



पश्चिमबङ्ग पश्चिम बंगाल WEST BENGAL

AC 925901

Arbitral Award

Disputed Domain Name: Siteground.in

In INDRP case number 1124 2019

.IN Registry(National Internet Exchange of India)

IT Web Capital Limited
3rd Floor, 11-12 St. James Square
London
SW1Y 4LB
UnitedKingdom
(Complainant)

C/O AnkurRaheja
CyLawSolutions
805, Kaveri Kaustubh I
Bain Bazar, Sikandra, Agra -282007

v

Complainant

Maria Dinkel
Wendenstr. 380
Hamburg 20537
Germany

Respondent

The Parties

1. The Complainant is IT Web Capital Ltd., 3d Floor, 11-12 St. James Square, London, SW1Y 4LB, United Kingdom represented by advocate Ankur Raheja, Cylaw Solutions, 805 Kaveri Kaustubh I, Bain Bazar, Sikandra, Agra – 282007.
2. The Respondent is Maria Dinkel, Wendenstr. 380, Hamburg 20537, Germany.

Procedural History

3. I am the appointed sole arbitrator by the National Internet Exchange of India on 11 July 2019 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.
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. 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 INDispute Resolution Policy and Rules framed thereunder. Similarly, by its complaint dated 23 May 2019, Complainant gave its consent to the arbitration of this dispute.
5. On 9 May 2018 the domain SiteGround.in was registered by the Respondent. The Complainant by a petition dated 23 May 2019 filed this Complaint. On 11 July 2019 this Tribunal was constituted.
6. Apart from a brief email, 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.
7. 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

8. The Complainant IT Web Capital was founded in October 2014 as a limited company in the United Kingdom. [REDACTED]

[REDACTED] The trademark Siteground predates the company, with SITEGROUND.COM registered in 2005 and a trademark in the name of Siteground registered in 2004 by a now defunct affiliate of IT Web Capital. The complainant is a well established business in web hosting and digital services. [REDACTED]

9. The Complainant states that it has registered the trademark Siteground all across the world and annexes an exhaustive list of its trademarks:

1. India	2015	31.01.2017	IT WEB Capital
2. USA	22.10.2014	09.06.2015	IT WEB Capital
3. Europa	23.09.2015	12.01.2016	IT WEB Capital
4. Swiss	24.12.2015	21.06.2016	IT WEB Capital
5. CA (Canada)	27.06.2016	18.04.2018	IT WEB Capital
6. HK (Hong Kong)	24.06.2016	24.06.2017	IT WEBCapital
7. MY (Malaysia)	24.06.2016	24.12.2015	IT WEBCapital
8. ID (Indonesia)	24.06.2016	not registered	WEB CAPITAL
9. TW (Taiwan)	24.06.2016	01.06.2017	IT WEB CAPITAL
10. TH (Thailand)	24.06.2016	24.06.2016	IT WEBCapital
11. MM (Mayaumar)	14.09.2016	14.09.2016	IT WEBCapital
12. CR (Costa Rica)	24.06.2016	19.01.2017	IT WEBCapital
13. SV (EL Salvador)	24.06.2016	12.02.2018	IT WEBCapital
14. GT (Guatemala)	24.06.2016	not registered	IT WEB Capital
15. HN (Honduras)	24.06.2016	not registered	IT WEBCapital
16. NI (Nicaragua)	24.06.2016	09.02.2017	IT WEBCapital
17. PA (Panama)	24.06.2016	not registered	IT WEBCapital
18. DO (Domenican Republic)	24.06.2016	16.12.2016	IT WEBCapital
19. PR (Puerto Rico)	13.07.2016	13.07.2016	IT WEBCapital
20. AR (Argentina)	24.06.2016	07.07.2017	IT WEB Capital
21. BO (Bolivia)	24.06.2016	10.01.2017	IT WEB Capital
22. BR (Brazil)	24.06.2016	29.05.2018	IT WEB Capital
23. CL (Chile)	24.06.2016	16.05.2017	IT WEB Capital
24. EC (Ecuador)	24.06.2016	10.05.2017	IT WEB Capital
25. PY (Paraguay)	24.06.2016	not registered	IT WEB Capital

26. PE (Peru) 24.06.2016 04.11.2016 IT WEB Capital
27. UY (Uruguay) 24.06.2016 10.08.2018 IT WEB Capital
28. Australia 23.09.2015 23.06.2016 IT WEB Capital
29. China 23.09.2015 23.06.2016 IT WEBCapital
30. Colombia 23.09.2015 23.06.2016 IT WEB Capital
31. Japan 23.09.2015 23.06.2016 IT WEBCapital

10. The Complainant contends that pursuant to INDRP Rule 3(b)(vi) the domain name Siteground.in is confusingly similar to the trademark SITEGROUND in which the Complainant has rights.

11. Complainant further 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. Complainant relies particularly strongly on the email of 11 July 2019 in these proceedings as evidence of such bad faith. The contents of the email are set out below in entirety:

Dear

Good morning, I hope this message finds you well :-)

I'm writing to you regarding a few doubts :

- 1. why you think the contents on my website is threats to your clients ? all of the contents are from google.com, I do not think that's threats.*
- 2. As i know, this domain is already existed for many years.why you did nothing in the past years if you think this domain is a theat ?*
- 3. And I think you should catch this domain faster than me if you really care about this domain, not email me after i cached it. 4.I do not want to do anything illegal. 5.I'm a domain businessman, so if you are interested in this domain, I can give you a kind price , please feel free to contact with me.*

In fact, I have partnerships with many domain negotiators, because we know further legal action cost a lot of money. And I am very glad to give you a nice offer, but this domain is not cheap one, registration fees is not enough. it also cost me a lot of money to use catch service to get this domain. only few domains can be sold successful.

Looking forward to your Collaboration and have a nice day

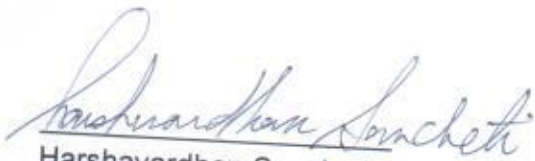


Findings

12. 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. Bearing in mind all the evidence before it, the Tribunal is of the view that the email of 11 July 2019 from the Respondent 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

13. 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.
14. Costs follow the outcome. The Respondent is ordered to pay the cost of the proceedings at rupees fifty thousand only.



Harshavardhan Sancheti
Sole Arbitrator
11.10.2019