



उत्तर प्रदेश UTTAR PRADESH

03AA 517140

BODHISATVA ACHARAYA

LL.M.

ARBITRATOR

Appointed by the IN Registry-National Internet Exchange of India

In the matter of:-

Taco Bell Corporation,
17901 Von Karman,
Irvine, California 92714,
USA

Through

Its authorised representative
K & S Partners
B K House, Plot No. 109,
Sector-44, Gurgaon-122002
India

E-mail: navpreet@knspartners.com

.Complainant

Versus

Webmasters Casinos Ltd.

Of 204, Woolwich Road,
Concept Office, London
SE7 7QY

E-mail: casinos@whaiscare.com

.Respondent

Award

1. The parties:-

The complainant Taco Bell Corporation (The Complainant), 17901 Von Karman, Irvine, California 92714, United States of America is working in the Restaurant Business comprising with several separate chains of restaurant like., Pizza hut and Kentucky fried chicken by various subsidiaries under the brand name of Taco bell.

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The respondent Web Masters (The Respondent) Casinos Ltd. of 204 Woolwich Road, Concept Office, London. SE7 7QY.

2. **The Domain name, Registrar & Registrant:-**

The disputed domain name "taca.bell.co.in" is -registered with Webmaster Casinos Ltd. of 204 Woolwich Road, Concept Office, London. SE7 7QY and the Registrant is webmaster.

3. **Procedural History:-**

This complaint was filed to the IN Registry following the Clause 4 of the policy and rules of. IN Registry and. In Registry appointed "**BODHISATVA ACHARAYA**" ("The arbitrator") as sole Arbitrator under clause 5 of its policy. The Arbitrator submitted his statement of acceptance and declaration of Impartiality and Independence them the complaint was produced before the Arbitrator on 08th April, 2008.

A notice was issued to the Respondent on 15th April, 2008 through e-mail with a 14 days dead line to submit his reply but the Respondent gave no response again 2nd notice was sent through e-mail on 3rd May 2008 with a deadline of 7 days to produce his reply but again their was no reply shown by Respondent and hence the final notice was sent to the Respondent with a 5 days deadline to submit his reply but after a long wait upto 29th May 2008, again their was no response given by Respondent, while the final deadline of 5 days as given by the last notice was over on 24th May 2008. Hence the award is being declared.

4. **Factual Background:-**

- a) The complainant Taco Bell carries a world wide reputed business of long chain restaurant under the name Taco Bell. Its a leading Maxican style food, quick service restaurant serving Tacos, Burritos, Signature quesadillas, Border Bows, Nachos and other specialty items. The outlets have been established under supermarkets, kiosks, quest stations, airports, retail and other big shopping malls. The complaint today, is giving its services under its own trade mark Taco Bell to more than 35 million customers in more than 6,000 restaurants world wide since 1964.

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- b) In India Taco Bell marks are registered in the name of the complainant in classes 29 and 30 under the registration number 477179, 477178 and it was further registered under Trade Marks Act 1999 in class 42 bearing registration number 01238464-65-66.
- c) The Complainant has secured registrations of Taco Bell mark in more than 110 countries of the world and in other countries the registration applications are in progress of registration.
- d) The Complainant has an official website named www.tacobell.com. The website is accessible customers all over the world. All the information regarding Taco Bell are available on the website. In India the Taco Bell is a well known name in the field of chain restaurants named as Pizza Hut and K.F.C.
- e) The Complainant today enjoy an enviavle reputation and gudwill in the tacobell Trade marks and it is also entitled to use all the benefits and has all the rights in the Taco Bell marks. .
- f) Throughout the world as well as in India the complainant has been protecting their rights in the marks Taco Bell. In India the complainant has been successful in the enforcement of his rights by various orders issued by Hon'ble High Court of Bombay and the Hon'ble High Court of Delhi. The Complainant submitted the copies of decisions of the aforesaid Hon'ble High Courts.
- g) The respondent registered the domain name www.tacobell.co.in and the registrant was webmaster for the organization cosmos limited. When this fact came into the knowledge of the complainant he sent a letter dated 17th Dec. 2007 to the respondent web master on his London Office but their was no reply by the Respondent hence on 18th March, 2008 the complaint was filed by the Complainant for the arbitration process.

5. Parties Contentions:-

a) Complainant:-

Complainant contents that -

- (i) The Respondent's domain name is identicab and confusingly similar to a name, under mark or service mark in which the complainant has rights;

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- (ii) The Respondent has no rights or legitimate interests in respect of domain name;
- (iii) The Respondent's domain name has been registered or its being used in bad faith; and
- (iv) The domain name be transferred to the complainant.

b) Respondent-

Respondent gave no response and produced no reply of three notices sent by the arbitrator dated 15th April 2008, 3rd May 2008 and 19th May 2008 respectively. In the last notice the arbitrator gave 5 days deadline to submit the reply but the Respondent gave no reply.

6, Discussion & Findings:-

Under paragraph 4 of the policy (INDRP) it is stated, any person who considers that a registered domain name conflicts with his legitimate rights or interests then he may file a complaint to the IN Registry and the Complainant must prove the following premises:-

- (i) The Respondent's domain name is identical confusingly similar to a name, trademark or service mark in which complainant has rights.
- (ii) The Respondent has no Rights or legitimate interest in respect of the domain name; and
- (iii) The Respondent's domain name has been registered or is being used with bad faith.

FINDINGS

- (i) The disputed domain name is tacobell.co.in. The complainant is the owner of the trade mark TacoBell and carrying his business in more than 110 countries worldwide. Complainant submitted the certificates of registration of trade marks issued by Government of India and he has provided all material to support the conjecture that the disputed, domain name is confusingly similar to the trade mark of **the complainant**.

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- (ii) As per the records submitted by the complainant before the arbitrator, it is clear that respondent has neither being affiliated nor authorised by the complainant to use his trade mark Tacobell.
- (iii) All the records, statements produced by the complainant show that the complainant's trade mark TacoBell is well known and has a good reputation world wide in the field of food chain restaurant. The Respondent registered the disputed domain name tacobell.co.in maliciously and he shows his depraved intention, in the arbitration proceedings by his act because three notices were sent by the arbitrator but he has submitted no reply of anyone.

It is the view of the arbitrator that the complainant has rights with the trade mark and the disputed domain name or the Respondent's domain name has been registered or is being used with bad faith. The complainant has established all the three elements under the paragraph 4 of the policy.

7. Decisions:-

After having gone through all the record with complaint the arbitrator decides, "the disputed domain name tacobell.co.in is identical and similar to the registered trade mark of the complainant and the Respondent has no right to use the domain name and the respondent's domain name has been registered in bad faith". The Arbitrator further decides and orders that the Domain name tacobell.co.in shall be transferred to the Complainant.

Complaint allowed with no costs.

Date: 29th May, 2008
Place - New Delhi
India