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AD 998593

Arbitral Award

Disputed Domain Name: Ziprecruiters.in

In INDRP case number 1261 of 2020

.IN Registry(National Internet Exchange of India)

Ziprecruiter Inc.,
604 Arizona Avenue
Santa Monica
California
90401
United States of America
(Complainant)

C/O
Mr Yinka Babarinde
Safenames Ltd
Safenames House
Sunrise Parkway,
Linford Wood
Milton Keynes
MK14 6LS
United Kingdom

Sold To.....
Name.....
Address.....
Rs.....
- 6 OCT 2020
C.M.M's Court,
2, Bankshall Street, Kol-1

30938
H. Samchets
1c, New Row
not 29

ABANISH KUMAR DAS
Govt. License Stamp Vendor
C. M. M. S. Court
2, Bankshall Street Kol - 1

Complainant

v.

Manish Rawat
New Colony Balasour
Kotdwar
Uttarakhand 24619
India

Respondent

The Parties

1. The Complainant is Ziprecruiter Inc., 604 West Arizona Avenue, Santa Monica, California, 90401, USA represented by Safenames Ltd, Safenames House, Sunrise Parkway, Linford Wood, Milton Keynes, MK14 6LS, UK.
2. The Respondent is Mr Manish Rawat, New Colony Balasour, Kotdwar, Uttarakhand, 246149, India who has been notified by email at manish.rawat959@gmail.com.

Procedural History

3. I am the appointed sole arbitrator by the National Internet Exchange of India on 8 September 2020 under INDRP Rules of Procedure in the above matter. The arbitration is deemed commenced on the same day. The seat of Arbitral Tribunal is Kolkata, India.
4. These are mandatory arbitration proceedings in accordance with the .IN Domain Name Dispute Resolution Policy ("INDRP") adopted by the National Internet Exchange of India ("NIXI"). The INDRP Rules of Procedure ("the Rules") were approved by NIXI on 28th June 2005 in accordance with the Arbitration and Conciliation Act, 1996. The rules were subsequently amended on 15 September 2020 and came into effect within 15 calendar days from that date (*i.e.*, 1 or 2 October 2020). Neither party has suggested that the new rules apply in these proceedings and to ensure the parties are treated fairly, the Arbitrator will proceed on the basis that the old rules apply.

5. By registered the disputed domain with the NIXI-accredited Registrar, the Respondent gave its consent to the resolution of the domain name disputes pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder. Similarly, by its complaint dated July 08, 2020, the Complainant gave its consent to the arbitration of this dispute.
6. On 14 January 2020 the domain <ziprecruiters.in> was registered by the Respondent. The Complainant by a petition dated 8 July 2020 filed this Complaint. On 8 September 2020 this Tribunal was constituted.
7. The Respondent has declined to participate in these proceedings. Both the parties had opportunity to place evidence in support of their case as chosen by them. The parties have not offered any further evidence, explanations or documents in support of their positions. Indeed neither party has had the courtesy to respond to the Tribunal's emails requesting them to clarify whether they wish to file further submissions or comments.
8. The documents and evidence placed before the Tribunal has been admitted and considered in the arbitral proceedings in accordance to the Arbitration and Conciliation Act 1996 and other mandatory provisions of law.

Background

9. The Complainant Ziprecruiter was founded in 2010 by Ian Siegel, Ward Poulos, Will Redd and Joe Edmonds as a limited company in the United States and describes itself a well-known American online recruitment company which has attracted over 7 million active job seekers, and over 10,000 new companies every month. It describes itself as one of the fastest growing technology companies in North America and as amongst the top 100 world's best cloud companies.
10. The Complainant states that it has registered the trademark ZIPRECRUITER in numerous countries such as the United States, New Zealand, the European Union, Canada and Australia. Significantly, ZIPRECRUITER has not been trademarked in India, although it holds and operates ZIPRECRUITER.IN and ZIPRECRUITER.CO.IN.
11. The Complainant contends that the Disputed Domain Name incorporates the Complainant's trademark in its entirety, with the

addition of the letter 's', and cites to prior INDRP decisions that have held that the addition of a letter to a trademark is sufficient to make a finding of confusing similarity. It gives the example of BARCLAYCARDS (INDRP Case No. 113). The Complainant contends that pursuant to INDRP Rule 3(b)(vi) the domain name is confusingly similar to the trademark in which the Complainant has rights.

12. Complainant further strongly submits that that the Complainant has to prove that the Respondent has no rights or legitimate interest and points to paragraph 7 of the Policy. Respondent can satisfy none of the criteria and on the contrary the Respondent's behaviour demonstrates the existence of bad faith within the meaning of paragraph 6 of the INDRP Policy.

Findings

13. The Tribunal has examined each and every one of the Complainant's contentions but has considered it unnecessary to express a view on each of them. The Tribunal does not necessarily accept that the registration of ZIPRECRUITERS.IN was in bad faith. There has been no evidence that the Registrant has registered the domain name for the purpose of sale or rent and no evidence of a pattern of such a conduct. While these categories are not closed or exclusive, it is important that allegations of bad faith are not lightly accepted or inferred unless the evidence is compelling.
14. I do not necessarily accept that a trademark that is not registered in India, even if the concerned entity has a substantial footprint in the country, could foreclose an Indian business, even a newly incorporated one, from using a similar name. Any recruitment company has a reasonable probability of using the moniker 'recruiter' or recruiters and a three-letter word meaning speed, dash or zest could very well be chosen by a company seeking to showcase the celerity and enthusiasm with which it would help jobseekers achieve their objective. In a country of 1.3 billion people, many of them English speakers, such a choice is entirely legitimate. The situation is, with respect, not the same as BARCLAYCARD where the preceding word is Barclay, a globally recognized bank that was at one point the name of its founder, and where the word card has obvious relevance in a financial context. Companies that choose to incorporate as common English words should be aware that such a choice does not license them to colonize the English language.

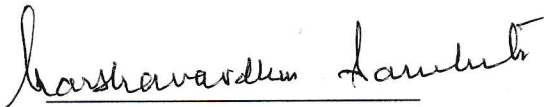
15. However, the facts and circumstances of the present case are very different. The Respondent has not participated in these proceedings, and produced no evidence that it has any legitimate interest with the domain name ZIPRECRUITERS whatsoever. As such, the inference is overwhelming that it was simply engaged in cyber-squatting and has decided to abandon the domain name in the face of this action.

16. I note further, for the avoidance of doubt, that even if such inference cannot legitimately be drawn, the Respondent has not identified any purpose, however remote or tangential, to justify its entitlement to the domain name. Since the Complainant has led ample and uncontroverted evidence, I would hold for this additional ground that the Respondent was in violation of the INDRP Policy.

Decision

17. In the Tribunal's view this is a case in which the registration in the name of the Respondent should be cancelled forthwith, and the Complainant has established its underlying entitlement to the domain name, albeit only for the purpose and context of this proceeding.

18. In the facts and circumstances of this case, I consider that both parties should bear their own costs.



Harshavardhan Sancheti
Sole Arbitrator

05.10.2020