



Certificate No. G0302019H1060

Stamp Duty Paid : ₹ 101  
(Rs. Only)

GRN No. 56837737

Penalty : ₹ 0  
(Rs. Zero Only)**Deponent**

Name: Rachna Bakhru

H.No/Floor : Na

Sector/Ward : Na

Landmark : Na

City/Village : Gurugram

District : Gurugram

State : Haryana

Phone : 0



Purpose : ALL PURPOSE to be submitted at All place

RACHNA BAKHRU

ARBITRATOR

Appointed by the .IN Registry – National Internet Exchange of India

In the matter of:

InterGlobe Aviation Limited  
Central Wing, Ground Floor,  
Thapar House, 124, Janpath,  
New Delhi -110 001, India

... Complainant

VERSUS

Sonu  
AA, DDA Tower  
Mumbai  
Maharashtra – 400067  
e-mail: [sonu.monu1080@yahoo.com](mailto:sonu.monu1080@yahoo.com)

... Respondent

Disputed Domain Name: **WWW.HRDGOINDIGO.IN**

## **AWARD**

**1) The Parties:**

The Complainant in this arbitration proceeding is InterGlobe Aviation Limited, an Indian company. The Complainant is represented by its authorized representative namely, Deepak Gogia, K & S Partners.

The Respondent in this arbitration proceeding is Mr. Sonu of the address AA, DDA Tower, Mumbai, Maharashtra – 400067

**2) The Domain Name, Registrar & Registrant:**

The disputed domain name is <[www.hrdgoindigo.in](http://www.hrdgoindigo.in)>.

The Registrar is GoDaddy.com LLC.

The Registrant is Mr. Sonu of the address AA, DDA Tower, Mumbai, Maharashtra – 400067

**3) Procedural History:**

This arbitration proceeding is 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 28<sup>th</sup> June, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

As per the information received from NIXI, the history of the proceedings is as follows:

In accordance with the Rules 2(a) and 4(a) and (b), NIXI formally forwarded the copy of the Complaint to the Respondent and appointed Rachna Bakhru as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.

- The Complaint was produced before the Arbitrator on July 5, 2019 and the hard copy of the Complaint sent by NIXI was received in the Arbitrator's office on July 8, 2019.
- The notice was issued to the Respondent on July 8, 2019 at his email address [sonu.monu1080@yahoo.com](mailto:sonu.monu1080@yahoo.com) outlining that the Complainant had prayed for transfer of the disputed domain name "[www.hrdgoindigo.in](http://www.hrdgoindigo.in)" in its favour. The Respondent was directed to submit their response within ten (10) days of receipt of the Arbitrator's email i.e. until July 18, 2019.



- As no response was received, the Arbitrator issued another notice to the Respondent on July 19, 2019 via email granting last opportunity to the Respondent to submit its reply on or before July 26, 2019.
- The Arbitrator received no response from the Respondent within the said timeline and the Arbitrator has not been informed of any settlement between the parties. The Arbitrator thus, informed the parties on July 30, 2019 that the Respondent has not filed its response and has been proceeded ex-parte.
- In view of the above, the complaint is being decided based on the submissions made by the Complainant and documents placed on record.

4) **Summary of the Complainant's contentions:**

**The Complainant in support of its case has made the following submissions:**

1. That Complainant was incorporated in the year 2004 operating India's largest and fastest growing airline under its coveted brand name/trade mark "IndiGo". That Indigo was launched on August 4, 2006 and is the fastest growing low-cost carrier in the world. It has fleet of over 220 aircraft, operates over 1300 daily flights, flies to 52 destinations in India including New Delhi, Mumbai, Goa, Jaipur, Kolkata, Chennai, etc. and 17 international destinations like Abu Dhabi, Bangkok, Colombo, Kuala Lumpur, Singapore, etc.
2. That IndiGo has established itself as one of India's leading airlines. The Complainant's revenue from its operations for the financial year 2017-18 was INR 230,208.87 million with sales promotion and advertising expenses being INR 1,029.77 million.
3. That the Complainant is the registered proprietor of the mark "IndiGo" and its variants in India in classes 16 and 39 and also holds registrations in other countries like Singapore, UAE, Oman, Nepal and Myanmar.
4. The Complainant owns domain name registration containing trademark 'INDIGO'. The domain name <goindigo.in> was registered on June 10, 2005 and the active website was launched in June 2006 providing information pertaining to flight details, online booking etc. in relation to Complainant's operations.
5. The website [www.goindigo.in](http://www.goindigo.in) is visited by thousands of visitors each day and specifically the said website has been visited by more than 174 million users until March 31, 2019. The Complainant's social media accounts are quite popular, with over 7,50,000 Facebook followers and about 1,84,000 Twitter followers.
6. The Complainant has in the past, successfully obtained the transfer of domain name <goindigo.com> in UDRP complaint filed before the WIPO Arbitration and Mediation Center.
7. The Respondent was found operating a website at disputed domain name <hrdgoindigo.in> luring people with fake job prospects/opportunities by impersonating the Complainant and calling upon them to deposit money (INR



900/-) with him. Legal notice dated April 10, 2019 was sent to the Respondent and the impugned website was pulled down. The impugned website was reactivated again in June 2019 with same contents.

8. The Complainant contends that the disputed domain name <hrdgoindigo.in> subsumes the Complainant's registered mark "IndiGo" and is confusingly similar to the Complainant's registered mark "IndiGo".
9. The Complainant contends that Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent is not connected or affiliated with the Complainant in any manner.
10. The Complainant further contends that the Respondent is hosting and operating the website at disputed domain name to deceive people by luring them with fake job offers seeking monetary advantage by impersonating the Complainant. There is no *bonafide* offering of goods or services.
11. It is contended that the disputed domain name was registered and is being used in bad faith. The Respondent has registered the disputed domain name with the sole purpose of defrauding and cheating the people. It takes undue advantage of the reputation and goodwill enjoyed by the Complainant in its mark IndiGo.
12. It is contended that the Respondent has deliberately furnished wrong/incomplete particulars while registering the disputed domain name with a view to shield his identity.

5) **Respondent:**

The Respondent has not filed any official response dealing with the contents of the Complaint. Therefore, the complaint had to be decided based on submissions on record and analyzing whether the Complainant has satisfied the conditions laid down in paragraph 4 of the INDRP policy.

6) **Discussion and Findings:**

The submissions and documents provided by the Complainant shows that 'INDIGO' was launched in August 2006. The Complainant's registration for INDIGO device dates back to February 03, 2006 and registration of INDIGO formative marks dates back to April 2004 (**Annexure 5**). The Complainant registered the domain name [www.goindigo.in](http://www.goindigo.in) in June 2005 and website was launched in June 2006 (**Annexure 8 and 9**). The disputed domain name was registered by the Respondent on September 25, 2018 which is more than a decade subsequent to first adoption, registration and use of the INDIGO trademark and domain name <goindigo.in> by the Complainant.

The Arbitrator notes that website at the disputed domain name was primarily devised by the Respondent to deceive, defraud and cheat potential job seekers by impersonating the Complainant (using its name, images of INDIGO planes, etc.). The Respondent posted fake job prospects with the Complainant asking job seekers to deposit money (INR 900/-) with Paytm account of domain/website owner (**Annexure 13**).



The Arbitrator also noted that the Respondent did not respond to the Complainant's legal notice informing him of the Complainant's rights in the mark "IndiGo" and seeking further compliance (**Annexure 14**). Subsequent to the legal notice, the impugned domain was deactivated for a while and was reactivated again after period of 2 months. As on current date, the impugned website has been deactivated and is a parked website. The Arbitrator believes that the same has been pulled down upon the service of the present complaint.

Based on the Complainant's submissions and documents submitted, I now deal with the three requisite conditions laid in paragraph 4 of the INDRP Policy which is listed below. Further the Respondent has not contested the claims, therefore deemed to have admitted the contentions of the 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;**

Based on Complainant's submission and evidence filed, it is clear that the Complainant has prior and subsisting rights in the mark INDIGO since the year 2006 and has secured several registrations for INDIGO and INDIGO formative trademarks in several countries including India. In India, the Complainant has secured trademark registrations for the trademark INDIGO and/or its variants in classes 16, 25, and 39. Therefore, it is established that the Complainant has statutory rights in the trademark INDIGO in India. Further, the Complainant has substantiated commercial use of the INDIGO trademark since 2006. Therefore, the Complainant has prior user rights in the trade mark INDIGO as well. Now it has to be ascertained if the disputed domain name [www.hrdgoindigo.in](http://www.hrdgoindigo.in) is identical to or confusingly similar with the Complainant's mark.

It is well accepted proposition that for conducting 'test for identity or confusing similarity', one should do objective assessment to ascertain if the trademark is clearly recognisable in the disputed domain name. Wherein it is found/observed that a domain name incorporates the Complainant's trademark entirely, or contains the pre-dominant feature of the Complainant's relevant trademark, the domain name is considered to be confusingly similar to the Complainant's mark.

*In Alfred Dunhill, Inc. v. Registration Private, Domains By Proxy, LLC / Abdullah Altubayieb [WIPO Case No. D2017-0209], the Panel recognised the Complainant's rights in the trademarks DUNHILL and DUNHILL LONDON. The Panel observed "the disputed domain name "richarddunhill" incorporates the entirety of the Complainant's trademark DUNHILL and the more distinctive part DUNHILL of the Complainant's trademark DUNHILL LONDON... The Panel finds the disputed domain name to be read easily as two words, namely "richard dunhill", in which the Complainant's trademark DUNHILL is prominently visible. Solely for the purpose of this proceeding under the Policy, the Panel finds the disputed domain name to be confusingly similar to the Complainant's trademarks".*

In the present case, it is evident that the Complainant is the registered proprietor of the trademark INDIGO and INDIGO formative trademarks. The disputed domain



name entirely contains the mark INDIGO and is quite close to the Complainant's domain name <goindigo.in>. Therefore, the disputed domain name <www.hrdgoindigo.in> is evidently confusingly similar to the Complainant's registered trademark INDIGO and domain name www.goindigo.in. Such close similarity could make Internet users believe that the disputed domain name and its contents are originating from or belong to the Complainant. In view of the above, the requirement of the INDRP Policy paragraph 4(i) is satisfied.

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

In order to satisfy requirement of INDRP Policy paragraph 4(ii), the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. On making such *prima facie* case, the burden of proof shifts to the Respondent to provide appropriate evidence to demonstrate rights or legitimate interests in the domain name. Paragraph 7 of INDRP Policy provides circumstances which demonstrate Registrant's rights to and legitimate interests in the domain name.

In the present case, no response was received from the Respondent and none of the contentions put forth by the Complainant against the Respondent were denied or rebutted.

- As on current date, the Arbitrator notes that the disputed domain name resolves to parked webpage with sponsored links for Indigo Flights, Domestic Flights India, Online Booking of Air Tickets in Indigo, etc. Even when the impugned website at disputed domain name was active, the Respondent/website owner by impersonation sought monetary amount of INR 900/- from each job seeker by luring them with fake job opportunities. In both instances, it is noted that the disputed domain name was/is not being used in connection with a *bonafide* offering of goods or services. In *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc. [WIPO Case No. D2017-0302]*, the Panel observed that "*The disputed domain name is currently linked to a website containing pay-per-click links, some relating to vaccines, cancer, and HPV. The Respondent is not authorized to use the Complainant's GARDASIL mark in any way, and using a domain name incorporating the Complainant's mark to host sponsored links associated with the Complainant's area of business cannot be a bona fide offering of goods or services*".
- It is observed that the Respondent has failed to furnish correct contact details to the Registrar while registering the disputed domain name which shows that he does not have any legitimate interest in the disputed domain name. The Respondent identity- name and contact details as stated in whois details shows that the Registrant is not commonly known by the name INDIGO and/or GOINDIGO or by disputed domain name.
- Evidence tendered by the Complainant (**Annexure 13 and 16**) shows that the Respondent is using the disputed domain name/website to deceive and



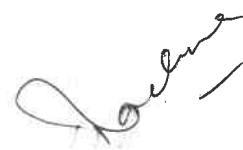
trick people by luring them with fake job opportunities; impersonating himself as the Complainant and seeking illegal monetary gains from deceived people. Therefore, it is clear that the Registrant is not making a legitimate non-commercial or fair use of the domain name. Such illegal activity involving fraud and deceit for illicit monetary gain can never confer legitimate rights or interests in favour of the Respondent. In *F5 Networks, Inc. v. Ryan [WIPO Case No. D2016-2475]*, the Panel finds that "*The affidavit alleges that the Respondent has in fact impersonated the Complainant, for the purpose of obtaining personal information from deceived job applicants. In light of the Complainant's unrebutted prima facie case, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.*"

In view of no authorization or affiliation or permission from the Complainant, the Respondent has no legitimate rights. I find the requirement of the INDRP Policy paragraph 4(ii) also satisfied.

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

Paragraph 6 of the INDRP policy lists out inclusive circumstances wherein evidence of the registration and use of a domain name in bad faith can be inferred.

- Based on prior adoption, prior trademarks and domain name registrations for INDIGO mark, its continuous use in several countries including India, it is construed that the Respondent was well aware of the Complainant's business and services while registering the disputed domain name constituting the mark INDIGO. The disputed domain name was registered on September 25, 2018 wherein the Complainant had commenced the use of trademark INDIGO for its goods/services/business in the year 2006 which was way prior in time. Therefore, based on constructive knowledge of the Respondent and no legitimate business on the disputed domain name/website, it is presumed that the Respondent registered the disputed domain name in order to prevent the Complainant from reflecting the INDIGO mark in a corresponding domain name in India.
- It is clear from **Annexure 13 and 16** that the Respondent has devised the impugned website at disputed domain name to trap the potential job seekers and make illicit gains by committing fraud. The Respondent is impersonating the Complainant and actively using its name and brand image in respect to website contents. Based on website contents involving fake job opportunities, it is not too farfetched to assume that potential user/job seeker can construe the domain <[www.hrdgoindigo.in](http://www.hrdgoindigo.in)> as the official website of HR department at Indigo Airlines. All these actions show that the disputed domain name is being used by the Respondent in bad faith. The use of the disputed domain name constitutes bad faith if it effectively impersonates and/or suggests sponsorship or endorsement by the trademark owner. In *OLX, B.V. v. Career Solutions [WIPO Case No. D2016-*



0123, the Panel observed that "...at the time of the registration of the disputed domain name, the Respondent had knowledge of the Complainant's well-known trademark OLX which follows from the fact that the Respondent was clearly targeting those seeking jobs with the Complainant and misleading them by using a fraudulent scheme. In fact, the Panel verifies that before the website at the disputed domain name was taken down on the Complainant's initiative, the Respondent was using it to post fake job advertisements displaying the name "OLX Jobs (India) Private Limited. The Panel finds that the Respondent's actions creates a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the disputed domain name, and the Respondent is thus apparently using the fame of the Complainant's trademarks for fraudulent purposes with a commercial intent. Such conduct constitutes bad faith."

- The Respondent has registered and is using the disputed domain name in order to illegally benefit from the goodwill and reputation of the Complainant's mark INDIGO by creating a likelihood of confusion with the Complainant's INDIGO name and mark.

Cases which involve the Respondent's use of the domain name to posts fake job offers for committing fraud and soliciting payment in the name of the Complainant squarely falls within the premises of bad faith registration and use. Based on the above, it can be concluded that the disputed domain name was registered and is being used in bad faith, thus fulfilling condition laid down under paragraph 4(iii) of INDRP Policy

7) **Decision:**

The Complainant has satisfied all the three requisite conditions laid down in paragraph 4 of the INDRP policy. In accordance with the Policy and Rules, it is directed that the disputed domain name <[WWW.HRDGOINDIGO.IN](http://WWW.HRDGOINDIGO.IN)> be transferred to the Complainant.



RACHNA BAKHRU  
SOLE ARBITRATOR  
NIXI  
INDIA

August 30, 2019