



पश्चिमबङ्ग पश्चिम बंगाल WEST BENGAL

AB 258281

Arbitral Award

Disputed Domain Name: 1000Miglia.in

In INDRP case number 1024of 2018

.IN Registry(National Internet Exchange of India)

Automobile Club Di Brescia
Via Enzo Ferrari, 4/6
25134 Brescia
Italy

Complainant

v

Juwel Poon
Domain Masters
50-D, New Delhi - 110021
Gustav Muller Straße 1
10829 Berlin, Germany

Respondent

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1. The Parties

2. The Complainant is Automobile Club Di Brescia, Via Enzo Ferrari, 4/6 25134 Brescia Italy represented by advocates C.A. Brijesh, Shreyoshi Pal and Navya Chopra of Remfry & Sagar, Remfry House at the Millenium Plaza, Sector 27, Gurgaon – 122009.
3. The Respondent is Juwel Poon, Domain Masters, 50-D, New Delhi, 110021, India.

Procedural History

1. I am the appointed sole arbitrator by the National Internet Exchange of India on 31st August 2018 under INDRP Rules of Procedure in above matter. The arbitration is deemed commenced on the same day. The seat of Arbitral Tribunal is Kolkata, India.
2. 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. 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 13th August 2018, Complainant gave its consent to the arbitration of this dispute.
3. On 16th October 2014 the domain 1000Miglia.in was registered by the Respondent in India. The Complainant by a petition dated 13rd August 2018 filed this Complaint. On 31st August 2018 this Tribunal was constituted.
4. 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.
5. 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

6. The Complainant Automobile Club di Brescia is an organizer of the famous car race MILLE MIGLIA. The Complainant's history dates back to the year 1906. In 1926 it was officially established under the rules of the Royal Automobile Club of Italy. In 1927 it decided to organize an open-road endurance race for production cars covering a distance of approximately 1000 miles from Brescia to Rome round trip. The competition was named "MILLE MIGLIA", which stands for 1000 miles in Italian. From that day onwards 'MILLE MIGLIA has continued to present. Complainant points out that Enzo Ferrari once called MILLE MIGLIA as the "most beautiful race in the world" and "a museum in motion, unique and charming, in a beautiful framework of jubilant visitors." There is no question that MILLE MIGLIA is a long standing and genuine
7. The Complainant's website www.millemiglia.it receives over 750,000 visitors every year from more than 170 countries with more than 4 million pages viewed.
8. Evidence has been produced that the Complainant adopted the marks MILLE MIGLIA, 1000 MIGLIA and others from 1927 onwards. Furthermore, evidence has been produced that these marks have been registered in Italy. Evidence has also been produced that 1000 MIGLIA was specifically registered as a mark in India on 6th February 2007. This registration preceded the registration of the domain name by over 7 years.
9. Furthermore, it is alleged that the Complainant owns over 80 domain names comprising the MILLE/1000 MIGLIA trade marks under all different Top level domains (TLDs) and country code top-level (ccTLD), which includes, *inter alia*, the below:

S. No.	Domain Name	Creation Date
1.	www.millemiglia.it	28/04/1998
2.	www.1000miglia.it	24/04/1998
3.	www.millemigliastore.com	10/11/2010
4.	www.mille-miglia.com	2/12/2010
5.	www.millemiglia.at	6/02/2011
6.	www.1000miglia.ch	28/02/2012
7.	www.millemiglia-torino.com	11/05/2012
8.	www.millemiglia.cn	21/10/2012
9.	www.millemiglia.in	08/07/2014
10.	www.millemiglia.co.in	16/10/2014
11.	www.millemiglia.ae	14/01/2015
12.	www.millemiglia.ca	2/10/2015
13.	www.millemiglia.as	18/11/2015

10. The Complainant contends that it was established in a prior domain name dispute 'Automobile Club di Brescia v. Li Fanglin', (Case no. D2015-0975) that the MILLE MIGLIA mark was well established that an attempt to register the disputed domain name was a violation of the Complainant's rights.

11. The Complainant also contends that the Registrant's pattern of random domain name registrations and cybersquatting to prevent trade mark owners from reflecting their marks in corresponding domain names further demonstrates the Registrant's bad faith registrations including that of the domain in question. It claims that the Registrant has engaged in a clear pattern of registering domain names in bad faith to

block the legitimate and superior rights of trade mark owners in those domain names only to later ransom the domain names to the trade mark owner following *Rebook International Limited v. C J Reebok*, INDRP Case No. 618 (Oct. 10, 2014).

12. Complainant alleges that Paragraph 3(b) of the INDRP Policy enjoins the Registrant to ensure that 'to the Registrant's knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party.' The Complainant submits the following in support of paragraph 4(i) of the INDRP Policy and paragraph 3(b)(vi)(1) of the INDRP Rules of Procedure, that the Registrant's domain name is identical to the trade mark in which the Complainant has rights.
13. Complainant strongly submits that pursuant to paragraph 7 of the INDRP policy that the Registrant has to demonstrate the use of or demonstrable preparations to use the domain name in connection with a bona fide offering of goods or services or that the Registrant has been commonly known by the domain name. Respondent can satisfy neither 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

14. The Tribunal has examined each and every one of the Complainant's contentions and has concluded they are borne out. Bearing in mind all the evidence before it, the Tribunal is of the view that the domain being put up for sale for a sum of USD 1999 is clear evidence that the domain is not useful to the Respondent but is instead an example of cyber-squatting and bad faith within the meaning of paragraph 6 of the INDRP Policy. The rights of the Complainant in the name are undisputed.

Decision

15. In the Tribunal's view this is a case in which the registration in the name of the Respondent should be cancelled forthwith. The domain name should be transferred to the Complainant.
16. Costs follow the outcome. The Respondent is ordered to pay the cost of the proceedings at rupees fifty thousand only.

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Harshavardhan Sancheti

Sole Arbitrator

11.12.2018

