



महाराष्ट्र MAHARASHTRA

2017

AG 757650

अनु. क्र. २६२३ गदएक मु. शु. रकम. ५००२२५  
 दस्तावेज प्रकार कावेरीवत कर्ण  
 दस्त नोंदणी करणार अखेर का ? होय/पणही.  
 मिल्कतीचे वर्णन  
 मुद्रांक विहित वेळापत्रको क्र. ३७०८८  
 पत्ता २७०८८  
 दुसऱ्या पक्षाकडे पाठविलेले पत्र  
 हस्त द्यावलेले मंडळ व पत्ता  
 श्री. जयश्री लिमिटेड वेल्सरो  
 प्रकल्प क्र. २२०१०११  
 ४२५ ब, शनिवार पेठ पुणे- ४८

कोषागार अधिकारी  
 पुणे  
 29 MAY 2018  
 प्रथम मुद्रांक लिपिक  
 कोषागार पुणे करिला

**ORDER  
 IN ARBITRATION**

ORACLETRAINING.CO.IN

INDRP CASE NO.990

**ORACLE AMERICA Inc.**  
 500 Oracle Parkway  
 Redwood City, California  
 94065, United States of America

**THE COMPLAINANT**

V/S

**VENKAT**  
 Waltham, Massachusetts  
 02451, United States of America.

**THE RESPONDENT /  
 THE REGISTRANT**

*Handwritten signature*

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**IN THE MATTER OF DISPUTED DOMAIN NAME: - 'ORACLETRAINING.CO.IN'**  
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**ARBITRATION PANEL: - MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.  
SOLE ARBITRATOR**

**PASSED ON THIS NINETEENTH DAY OF JUNE TWO THOUSAND EIGHTEEN  
AT PUNE, INDIA.**  
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**II] SUMMARISED INFORMATION ABOUT THE DISPUTE: -**

<b>SR. NO.</b>	<b>PARTY TO THE DISPUTE</b>	<b>NAME</b>	<b>ADDRESS</b>
01	COMPLAINANT	Oracle America Inc.	500 Oracle Parkway, Redwood City, California. 94065, U.S.A.
02	AUTHORISED REPRESENTATIVE OF THE COMPLAINANT	Achuthan Sreekumar Anand and Anand Constituted Attorney of Complainant.	First Channel, Plot No.17A, Sector 16A, Film City, NOIDA, INDIA.
03	RESPONDENT / REGISTRANT	Venkat	Waltham, Massachusetts  02451, United States of America
04	DOMAIN NAME REGISTRAR	Endurance Domains Technology LLP	Not found in whois details

**III] CALENDER OF MAJOR EVENTS:-**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Date (All communications in electronic mode)</b>
01	Arbitration case referred to me by NIXI	09.05.2018
02	Acceptance given by me	09.05.2018
03	Hard copy of complaint received	15.05.2018
04	Notice of Arbitration issued, with the period to file reply, if any, latest by 26.05.2018	15.05.2018
05	Period to file reply, if any, by the Respondent, extended by Arbitration Panel suo-motu till 31.05.2018	28.05.2018
06	Notice of closure of arbitration issued	02.06.2018
07	Complainant's authorised representative directed to file Power of Attorney / Letter of Authority by the Complainant company	04.06.2018
08	Authorised representative of the Complainant company requested for allowance to make amendments to the Complaint	15.06.2018

09	The request to allow to amend the Complaint was denied since Notice of Closure of Arbitration proceedings was already issued by Arbitration Panel	15.06.2018
10	The Authorised Representative of the Complainant company requested to grant the permission to withdraw the complaint	16.06.2018
11	Order passed	19.06.2018

### **III PARTICULARS OF DISPUTED DOMAIN NAME & REGISTRATION:**

1. Disputed domain name is 'ORACLETRAINING.CO.IN'.
2. Date of registration of disputed domain name by Respondent is 16.05.2013
3. Registrar is Endurance Domains Technology LLP - ID NO.801217 (R173-AFIN)

### **IV PROCEDURE FOLLOWED IN ARBITRAION PROCEEDINGS: -**

- 1) Arbitration proceedings were carried out as per *In* Domain Name Dispute Resolution Policy (INDRP) read with INDRP Rules of Procedure, (Indian) Arbitration and Conciliation Act, 1996 and Code of Civil Procedure, wherever necessary.
- 2) The parties were requested to expedite their submissions so as to enable this panel to pass award within the 60 days time frame prescribed.
- 3) Copies of all communications were marked to both the parties and NIXI.
- 4) No personal hearing was requested / granted / held.

### **VI SUBMISSIONS BY THE PARTIES TO THE DISPUTE: -**

1. The Complaint was filed by the Authorised Representative of the Complainant company disputing the registration of the disputed domain name 'ORACLETRAINING.CO.IN in the name of the Registrant / Respondent.
2. National Internet Exchange of India (NIXI) appointed me as Sole Arbitrator to hear the parties and pass award in the said dispute.
3. Accordingly Notice of Arbitration was issued to both the parties with a copy to NIXI. However there was no reply by / any submission from the Registrant / Respondent, even within the period extended suo-motu by this panel.
4. This panel therefore issued a Notice of Closure of Arbitration proceedings to both the parties on 2nd June 2018. This panel also directed the Authorised Representative of the Complainant Company to file Power of Attorney / Letter of Authority issued by the Complainant Company in his favour.
5. Instead of submitting the said power of attorney / letter of authority, the Authorised Representative of the Complainant company filed a request to allow to amend the Complaint. In view of already issued Notice of Closure of Arbitration proceedings, this panel denied this request.

6. The Authorised Representative of the Complainant Company filed a request to permit to withdraw the complaint itself on 16.06.2018.

## VI] DISCUSSION: -

1. Reference to chronological sequence of the events that took place in these arbitral proceedings reveal that, the Registrant / Respondent, has not filed / submitted any reply / say on the Complaint or in response to the Notice of Arbitration. The hard copy of the Complaint could not be served upon the Registrant / Respondent due to insufficient address and the same was returned undelivered to National Internet Exchange of India (NIXI). All electronic communications were sent to email id provided by him on the whois records. None of these emails were returned / bounced undelivered. However at the late stage of arbitration proceedings i.e. after issue of Notice of Closure of Arbitration proceedings, on 9th June 2018, an email was received from the same email id stating that the sender was not an intended party and requested to remove him from the loop. Assuming that this contention is genuine, it transpires that no communication reached the correct Registrant / Respondent of arbitration proceedings.

Assuming that all emails reached the right and proper Registrant / Respondent, according to Section 25(b) of the Arbitration and Conciliation Act, 1996 (**The said Act / The Act**), non-response from him amounts to default by the Registrant / Respondent. This also amounts to admission of the contents of the Complaint. This can also be treated as waiver of all his rights by the Registrant / Respondent, under Section 4 of the said Act.

2. On the other hand, the authorised representative (as stated in the Complaint), has failed to file Power of Attorney / Letter of Authority issued by the Complainant Company i.e. Oracle America Inc. (as stated in the Complaint). If the basic provisions of the Contract Act are applied, the so called authorised representative, had no locus-standi to file the Complaint or to represent the Complainant company.

3. Importantly, said authorised representative, has filed a request to permit to withdraw the Complaint itself, due to reportedly glaring mistakes it contained.

4. In a summarised way, it can be stated that the Complainant confirms that the complaint itself is not accurate, the person who has filed the complaint is unable to establish that he had authority to file the complaint and lastly the Registrant / Respondent has not responded to the complaint and / or notice of arbitration, even within the period extended suo-motu by this arbitration panel.

All the above facts have made these arbitration proceedings infructuous. This arbitration panel does not find any propriety in proceeding with the complaint in normal way according to INDRP Rules of Procedure.

Upon perusal of INDRP Rules of Procedure, this panel did not find any specific rule, which prescribes the procedure to permit such withdrawal of complaint by the Complainant himself. Therefore this Panel has relied upon the provisions contained in Section 32(1) and 32(2) of the Arbitration and Conciliation Act, 1996. Since the Registrant / Respondent has not

objected to the proposed withdrawal of the Complaint by the Complainant, this Arbitration Panel finds it appropriate and proper to permit the Complainant to withdraw the complaint.

**VIII ORDER: -**

**On the basis of above discussion, this Arbitration Panel orders to permit the Complainant to withdraw the Complaint.**

**No orders as to the disputed domain name.**

**No orders as to the costs.**

**Arbitration proceedings are accordingly terminated.**

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Place: - Pune

Date: - 19.06.2018

  
(S.C.INAMDAR)  
SOLE ARBITRATOR