



दिल्ली DELHI

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Arbitration Award

(M/s Oki Electric Industry Co., Ltd.

Accompany organized and existing under

the laws of Japan, having its office at)

7-12 TORANOMON 1- CHOME

MINATO - KU, TOKYO,

(Complainant)

Chris Walton

11 Nene Close

Wansford

Peterborough,

PE8 6JJ

(Respondent)

Manish Arora
MANISH ARORA
7215334
7438103
ADVOCATE

42828

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Sl.No..... Date.....

Sold To..... S/O D/o W/o.....

R/o.....

In Favour of..... S/O D/o W/o.....

THROUGH.....

PURPOSE.....

SANDIP KUMAR

Sl.No-275, R-10/2, Model Town-III DELH

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Before the:

. IN Domain Name Registry C/o National Internet Exchange in India

Award by Manish Arora, Advocate (Arbitrator)

The Parties

A. The Complainant

- The Complainant in this administrative proceeding is OKI Electronic Industry Co. Ltd., a company incorporated in Tokyo, Japan, under the laws of Japan, having its registered office at 7-12 Toranomom 1- Chome, Minato-ku, Tokyo, JAPAN.

The Complainant's contact details are as follows

Address: Registered Office: Oki Electric Industry Co., Ltd.

7-12 Toranomom, 1-Chome

Minato - Ku, Tokyo

JAPAN

Telephone: +81 3 3501 3111

Fax: +81 3 37987248

E-MAIL: kanzaki295@okLcom

- The Complainant's authorized representative in this administrative proceeding is: Krishna & Saurastri.

Address. KK Chambers, 1st Floor, Sir P T. Marg, Off D.N. Road, Fort,
Mumbai-400 001, India.

Telephone: (0091 22) 22006322

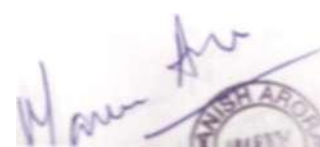
Fax: (0091) 22006326

E-mail.[krismark\(g\)vsnl.net](mailto:krismark(g)vsnl.net)

Contact Person: Sunil B. Krishna/ Manish Saurastri / Toral Sanghvi

B. The Respondent

- According to the .IN Domain name Registry, the Name of the Respondent is shown as Chris Walton and the address of the Respondent has been indicated as Wansford.



Peterborough, PE8, GB.

- The respondent contact details are as follows:

Name of the Respondent: Chris Walton

Address: Chris Walton

16 Nene Close

Wansford

Peterborough,

PE8 6JJ

GB

Phone: 0044 1780784475

E-mail: [chris.walton4\(S\)tesco.net](mailto:chris.walton4(S)tesco.net)

Domain Name and Registrar

The dispute concerns the domain name OKI.in. The Registrar with which the domain name is registered is Key - Systems GmbH (R48-AFIN).

Complainant's contention

This dispute concerns the domain name identified below:

www.oki.in

The contested domain name is identical to the trademarks of the complainant.

The Complaint is based on the infringement of the well-known Trademark 'OKI'. The said mark is used by the Complainant in relation to electronic telephone and telegraph switching units; electronic data switching units for digital communications; telephone sets; carrier transmission equipment, namely - modems, multiplexers, video cordexs, television standard converters and telewriters; facsimile machines; computers, computer peripherals; cash registers; electronic copying machines; electronic radar units; telemeter; transponders; sonars; sonobuoys; computer memories; microprocessors; gate arrays; integrated circuits; electrical connectors; sockets; plugs; fuse wires and reed relays; electronic wires and reed relays; electronic wires and cables; fire alarms.

The Complainant is carrying on business in the field of telecommunication devices including telephones, switching machines and facsimiles. They have diversified into the

Handwritten signature in blue ink, possibly reading 'Man An', and a circular stamp with the text 'AFIN' visible.

following streams of businesses: -

- (1) Information processing including computers, printers **and** automated teller machines, as well as the field electronic devices including IC and _ E
- (2) They also deal in the field of image transmission by means of cable television and Internet.

The complainants' said goods are sold under several well-known trade marks one of them being OKI. The trademark "**OKI**" was conceived and adopted by the Complainant in the year 1916. The said mark OKI is in continuous, extensive, open and exclusive use by the complainant **since 1916**. By virtue of open and extensive use coupled with effective advertisement and promotion of the trademark OKI, the same has acquired enormous reputation and goodwill and the same is associated with the Complainant Company and none else.

The Complainant Company has achieved considerable success and popularity in all the above-mentioned businesses and is a name to be reckoned with both in Japan and globally including India.

- The complainant further submits that their trade mark "OKI" is an international famous mark having transborder reputation as evident by the registration of its said trade marks secured in the territories. As a matter of fact, complainant "as also obtained Registration of its Trade Mark "OKI" under the Trade Mark laws of India in class 9 bearing Registration number 451102. The said registration is valid and subsisting as on today until 14th March, 2007. The Complaint is **made** in accordance to the Domain Name Dispute Resolution Policy.
- The complainant requests that the said domain name's registration be cancelled as it tends to intrude upon the trademark of the complainant and the same **also** amount to infringement and misuse of the complainant's trademark and **thereby** resulting in passing off. The complainant wants the domain name address to be transferred to them viz. OKI Electric Industry Company Limited.

Decision

I have gone through the facts of the complaint and the reply of the respondent **and** referred to a **Supreme Court of India, judgment : *Satyam Infoway Ltd. v. Srfynei Solutions P.Ltd(2004(28)PTC566)*** wherein it was held that internet domain names **are** subject to the same legal norms applicable to other intellectual properties such as trade



Manish Arora
MANISH ARORA
721533/
7438103
ADVOCATE

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lead to a diversion of users which could result from **such users mistakenly accessing** one domain name instead of another. This may occur in **e-commerce** with its rapid progress and instant (and theoretically limitless) accessibility to users and potential customers and particularly so in areas of specific overlap. Ordinary consumers/users seeking to locate the functions available under one domain name may be confused if they accidentally arrived at a different but similar website which offers no such services. Such users could well conclude that the first domain name owner had misrepresented its goods and services through its promotional activities and the first domain owner would thereby lose their customer. A domain name is accessible by all internet users and the need to maintain an exclusive symbol for such access is crucial. Therefore, a deceptively similar domain name may not only lead to confusion of the source but the receipt of unsought for services.

- It is now held that the complainant is prior user of trademark 'OKI' and has the right to debar the respondent from using the similar domain name 'OKI.in'.
- The domain name of the respondent be cancelled as it amounts to infringement and misuse of complainant's trademark.
- The respondent's domain name be transferred to the complainant on payment of requisite fee to the registry. The complainant shall have right to use and renew the domain name on payment of fee and as per the rules of registry.

DATE: 13.11.2006

Man Arora
