



சுமார் 100 ரூபாய்  
தமிழ்நாடு தமில்நாடு TAMILNADU  
2013  
18-2-13

*Sridharan*

AL 336218  
*S. Mallinathan*  
**S. MALLINATHAN**  
STAMP VENDOR  
L.No. 14661-B1/86  
Plot. 1706, 35th Street, I-Block,  
ANNA NAGAR WEST, MADRAS-600 040.

**BEFORE S SRIDHARAN, SOLE ARBITRATOR  
OF NATIONAL INTERNET EXCHANGE OF INDIA  
ARBITRATION AWARD  
DATED: 11<sup>th</sup> February 2013**

**Parallel HR Solutions Inc., U.S.A.**

... **Complainant**

**Versus**

**PHREmployee and another**

... **Respondents**

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**1. The Parties**

- 1.1 The complainant, Parallel HR Solutions Inc, is an entity organized and existing under the laws of United States of America, , having its registered office at 488 E, Winchester Street, Suite 125, Murray, Utah 84107, U.S.A represented by Mr. Krishan Singhania, Advocate of Singhania & Co at Suite # 102,103, 10th Floor, Jolly Maker Chamber II, Nariman Point, Mumbai 40.
- 1.2 1<sup>st</sup> Respondent is PHREmployee, at Gupta Wadi, Nashik- 422002, Maharashtra.
- 1.3 2nd Respondent is Net4 India Ltd at AB-11, Community Centre, Safdarjung Enclave, Delhi 110029

**The Domain Name and Registrar**

- 1.4 The disputed domain name <parallelhr.co.in> created on 18.06.2012 is registered with Net4 India Ltd (R7-AFIN).

**2. Procedural History**

- 2.1 On 13<sup>th</sup> December 2012, NIXI asked me about my availability and consent to take up the Complaint for arbitration. On the same day, I informed my availability and consent. I also informed NIXI that I had no conflict of interest with either of the parties and could act independently and impartially.
- 2.2 On 25<sup>th</sup> December 2012, I received hardcopy of the Complaint.
- 2.3 On 26<sup>th</sup> December 2012, I issued by email a Notice to the Respondent setting forth the relief claimed in the Complaint and directing him to file his reply to the Complaint within 15 days. I also sent an email about my appointment to arbitrate the complaint to the Complainant and asked the Complainant to send a soft copy of the complaint to me.
- 2.4 On 27<sup>th</sup> December 2012, I received a soft copy of the Complaint.
- 2.5 I perused the Complaint. The Complainant sought certain reliefs in addition to the transfer / cancellation of disputed domain name. The Complainant also added the registrar of the disputed domain name as Second Respondent to the proceedings. I informed the Complainant that no relief other than transfer / cancellation of disputed domain name might be granted in these arbitration proceedings and no relief might be granted against the 2<sup>nd</sup> Respondent.
- 2.6 Again on 16<sup>th</sup> January 2013, I reviewed the records. The email address mentioned in the whois data was no longer working. The notice sent to the respondent bounced back. I

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directed NIXI to get postal address of the Respondent, if any, from the registrar of the disputed domain name and complete the service of the complaint on the respondent. I also directed the complainant to ensure, with coordination with NIXI, timely completion of service.

- 2.7 NIXI has completed service of complaint on the Respondent and has also sent me the proof of service.
- 2.8 Email is the medium of communication of this arbitration and each email is copied to all, Complainant, Respondent and NIXI.
- 2.9 2<sup>nd</sup> respondent is nowhere discussed herein below in this arbitration proceeding. 1<sup>st</sup> Respondent is referred to as the Respondent.
- 2.10 Respondent has not filed his response to the Complaint of the Complainant.

### 3. Factual Background

#### A Complainant

- 3.1 Complainant, Parallel HR Solutions Inc. is a global leader in the field of HR services. The Complainant has earned goodwill and reputation not only in the U.S.A. and India but also in several other parts of the world. The Complainant also has a wholly owned subsidiary in India, namely, 'Parallel HR Solutions Pvt. Ltd.', having its registered office at Gupta House, Guptawadi, Shyamal Gupta Marg, Trimbak Road, Nashik 422002, Maharashtra, India.
- 3.2 The business of the Complainant is recognized by the mark "parallehr", a coined word by the Complainant. The Complainant has been using the mark "parallehr" since 18.12.2006. As a result of the worldwide publicity of, and the goodwill and reputation acquired in the mark "parallehr", the said mark has acquired distinctiveness and is therefore capable of distinguishing the Complainant's business. Thus, the mark "parallehr" has common law rights vested in it, and is therefore entitled to protection in law.
- 3.3 The Complainant is the registered owner of the domain name <[www.parallehr.com](http://www.parallehr.com)> since 18<sup>th</sup> December 2006 and has been using the same in connection with its business activities all over the world right from the time of inception of its business. The domain name <[www.parallehr.com](http://www.parallehr.com)> is the main website of the Complainant and functional for the business of the Complainant all over the world, including its offices in the U.S.A. as well as in India
- 3.4 The Complainant has spent considerable amount of money on the publicity and advertisement of the mark "parallehr" in the said domain name <[www.parallehr.com](http://www.parallehr.com)>. Over the years, the Complainant has built goodwill and valuable reputation in the mark and name "parallehr" through advertisement and publicity on the internet as well as other media.
- 3.5 Thus aggrieved by the registration of the disputed domain name <[parallehr.co.in](http://parallehr.co.in)> the Complainant has approached this Honorable Forum.

#### B Respondent

- 3.6 The Respondent has not filed any reply to the Complainant's Complaint in this arbitration.

### 4. Parties Contentions

#### A Complainant

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- 4.1 The disputed domain name <parallelhr.co.in> is identical to the Complainant's mark "parallelhr" and its domain name <www.parallelhr.com>.
- 4.2 In view of its worldwide publicity of the mark "parallelhr" and the distinctive nature of its business, the adoption of the disputed domain name <parallelhr.co.in> by the Respondent is dishonest and in bad faith. The use of such identical domain name comprising the whole of the Complainant's mark "parallelhr" by the Respondent will mislead the members of the public and cause confusion amongst the consumers as well as the clients of the Complainant, diverting them from the Complainant's registered website <www.parallelhr.com> to the infringing website of the Respondent <parallelhr.co.in>.
- 4.3 The Complainant's subsidiary in India is Parallel HR Solutions Pvt. Ltd. and is incorporated in India since 26<sup>th</sup> August 2010. A copy of the certificate of incorporation of the said subsidiary company is attached at Annexure C. The contact address of the Respondent as registered with the Registrar, Net4 India Ltd. shows that the Respondent is based in Guptawadi in Nashik, India which location is the same as the Complainant's registered office in India, namely, Guptawadi in Nashik. The Respondent has maliciously used the telephone number of the Complainant's registered office in India for the purpose of registering the disputed domain name <parallelhr.co.in>. The registration of the disputed conflicting domain name <parallelhr.co.in> from the same location and telephone number as the registered office of the Complainant in India causes further confusion and deception amongst the members of the public and the clients of the Complainant. The Respondent has no right or permission to use the address and phone number of the Complainant for the registration of the disputed domain name <parallelhr.co.in>.
- 4.4 The Complainant has not licensed or otherwise permitted the Respondent to use the mark "parallelhr" at any point of time. Therefore, the Respondent cannot have any right or legitimate interest in the disputed domain name <parallelhr.co.in>.
- 4.5 The intention of the Respondent in registering the disputed domain name <parallelhr.co.in> in an apparently fake name, namely, 'PHREmployee' and from the same location and telephone number as that of the Complainant's registered office in India is to cause confusion amongst the Complainant's clients and to divert the said clients from the Complainant's registered website <www.parallelhr.com> to the fake website under the disputed domain name <parallelhr.co.in> registered by the Respondent, and thereby cause irreparable loss and injury to the Complainant. Thus, the disputed domain <parallelhr.co.in> has been registered wrongfully and in bad faith by the Respondent. The said act has been done with a view to usurp the goodwill attached to the Complainant's business and to benefit from the sale of Complainant's famous mark, and thereby derive unlawful monetary gains.
- 4.6 In view of the aforesaid reasons, the registration and use of the disputed domain name <parallelhr.co.in> by the Respondent is contrary to the .IN Domain Name Dispute Resolution Policy, and is therefore liable to be cancelled.
- 4.7 The disputed domain name <parallelhr.co.in> has been registered on 18<sup>th</sup> June 2012. Whereas, the Complainant's domain name <www.parallelhr.com> has been registered on, and has been in use since 18<sup>th</sup> December 2006. Considering that the Complainant has been using the domain name <www.parallelhr.com> in respect of its well-established and globally reputed business of HR services since 2006, irreparable loss and injury will result to the business of the Complainant if the registration of the disputed domain name <parallelhr.co.in> is not cancelled and the Complainant's mark "parallelhr" is continued to be used by the Respondent in the disputed domain name <parallelhr.co.in>. No loss or injury will result to the Respondent if the registration of the disputed conflicting domain name <parallelhr.co.in> is cancelled, as the Complainant is the prior user of the mark

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"parallelhr" and the rightful user of the domain name <[www.parallelhr.com](http://www.parallelhr.com)>. Thus, the balance of convenience lies in favour of the Complainant.

**B. Respondent**

4.8 Respondent has not filed any reply to the Complainant's Complaint in this arbitration.

**5. Discussion and Findings**

5.1 Respondent has not filed his response. I have not received any communication from him until the date of this award. Therefore, I am proceeding to determine this Complaint on the basis of the materials available on record.

5.2 The Complainant in order to succeed in the Complaint must establish under Paragraph 4 of .IN Domain Name Dispute Resolution Policy (INDRP) the following elements:

- (I) Respondent's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
- (II) Respondent has no rights or legitimate interests in respect of the domain name; and
- (III) Respondent's domain name has been registered or is being used in bad faith.

5.3 Each of the aforesaid three elements must be proved by a Complainant to warrant relief.

***Disputed domain name is identical or confusingly similar to a trade mark of the Complainant.***

5.4 The Complainant is the proprietor of the mark **parallelhr**. Complainant has been using **parallelhr** mark continuously since 2006 internationally. The Complainant's HR services are also available in India. From 2010, the Complainant started offering its services through its subsidiary in India. The Complainant also owns the web site under the domain name <[www.parallelhr.com](http://www.parallelhr.com)> created on 18<sup>th</sup> December 2006 and has been using the same in connection with its business activities all over the world. The disputed domain name <[parallelhr.co.in](http://parallelhr.co.in)> was created only on 18.06.2012. Obviously, the Complainant is the prior adopter of **parallelhr** mark. The above facts have established that the Complainant has common law rights in respect of its **parallelhr** mark.

5.5 The Complainant's **parallelhr** mark is famous and well known throughout the world including India. It is clearly seen that the disputed domain name <[parallelhr.co.in](http://parallelhr.co.in)> wholly incorporates the prior **parallelhr** mark of the Complainant. The suffixes .co and .in are descriptive and are not distinguishing part of the domain name. The specific top-level and/or second-level of a domain name such as "co.in", ".com" needs to be disregarded when determining the similarity or identity with the Complainant's **parallelhr** mark. The disputed domain name <[parallelhr.co.in](http://parallelhr.co.in)> is similar to the Complainant's domain name <[www.parallelhr.com](http://www.parallelhr.com)>.

5.6 I, therefore, find that:

- (a) The Complaint has common law rights in respect of its **parallelhr** mark.
- (b) The disputed domain name <[parallelhr.co.in](http://parallelhr.co.in)> is:
  - (i) Identical to the Complainant's prior **parallelhr** mark, and
  - (ii) Identical to the Complainant's domain name <[www.parallelhr.com](http://www.parallelhr.com)>.

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**Respondent has no rights or legitimate interests in respect of the disputed domain name**

5.7 It is already seen that:

- (a) The Complainant is the prior adopter and user of the **parallelhr** mark. The Complainant's **parallelhr** mark is well known in many countries across the globe including India.
- (b) The Complainant's **parallelhr** mark was adopted in the year 2006. The disputed domain name <parallelhr.co.in> was registered by the Respondent only on 18.06.2012.

5.8 Respondent did not register the disputed domain name <parallelhr.co.in> until 2012. Complainant has registered and used domain name <www.parallelhr.com> consisting of its mark **parallelhr** before Respondent registered the disputed domain name <parallelhr.co.in>. It is unlikely that the Respondent was unaware of Complainant's existence of trademark rights before registering the disputed domain name <parallelhr.co.in>.

5.9 I visited the web site of the Respondent under the disputed domain name <parallelhr.co.in>. The disputed domain name <parallelhr.co.in> leads to a web page stating that the disputed domain name is parked freely by its registrar Net4 India. The web page prominently asks the visitor following questions:

Is this your Domain?

1. Buy and activate Web Hosting for this Domain  
Buy and activate Business Email for this domain

5.10 It is obvious from the above that disputed domain name is available for sale and any visitor accessing the disputed domain name may purchase the same. The web site has no other information and only provides links to web hosting and business email services mentioned above. The Respondent never intended to use the disputed domain name <parallelhr.co.in> in connection with a bona fide offering of services. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name <parallelhr.co.in>.

5.11 The Complainant has not licensed or otherwise permitted the Respondent to use the mark "**parallelhr**" at any point of time. The Respondent cannot have any right or legitimate interest in the disputed domain name <parallelhr.co.in>.

5.12 The Respondent registered the disputed domain name <parallelhr.co.in> by using telephone number and location of the Complainant and it definitely leads to show that the Respondent has no right independent of the Complainant to register the disputed domain name <parallelhr.co.in>.

5.13 Therefore, I have no hesitation to hold, for the above reasons that the Respondent has no right or legitimate interest in respect of the disputed domain name <parallelhr.co.in>.

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

5.14 The Complainant is the proprietor of the **parallelhr** mark. Complainant has been using **parallelhr** mark continuously since 2006. The Complainant's services are available in India. Complainant owns numerous trademark registrations for Blackberry marks throughout the world. The Complainant also owns the web site under the domain name <www.parallelhr.com> created on 18<sup>th</sup> December 2006 and has been using the same in connection with its business activities all over the world. The disputed domain name

<parallelhr.co.in> was created only on 18.06.2012. Obviously, Complainant's rights in the parallelhr mark pre-dates Respondent's registration of the disputed domain name <parallelhr.co.in>. The Respondent could not have ignored, rather actually influenced by, the well-known parallelhr mark of the Complainant at the time he acquired the disputed domain name <parallelhr.co.in>.

- 5.15 As seen above, Respondent is currently holding the disputed domain name <parallelhr.co.in> primarily for sale and for no other purposes. The Respondent is no way connected with the Complainant. Respondent's adoption of the disputed domain name <parallelhr.co.in> is nothing but an unjust exploitation of the well-known reputation of the Complainant's prior parallelhr mark.
- 5.16 The contact address of the Respondent as registered with the Registrar, Net4 India Ltd. shows that the Respondent is based in Guptawadi in Nashik, India which location is the Complainant's registered office in India, namely, Guptawadi in Nashik. The Respondent has maliciously used the telephone number of the Complainant's registered office in India for the purpose of registering the disputed domain name <parallelhr.co.in>. The Respondent has no right or permission to use the address and phone number of the Complainant for the registration of the disputed domain name <parallelhr.co.in>
- 5.17 The intention of the Respondent in registering the disputed domain name <<parallelhr.co.in> in an apparently fake name, namely, 'PHREmployee' and from the same location and telephone number as that of the Complainant's registered office in India is to cause confusion amongst the Complainant's clients and to divert the said clients from the Complainant's registered website <www.parallelhr.com> to the fake website under the disputed domain name <parallelhr.co.in> registered by the Respondent, and thereby cause irreparable loss and injury to the Complainant. Thus, the disputed domain <parallelhr.co.in> has been registered wrongfully and in bad faith by the Respondent. The said act has been done with a view to usurp the goodwill attached to the Complainant's business and to benefit from the sale of Complainant's famous mark, and thereby derive unlawful monetary gains.
- 5.18 Thus it is clearly established that Respondent registered the disputed the disputed domain name <parallelhr.co.in> in bad faith.
- 5.19 The actions of the Respondent should not be encouraged and should not be allowed to continue. Respondent never intended to put the disputed domain name <parallelhr.co.in> into any fair/useful purpose. Respondent not even considered it worth responding the complaint of the Complainant. Respondent did not file any response. The conduct of the Respondent has necessitated me to award costs of the Complaint to and in favour of the Complainant.

## 6. Decision

- 6.1 For all the foregoing reasons, the Complaint is allowed as below.
- 6.2 It is hereby ordered that the disputed domain name <parallelhr.co.in> be transferred to the Complainant.
- 6.3 Respondent is ordered to pay the Complainant a sum of Rs. 10,00,000/- (Rupees ten lakh only) towards costs of the proceedings.



S. Sridharan  
Arbitrator