



दिल्ली DELHI

S 254897

ARBITRATION CASE NO.12 OF 2011

**IN THE ARBITRATION MATTER OF:-**

INTERFLORA BUSINESS UNIT

COMPLAINANT

VERSUS

INTERFLORA INDIA

RESPONDENT

**AWARD**

The present dispute relates to the registration of the domain name <[www.interflora.in](http://www.interflora.in)> in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the domain name <[www.interflora.in](http://www.interflora.in)> in favour of the Respondent. The complainant has stated in its complaint that it is in the business of trading and retail sale of flowers more specifically Natural plants and flowers, seeds, grains and horticultural products.

The complainant has stated that it has began using its trademark INTERFLORA since 1920 and since then it is engaged in the production and trading and retail sale of flowers. The complainant states that mark INTERFLORA has been its trading name and that it has website with the domain name <[www.interflora.co.uk](http://www.interflora.co.uk)> and <[www.interflora.uk](http://www.interflora.uk)>. It is stated that on this website, most of complainant's business is carried out and has been extensively used in commerce. On this website the complainant has stated that it advertises the goods manufactured and marketed, for which he has placed on reliance on its website profile. The complainant has stated that it had annual revenue for the year 2009-2010 to the tune of £ 5,91,7000 billion and that the complainant has spent considerable amount of money in promoting its brand INTERFLORA.

The Complainant in its complaint has alleged that the instant domain name is identical or confusingly similar to a trademark or service mark and in support its claim that it is proprietor of mark INTERLORA has submitted the details of registration of trademark in various countries including that of India. It has further alleged that the domain name has been created and registered subsequent to the complainant's conception and adoption of the trademark INTERFLORA.

I entered upon reference regarding the instant dispute and notice was sent to the Respondent calling upon for their response to the said complaint. The Respondent vide its e-mail dated 27.10.2011 replied to the complaint stating that the complainant did not register during the period and as such they did not have any activity in India.

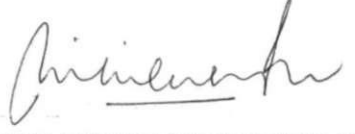
After going the records of the case, and the response from Respondent, it is seen that the Complainant's grievance stems from the fact that the Respondent has registered the domain name <[www.interflora.in](http://www.interflora.in)> in bad faith. The Respondent as not shown any proof concerning its use and/or previous connection with the disputed domain name. Respondent's contention that it had registered the disputed domain name during sunrise and that the Complainant failed to do so does not absolve of his liability under Para 3 of INDRP which requires that it is the responsibility of the any party to ensure before registration of a domain name that



it does not infringe or violate some one's rightful use of such name. Therefore in the absence of any proof that the Respondent has a right of prior use, I find that the resgistration of the disputed domain name is in bad faith.

Considering such facts and circumstances I am of the view that the complainant as a proprietary right over the mark **INTERFLORA** and therefore, I deem it fit and proper to allow the prayer of the complainant in its favour and directory registry to transfer the said domain name i.e. [www.interflora.in](http://www.interflora.in) in favour of the complainant.

Parties to bear their costs.

  
(NIKILESH RAMACHANDRAN)  
ARBITRATOR

Dated 10<sup>th</sup> March 2012.