FA1912001875480] that Respondent's consent to transfer the at-issue domain name permits the Arbitrator to order that the domain name be transferred to Complainant without further analysis regarding paragraph 4(a)(ii) or 4(a)(iii) of the Policy.

WIPO Overview 3.0 Section 4.10 states, where the Respondent has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the Complainant, many panels will order the requested remedy solely on the basis of such consent. In such cases, the panel gives effect to an understood party agreement as to the disposition of their case (whether by virtue of deemed admission, or on a no-fault basis).

Similar stance has been taken under various INDRP decisions Nanushkaclotthing.in (**INDRP/604** - "In view of the undertaking given by the Respondent, I deem fit and proper to allow the prayer of the Complainant in its favour"); Lenovo.in (**INDRP/708** - Therefore, as held by the learned panel in previous decisions **INDRP/174, INDRP/230, INDRP/571, INDRP/629, INDRP/660** on the basis of the Respondent's consent to transfer the Domain Name, no further consideration or discussion of the Policy is deemed necessary by the Arbitrator"); Starthosting.in (**INDRP/821** - "the Respondent having agreed to transfer the domain name to the Complainant, no useful purpose would be served in going into merits of the case").

7. Decision:

For the foregoing reasons, in accordance with INDRP Policy and rules thereunder, the Arbitrator orders that the disputed domain name <**accenture.org.in**> be transferred to the Complainant.

Further, transfer being a result of settlement between the parties, the NIXI is requested to instruct the domain Registrar to remove the locks and initiate domain transfer immediately without waiting for the appeal period of 90 days to implement the award [*INDRP/821 - Your Holding B.V. v. Jibu James and INDRP/1208 - World Wrestling Entertainment Inc. v. Watch Wrestling*].



Ankur Raheja, FCS LLB MCA
Sole Arbitrator, NIXI, India
Date: 04th August 2020
Place: Agra, India