



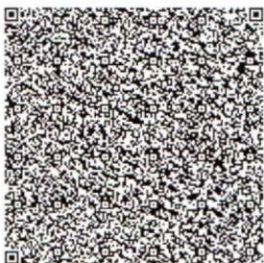
सत्यमेव जयते

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Certificate Issued Date	: 23-Sep-2014 12:08 PM
Account Reference	: IMPACC (IV)/ dl771603/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL77160322642327848108M
Purchased by	: RAJIV SINGH CHAUHAN
Description of Document	: Article Others
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: RAJIV SINGH CHAUHAN
Second Party	: Not Applicable
Stamp Duty Paid By	: RAJIV SINGH CHAUHAN
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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BEFORE THE SOLE ARBITRATOR UNDER THE .IN DISPUTE RESOLUTION POLICY

IN THE MATTER OF:

Starbucks Corporation
D.B.A. Starbucks Coffee Company
2401 Utah Avenue South
Seattle, Washington 98134, USA

(Complainant)

Versus

Aditya Khanna
E-403, Greater Kailash-Part-I,
New Delhi-110016,

(Respondent)

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Statutory Alert:

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PARTIES

The Complainant in this proceeding is STARBUCKS Corporation with Corporate headquarters in Seattle, Washington, USA.

The Complainant is represented through its authorized representative S.S. Rana & Co.

Advocates

Address: 317, Lawyers Chambers, High Court of Delhi

New Delhi 110003

India

Tel : 91-11-3056 2000, 2338 4491

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The respondent in this proceeding is Aditya Khanna,

Address: E-403, Greater Kailash-Part-I, New Delhi-110016,

Phone: +91 9051154928

THE DOMAIN NAME

The domain name in dispute is **STARBUCKS-INDIA.IN** (created on December 1, 2012) is registered in the name of Mr. Aditya Khanna.

FACTUAL BACKGROUND:

The following information is derived from the Complaint and supporting evidence as submitted by the Complainant.

The Complainant is a leading retailer, roaster and brand of specialty coffee. The Complainant owns and uses, inter alia, the trade marks **STARBUCKS** and **STARBUCKS COFFEE WITH DESIGN**, which are associated with it and its goods, business, including coffee shops, cafes etc.

The Complainant has used the trademarks **STARBUCKS** and **STARBUCKS COFFEE WITH DESIGN** for over four decades as the principle identifier of its business and the product it sells. By virtue of its long standing use, extensive publicity and worldwide registrations, the

trade name and trademarks **STARBUCKS** and **STARBUCKS COFFEE WITH DESIGN** are identified worldwide exclusively with the complainant and its business and enjoys worldwide reputation, support and trust amongst the trade and policy.

In the last four decades, commendable efforts have ensured that **STARBUCKS** is associated with the highest standards of quality control.

The Complainant's trademarks **STARBUCKS, STARBUCKS COFFEE WITH DESIGN, STARBUCKS COFFEE** as well as other variations of **STARBUCKS** marks are registered in over 154 countries.

The Complainant is the registered proprietor of the trade marks **STARBUCKS, STARBUCKS COFFEE WITH DESIGN, STARBUCKS COFFEE** as well as other variations of **STARBUCKS** marks in various classes in India.

The Complainant registered the domain name www.starbucks.com on October 25, 1993 and has over 1000 other Starbucks formative domain names. In addition to the .com domain names the Complainant also owns many country specific domain names such as www.starbucks.co.in and www.starbucks.in.

Millions of US dollars are spent each year for promoting the Complainant's trade marks in countries around the world by means of national and international television. The trademark **STARBUCKS** has been advertised in a wide variety of print and electronic media, including papers, magazines, satellite TV channels as well as on the internet.

Inter brand, a leading international branding consultancy company in its Annual Survey for several consecutive years ranked **STARBUCKS** amongst the Top 100 Brands of the World. Similarly, according to Millward Brown Optimar Brandz, Starbucks is among the top 100 most powerful brands. The Complainant has been conferred with many awards and recognition for its business ethics and social causes. Mr. Howard Shultz, CEO of the Complainant has been conferred with many awards. Further, the Complaint's name and mark **STARBUCKS** has been

immortalized by Mr. Howard Schultz and Ms. Dori Jones in the book ***Pour Your Heart In To It – How Starbucks Built A Company One Cup At A Time***, which has been translated in many languages. It has been further featured in management books. The Complainant's name and trademark has been advertised and featured in print and electronic versions in various national and international magazines and newspapers having circulations throughout the worlds. The Complainant's products with the name have been featured in various motion pictures including Indian Movies. The Complainant's trademarks have been prominently and extensively featured in news articles on many Indian websites.

The Complainant has number of stores running successfully in various cities of India like Mumbai, Delhi, Pune etc.

The Complainant has been actively involved with Collaboration for Hope and Advancement in India (CHAI), which was launched in October 2002, to help improve living conditions and create opportunities for those living and working in the villages of the tea producing regions of West Bengal, Darjeeling, India. It also abide by Corporate Social Responsibility (CSR).

The Complainant has also taken successful actions against the Infringers/Registrants under the Indian Domain Name Dispute Resolution Policy (INDRP) with respect to the top level domain names having Starbucks as the prominent part thereof.

Respondent in this proceeding is **ADITYA KHANNA** who has not filed any response and submissions to the Complaint despite being given an adequate notice and several opportunities by the Arbitrator.

PARTIES CONTENTIONS:

(a) Complainant

The Complainant contends as follows:

1. The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

2. The Respondent has no rights or legitimate interest in respect of the Disputed Domain Name;
3. The Disputed Domain Name was registered and is being used in bad faith.

(b) Respondent

The Respondent has not filed any proper response and submissions to the complaint despite being given an adequate notification and several opportunities by the Arbitrator.

PROCEDURAL HISTORY:

The Arbitrator was appointed by the .IN Registry, to adjudicate upon the Complaint of the Complainant, regarding the dispute over the domain name www.starbucks-india.in.

.In Registry had supplied the copy of the Complaint and the Annexures to the Arbitrator.

The Complainant had filed complaint and supporting annexures, no response was received from the Respondent.

DISCUSSIONS AND FINDINGS:

The Complainant had filed the present Complaint praying to this Tribunal that the present registration of domain name be cancelled and the domain name www.starbucks-india.in be transferred to the Complainant.

As previously indicated, the Respondent has failed to file any reply to the Complaint and has not rebutted the submissions put forth by the Complainant, and the evidence filed by it.

Rule 8 (b) of the INDRP Rules of Procedure provides that "*In all cases, the Arbitrator shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case*".

As mentioned above enough chances have been provided to the Respondent to file a reply but no proper response was received. Therefore, the Arbitrator has proceeded with the arbitration proceedings on the basis of material on record.

Rule 12 (a) of the INDRP Rules of Procedure provide that *"An Arbitrator shall decide a Complaint on the basis of the statements and documents submitted to it and in accordance with the Arbitration and Conciliation Act, 1996, Dispute Resolution Policy, the Rules of Procedure and any bye-laws, rules and guidelines framed there under and any law that the Arbitrator deems to be applicable"*

In these circumstances, the decision of the Arbitrator is based upon the Complainant's assertions and evidence and inference drawn from the Respondent's failure to file proper reply.

A perusal of the submissions and evidence placed on record by the Complainant, it is proved that it has statutory and common law rights in the mark "STARBUCKS" and its other variations.

Further, the Arbitrator is of the view that the Complainant has satisfied all the three conditions outlined in the **paragraph 4 of .IN Domain Name Dispute Resolution Policy**, viz.

- (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.

(i) The Domain name is identical or confusingly similar to a name, trade mark or service mark in which Complainant has rights - (Policy, para. 4 (i); Rules, paras. 3 (b) (vi) (1))

The Complainant has submitted that the domain name Starbucks-india.in registered by the Respondent is identical with and confusingly similar to the name, trade mark and service mark STARBUCKS, in which Complainant has statutory and common law rights in India and abroad. The Complainant has further submitted that the Respondent has used the name and trademark STARBUCKS without Complainant permission & authorization.

In the view of the Tribunal, it is prima facie obvious that the disputed domain name www.starbucks-india.in is confusingly similar to the Complainant's STARBUCKS domain name/trademark.

The Complainant has provided ample documentary evidence of its ownership rights in the trademark, which inter alia include its trademark registrations in India and in numerous countries all over the world. The Complainant has also demonstrated its prior adoption of the STARBUCKS mark for its specialty coffee. It has been in sustained use for over decades, in the world market. The Complainant therefore has undoubtedly established its unassailable rights in the STARBUCKS domain name and trademark.

It is well recognized that incorporating a trademark in its entirety, (particularly if the mark is an internationally well-known mark) is sufficient to establish that the domain name is identical or confusingly similar to the Complainant's registered mark.

Further, at the time of registration of the disputed domain name www.starbucks.in, the Complainant had already been using the marks "STARBUCKS" as its trademark and in its domain names with firmly established rights in the same.

Also, at the time of registration of the disputed domain name by the Respondent, the Complainant's trademark had already acquired the status of a well-known mark. The Respondent can neither show any rights superior to that of the Complainant in the trademark "STARBUCKS" nor can the Respondent state that it was unaware of the Complainant's mark while registering the disputed domain name.

The Respondent has not responded to any of submissions of the Complainant. The Arbitrator, therefore, comes to the conclusion that the disputed domain name is confusingly similar to the trademark of the Complainant.



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

According to the **paragraph 7 of the .IN Dispute Resolution Policy**, the following circumstances show Registrants rights or legitimate interest in the domain name for the purpose of paragraph 4(ii)-

i) before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;

ii) the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or

iii) the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has contended that the Respondent has no right or legitimate interest in the impugned domain name. The Complainant further submits that has not making legitimate or fair use of the said domain name for offering good and services.

The Tribunal is of the view that Complainant's mark is well known and it has gained rights based upon prior use. Therefore, the use of the disputed domain name without any permission from the Complainant is an act done in bad faith, and confers no right or legitimate interest in favor of the Respondent.

Moreover, there exists no relationship between the Complainant and the Respondent that would give rise to any license, permission or authorization by which the Respondent could own or use the disputed domain name which is identical to that of the Complainant.



The Respondent has not responded to the above submissions. The Tribunal, therefore, comes to the conclusion that the Respondent has no rights or legitimate interests in regard to the disputed domain name.

(iii) The Registrant domain name has been registered or is being used in bad faith

The Complainant has alleged that the Respondent has registered and used the disputed domain name in bad faith, and the Respondent registered or acquired the Disputed Domain primarily for the purpose of misleading the general public and trade by creating and using emails with domain name Starbucks.india.in.

The Tribunal has also taken note of the fact that the Respondent or the persons authorized by him have used e-mail ID a.davda@starbucks-india.in to send fraudulent e-mails as Ms. Avani Devda, the CEO of Tata Starbucks Limited to gullible people and are seeking monetary benefit at the cost of the Complainant.

Since the Respondent has not responded to the Complaint and has not filed a proper reply, it can be safely presumed that he has nothing to say. The facts make it clear that the Respondent was taking advantage of the goodwill and fame of the Complainant's well-known trademark for its own substantial commercial profit and gain, and the use of the disputed domain name is in bad faith.

DECISION

In view of the above facts and circumstances, it is clear that Complainant has successfully met the requirements of the Policy.

Therefore the Tribunal decides that the Respondent registration and use of the disputed domain name is done in bad faith and therefore cancel the same and .IN Registry of the NIXI is hereby directed to transfer the domain name i.e. www.starbucks-india.in to Complainant. The Award is accordingly passed.


Rajeev Singh Chauhan
Sole Arbitrator
Date: 30.09.2014