



दिल्ली DELHI

B 951784

ARBITRATION CASE NO. 1/2006

IN THE ARBITRATION MATTER OF:

Shri R.C. GARG
M/s. Garg Fancy Wear
IX/7003, Prem Gali,
Gandhi Nagar,
Delhi – 110 031

...CLAIMANT

(Represented by Parkar and Parkar, E/4, Triveni Buidling, 66
Walkeshwar Rd, Mumbai – 400 006)

VERSUS

Mr. CHRISTOPH HARTMANN
Parkstrasse 1,
Braunschweig,
D-38102,
DE

...RESPONDENT

(Represented by Paul Raynor Keating, Esq.Renova, Ltd.Balmes 173 2º
2º08006 Barcelona Spain)

AWARD:

The present dispute has arisen over the registration of the domain name "web.in" under the India's official .IN Domain Name Registry in favour of the respondent. The relief sought by the complainant is transfer of the said domain name in its favour.

FACTUAL BACKGROUND:

In accordance with the In Domain Name Disputes Resolution Policy (hereinafter referred to as in short" Policy ") and the rules framed there under, which was formed with the principal purpose to resolve a dispute between the Registrant and the complainant, arising out of the registration and the use of the .in Internet domain name. The complainant has preferred this complaint under the said policy to resolve the dispute arisen over the domain name "web.in", which has been registered with the respondent-registrant.

In his complaint, it has been contended by the complainant that he had registered mark "web" under the Indian Trade Marks Act 1999 on 15.05.1998. The complainant has produced the copy of the certificate of registration done by him regarding the mark "web" in the class of hosiery and readymade garments and is still valid and continuing. The complainant has also contended that the registered domain name is identical to the mark of the complainant in which he has rights. It is also contended by the complainant that the respondent has registered the aforesaid domain name in bad faith and that the respondent's use of the domain name was for the purpose of selling the said domain name for profits and that the respondent has registered over 50 .IN domain names for the said purpose. It was further contended that the respondent has not placed any evidence to prove that he has the legitimate right and/or interest in respect of the domain name "web.in".

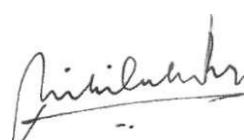


The respondent in his reply has stated that under the policy, wherein during the sunrise, the respondent had registered the said domain name on first come first served basis, when it was open to public. The respondent contended that the complainant had not placed any evidence of ever using the trademark in respect of hosiery and readymade garments and that there was no evidence that the respondent had used the said domain name in connection of these items. He respondent also contended that the word "web" is a generic name and the trademark used by the complainant is merely descriptive. Further it was contended that the complainant had failed to establish that the said domain name has been used in bad faith.

Both parties have relied cases in support of their contentions.

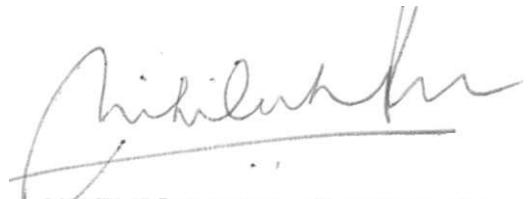
FINDINGS

After going through the submission made by both parties and considering the cases relied upon by them, I find that the complainant has produced evidence in support of his claim over the mark "web" and that he has been using the said mark since 1998. The said mark being valid under the Indian Law of Trade Marks Act, 1999, the complainant has sufficiently established his rights over the mark web. However, the respondent has not shown any evidence that he has a right over the said domain name for whatever purpose he had registered it. Curiously, the respondent has not placed any evidence in support of rights over the said domain name. This in itself shows the respondent's bad faith in registering the said domain name. Hence the respondent has not established any right over the said domain name.

A handwritten signature in black ink, appearing to read "Anil Kumar".

CONCLUSION

I, therefore, hold that the complainant has established his right over the mark "web" and, hence, allow the present complaint in his favour and against the respondent and direct the registry to transfer the domain name "web.in" in favour of the complainant. No order as to costs.



NIKILESH RAMACHANDRAN
ARBITRATOR

DATED : 18th October 2006