



Certificate No. G0K2016K2392

Stamp Duty Paid : ₹ 100
(Rs. Hundred Only)

GRN No. 21359667



Penalty : ₹ 0

(Rs. Zero Only)

Seller / First Party Detail

Name: C A Brijesh

H.No/Floor : Remfry

Sector/Ward : House

LandMark : Millennium plaza sector 27

City/Village : Gurgaon

District : Gurgaon

State : Haryana

Phone: 9717918617

**Buyer / Second Party Detail**

Name : Na

H.No/Floor : Na

Sector/Ward : Na

LandMark : Na

City/Village: Na

District : Na

State : Na

Phone : 9717918617

Purpose : For passing of an Award by the Learned Arbitrator

The authenticity of this document can be verified by scanning this QrCode Through smart phone or on the website <https://egrashry.nic.in>**BEFORE THE SOLE ARBITRATOR C.A. BRIJESH****.IN REGISTRY****C/o NIXI (NATIONAL INTERNET EXCHANGE OF INDIA)****NEW DELHI, INDIA****Accenture Global Services Limited**

3 Grand Canal Plaza

Dublin – 4

Ireland

.... Complainant**Versus****Mr. Upendra Singh**

C-46, Allahabad

Uttar Pradesh - 211014

Ph: +7.784969363

E-mail:upendra.saml@gmail.com**.... Respondent****1. The Parties**

The Complainant is Accenture Global Services Limited, having its corporate headquarters at 3 Grand Canal Plaza, Grand Canal Street Upper, Dublin, Ireland, through its Authorised

Representative, Mr. Vikrant Rana, S.S. Rana & Co., Advocates, having office at 317, Lawyers Chambers, High Court of Delhi, New Delhi- 110 003, India.

The Respondent is Mr. Upendra Singh of C-46, Allahabad, Uttar Pradesh – 211001, India.

The Respondent is represented by himself.

2. The Domain Name and Registrar

The disputed domain name is <accentureinfotech.in>. The said domain name is registered with 'GoDaddy.com, LLC (R101-AFIN)

3. Procedural Timeline

September 30, 2016 : The .INRegistry appointed C.A. Brijesh as Sole Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of Procedure.

September 30, 2016 : Arbitrator accorded his consent for nomination as Arbitrator and submitted Statement of Acceptance and Declaration of Impartiality and Independence to the .IN Registry.

October 5, 2016 : Parties to the dispute are informed of the constitution of the Arbitration panel and the effective date of handover. Further, NIXI forwarded the soft copy of the Complaint alongwith the annexures to the Respondent with a copy marked to the Complainant's Authorised Representative and Arbitral Tribunal.

October 7, 2016 : Arbitral Tribunal addressed an email to the Respondent, with a copy marked to the Complainant's Authorised Representative and NIXI, directing the Respondent to file its response, if any, in ten days.

October 10, 2016 : Email received from the Respondent.

October 18, 2016 The Tribunal addressed an email to the parties intimating that an award shall be passed on the basis of the material available on record.

October 22, 2016

Subsequently, another email was received from Respondent.

The language of the proceedings shall be English.

4. Factual Background

4.1 Complainant's Activities

The Complainant states, *inter alia*, that it is a global management consultancy, technology and outsourcing company with its corporate headquarters in Dublin, Ireland. The Complainant traces its history to the 1950s with the installation of the first computer system for commercial use in the United States at General Electric's Appliance Park facility. Further, the Complainant claims to have built its reputation primarily as a technology consultant and system integrator and have on January 1, 2001, publicly adopted the name ACCENTURE which is listed on the New York Stock Exchange under the symbol ACN. Further, the Complainant delivers its services and solutions through 19 focused industry groups in five operating groups. Further, the Complainant claims to operate offices globally in more than 200 cities in 56 jurisdictions all over the world, including India, with over 358,000 persons serving its clients worldwide. Complainant's clients span a full range of industries around the world comprising 89 of the Fortune Global 100 and more than three quarters of the Fortune Global 500 companies.

4.2 Complainant's Use of 'ACCENTURE'

The Complainant states that the marks ACCENTURE, ACCENTURE with device, ACCENTURE (label) [collectively referred to as the mark ACCENTURE] are extensively used, applied for and registered in diverse classes in various jurisdictions around the globe. In this regard, the Complainant claims to own more than 1000 trade mark registrations worldwide for the said mark. Further, in India, there exist several

registrations for the trade mark ACCENTURE in the name of the Complainant with the earliest registration under No. 967047 dating back to the October 30, 2000. To substantiate the claim, the Complainant has provided a list of worldwide trade mark registrations as well as extracts of the records of the Indian Trade Marks Registry for the mark ACCENTURE in the Complaint. Further, the Complainant's Indian affiliate company 'Anderson Consulting Services Private Limited was incorporated on July 5, 1999 which changed its name to Accenture Services Private Limited on December 5, 2000. A perusal of annexures marked as **C-5 to C-8** substantiates Complainant's aforesaid claims.

Further, in connection with Complainant's business/products/services, it states to have registered the domains 'accenture.com' and 'accenture.net' on August 29, 2000 and October 9, 2000 respectively. Further, in addition to various country code top-level domain names, the Complainant also registered India specific domain names such as 'accenture.co.in', 'accenture.in' and 'accenture.net.in' which showcase that Complainant's goods and services can be accessed by Internet users from anywhere in the world, including India. A list of registrations secured for various domain names comprising the trade mark ACCENTURE alongwith WHOIS details pertaining to few of the said domains marked as Annexure **C-9 to C-10** are on record and a perusal of the said documents corroborates claim of the Complainant.

Moreover, the Complainant has offices located in all the major cities of India and has produced a table highlighting the worldwide revenues for the years 2001 to 2015, with the amount totalling to USD 31 billion for the financial year 2015-2016. Further, the Complainant has produced an assortment of lists reflecting world rankings by Interbrand and BrandZ, awards, accolades and achievements received in various years

in favour of the Complainant, books written or published about/by the Complainant, advertisements, events, social causes, projects, extensive articles and press coverage which are all marked as **C-11 to C-20** which corroborate and validate the long standing repute and goodwill vested in the mark ACCENTURE of the Complainant.

Additionally, the Complainant has also furnished list of successful enforcement actions against third parties attempting to mis(use) the mark ACCENTURE in India, via 'cease and desist notices; UDRP; and INDRP proceedings. In this regard, the Complainant has relied on and marked as **C-21 and C-22**.

Based on the aforesaid, it is the Complainant's assertion that due to extensive and continuous use of the mark/name ACCENTURE by the Complainant since 15 years, the name ACCENTURE has attained substantial reputation, goodwill and distinctiveness and is solely associated with the business/services/products offered by the Complainant in the global market and by the public at large.

4.3 Respondent's activities and its use of ACCENTURE

The Respondent has registered the domain name <accentureinfotech.in> on September 1, 2013 as it clearly discernible from the WHOIS records. Further, the Registrant maintains a website www.accentureinfotech.in and claims to be operating a full service information technology consulting company under the name ACCENTURE INFOTECH capable of providing support and services for IT needs. Further, the Complainant claims that in the said website, the Complainant's mark ACCENTURE forms a prominent part and is prominently displayed on all the webpages of the website. A perusal of the documents marked as Annexure **C-23** clearly affirms the aforesaid.

Thereafter, on March 10, 2016, the Complainant addressed a 'cease and desist' letter to the Respondent calling upon it to cease all use of the mark ACCENTURE and to transfer the domain in favour of the Complainant. Though no response has been received, thereafter, the Complainant claims that the website www.accentureinfotech.in was disabled by the Respondent. Absent response, the Complainant claims to have forwarded reminder letters dated March 30, 2016, April 19, 2016 and May 12, 2016 to Respondent. Reference is made to Annexure C-26 and C-27 for the aforesaid.

Given that the Respondent has not furnished a proper response to the Complaint, no further information is available on its business activities and/or its use of the domain comprising the mark/name ACCENTURE except what has been communicated to this Arbitral Board vide email of October 22, 2016.

5. Contentions of Parties as summarised in the pleadings

5.1 Complainant

a) The domain name is identical or confusingly similar to a trade mark of the Complainant in which Complainant has the statutory and/or common law rights.

- i. Complainant submits that it has secured registrations for the trade mark ACCENTURE and variants thereof in various countries of the world in different classes and the name/mark ACCENTURE qualifies as a well-known mark and is protectable under the provisions of the Trade Marks Act, 1999.
- ii. Further, it is Complainant's assertion that the domain name 'accentureinfotech.in' is bound to cause confusion and deception in the minds of



the public that the Respondent has some association or affiliation with the Complainant which is not the case.

iii. Complainant submits that the addition of the term INFOTECH does nothing to materially distinguish the same from the mark/name ACCENTURE of the Complainant and in fact exacerbates the likelihood of confusion in light of Complainant's various technology services provided under the mark/name ACCENTURE.

b). The Respondent has no legitimate interest in respect of the domain name

- i. It is the contention of the Complainant that the Respondent has no rights or legitimate interests in the disputed domain name and the Complainant has not authorized, licensed or otherwise allowed Respondent to make any use of its trade mark ACCENTURE.
- ii. The Complainant contends that the Respondent cannot assert that it has made or is currently making a legitimate non-commercial or fair use of the domain, without an intent for commercial gain or mislead/divert consumers or to tarnish the trade mark/name ACCENTURE. Such conduct endorses the fact that neither the Respondent has any legitimate interest nor any proprietary rights in the mark ACCENTURE.

c). The domain name was registered and is being used in bad faith

- i. Complainant asserts that its company incorporation, trade mark registrations as well as domain name registrations are much prior to the Respondent's registration of the domain name 'accentureinfotech.in'. Further, the Respondent is intentionally preventing the Complainant from registering the domain name



accentureinfotech.in', and intentionally attempting to attract for commercial gain, internet users to his website by creating a likelihood of confusion with Complainant's trade mark ACCENTURE.

- ii. Further, the Complainant submits that Respondent's refusal to answer the Complainant's letters regarding the registration of the domain name 'accentureinfotech.in' also suggests that the domain name was created in bad faith
- iii. Further, the Complainant asserts that the Respondent's conduct of temporarily disabling the website under the said domain suggests Respondent's attempt to mislead Complainant into believing that the Respondent had ceased use of the mark/name ACCENTURE when that was not the case. Based on the said presumption, the Complainant states that such a registration of the domain is prima facie evidence of Respondent's bad faith.

5.2 Respondent

As per the INDRP Rules of Procedure, NIXI has forwarded a copy of the Complaint alongwith all annexures to the Respondent on October 5, 2016 with a copy marked to the Complainant and this Arbitral Tribunal.

On October 7, 2016, this Tribunal issued a notice to the Respondent directing it to file a response within ten days. On October 10, 2016, the Respondent addressed an email to this Tribunal informing that the domain 'accentureinfotech.in' has been legally purchased by him from the Registrar 'GoDaddy.LLC' in the year 2013 and that the said domain was available at that time for purchase and to stop harassing the Respondent.



Absent a proper response from the Respondent thereto or any intimation by the Respondent of its desire to furnish a response, the matter has proceeded *ex-parte*.

When the deadline of October 18, 2016 to furnish a reply to the Complaint expired, the Respondent, on October 22, 2016 forwarded an email to this Tribunal claiming that the entity M/s Accenture Infotech was listed in the Government records as a contractor and a listed supplier with the TIN number, PAN Card, Bank Account etc. being maintained by the Respondent from three years now. Further, the Respondent is advertising and promoting the mark ACCENTURE, claiming that the domain 'accentureinfotech.in' is an identity of Respondent. In addition, the Respondent claims that he does not have any connection, interference and direct or indirect dealing with the Complainant and has no intention of using the name of the Complainant.

Though the said email is time barred, in the interest of justice, this Tribunal has perused the contents of the same as well. Firstly, no documentary evidence was annexed to the substantiate the any of the claim made by the respondent. Secondly, it is an admitted position that the Respondent adopted the name 'ACCENTURE INFORTECH' only 3 years back whereas the Complainant's rights in the mark/name ACCENTURE dates back to the year 2000. Finally, no justification/reason has been given by the Respondent for the adoption of 'ACCENTURE' for his business.

6. Discussion and Findings

As per paragraph 4 of the .IN Domain Name Dispute Resolution Policy (INDRP), any person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:



- i. The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
- ii. The Registrant has no rights or legitimate rights in respect of the domain name;
- iii. The registrant's domain name has been registered or is being used in bad faith.

Based upon the pleadings, it is required to be examined as to whether the parties have been able to justify/rebut the aforesaid premises:

6.1 Identical or confusingly similar trade/service mark

As per the WHOIS records, the Respondent has registered the disputed domain name 'accentureinfotech.in' on September 1, 2013.

The Complainant is the proprietor of the registered trade mark ACCENTURE in diverse classes since the year 2000 and has over 1000 applications/registrations for the mark ACCENTURE in around various jurisdictions of the world. To substantiate the same, the Complainant has placed on record copies of worldwide registrations obtained for the trade mark ACCENTURE. Further, the Complainant also owns the domain 'accenture.com' and 'accenture.net' since the year 2000 and subsequently registered domain names India specific domain names 'accenture.co.in' and 'accenture.in' since the year 2004 and 2005 respectively and has been extensively and continuously using the mark/name ACCENTURE in relation to its business/products/services.

The disputed domain name incorporates the mark ACCENTURE in its entirety. It has been held in *Inter-Continental Hotels Corporation vs. Abdul Hameed* (INDRP/278) as well as in *Indian Hotels Company Limited vs. Mr. Sanjay Jha*



(INDRP/148) that when a disputed domain name incorporates a mark in entirety, it is adequate to prove that the disputed domain name is either identical or confusingly similar to the mark. Similarly, in case of *Farouk Systems Inc. vs. Yishi*, WIPO Case No. D2010-006, it has been held that the domain name wholly incorporating a Complainant's registered mark may be sufficient to establish identity or confusing similarity, despite the additions or deletions of other words to such marks.

As can be seen from above, the Complainant has registered the domain name 'accenture.com' and 'accenture.net' on August 29, 2000 and October 9, 2000 respectively; 'accenture.co.in' on January 31, 2004 and 'accenture.in' on February 16, 2005; trade mark/name ACCENTURE since the year 2000 and is doing/operating business/website under the said domains. The Respondent on the other hand registered the domain 'accentureinfotech.in' much subsequent to the Complainant i.e. on September 1, 2013.

In the view of the foregoing discussions, the Complainant has satisfied this Tribunal that:

- i. The domain name in question 'accentureinfotech.in' is phonetically as well as visually identical to the Complainant's prior registered trade mark ACCENTURE and that the term 'INFOTECH' does not nothing materially to distinguish the same from Complainant's mark ACCENTURE; and
- ii. It has both prior statutory and proprietary rights in respect of the mark ACCENTURE.

6.2 Rights and legitimate interests

The Complainant has asserted that the Respondent has no rights or legitimate interests in the disputed domain name. Paragraph 7 of the INDRP enumerates three

circumstances (in particular but without limitation) and if the Arbitrator finds that the Registrant has proved any of the said circumstances, shall demonstrate its rights to or legitimate interest in the disputed domain name. The said paragraph is reproduced herein under:

“Registrant's *Rights to and Legitimate Interest in the Domain Name*- Any of the following circumstances, in particular but without limitation, if found by the Arbitrator to be proved based on its evaluation of all evidence presented, shall demonstrate the Registrant's rights to or legitimate interest in the domain name for the purposes of Paragraph 4 (ii):

- i. Before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name with a bona fide offering of goods or services;
- ii. The Registrant (as an individual, business, or other organisation) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or
- iii. The Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The Respondent response that it has legally purchased the domain from the Registrar is misleading and Respondent ought to have been aware of the reputed mark/name ACCENTURE of the Complainant. There is no documentary evidence to suggest that the Respondent has used or made demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with bonafide offering of

goods/services; or is commonly known by the disputed domain name; or has made fair use of the domain name. The fact that Respondent deactivated its website pursuant to the action of the Complainant suggest to the contrary.

Further, as observed by the panel, in the case of *International Hotels V. Abdul Hameed* (INDRP/278), it is well established, that trade mark registration is recognised as *prima facie* evidence of rights in a mark. Complainant, in the instant case, is the owner of the registered trademark ACCENTURE in various jurisdictions in the world including India and has sufficiently demonstrated its rights in the trade mark ACCENTURE.

In view of the foregoing, it is evident that Respondent has no rights or legitimate interests in the disputed domain name.

6.3 Bad faith

Paragraph 6 of the INDRP enumerates the circumstances evidencing registration and use of domain name in bad faith. The said paragraph is reproduced herein under:

"Evidence of Registration and use of Domain Name in Bad Faith: For the purposes of Paragraph 4(iii), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:

- i. Circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or



- ii. the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or
- iii. by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.”

There is nothing on record to suggest that the Respondent is commonly known by the disputed domain name or has conducted any legitimate business under such name. Further, no justification has been provided by the Respondent to justify its adoption of Complainant's reputed mark/name ACCENTURE. It is apparent that the only plausible reason is to ride on the goodwill and reputation of the Complainant and attract internet user to its website. Thus, it is crystal clear that the Respondent has registered the dispute domain name in bad faith to tarnish the trade mark and cause confusion in the minds of the public. From the facts above, the conduct of the Respondent prevents the legitimate owner of the trade mark from reflecting the same in a corresponding domain name.

In view of the foregoing, the panel is of the view that Respondent has registered the domain name 'accentureinfotech.in' in bad faith.

7. Award

From the foregoing findings, it is established beyond doubt that (1) the domain name is confusingly similar to the mark ACCENTURE which is proprietary to the Complainant,



(2) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and (3) the domain name is registered in bad faith.

Thus, in accordance with the Policy and Rules, this Arbitral Tribunal directs the Respondent to immediately transfer the disputed domain name 'accentureinfotech.in' to the Complainant.

The parties shall bear their own cost.

Dated: NOVEMBER 11, 2016



C.A. Brijesh
Sole Arbitrator