



दिल्ली DELHI

BEFORE SHRI SANJAY KUMAR SINGH ARBITRATOR

D 838417

YOUTUBE LLC,
1000 CHERRY AVENUE SUITE-2,
SAN BRUNO CALIFORNIA 94066,
USA

.Complainant

Versus

ROHIT KOHLI
20A, MOUNTAIN ROAD
MT.WELLINGTON
AUCKLAND 11004
NEW ZEALAND

..Respondent

1. THE PARTIES:

The complainant is YOUTUBE LLC, 1000 Cherry Avenue suite-2, San Bruno California 94066, USA.

Sanjay Kumar Singh

(complaint has been filed by attorney Mr. Ranjan Narula of Ranjan Narula Associates Intellectual Property Attorneys at Vatika Towers 10th Floor, Block B, Sector-54, Gurgaon-122002 ; under instruction of Mr. Rahul Sethi a constituted attorney of complainant company: e-mail address: info@indiaiprights.com)

The Respondent is ROHIT KOHLI, 20A, Mountain Road, T.Wellington, Auckland 11004, New Zealand

(Respondant through ROHIT KOHLI, 20A, Mountain Road , T.Wellington, Auckland 11004,New Zealand

2. DOMAIN NAME AND TRADEMARK IN DISPUTE:

Domain name of the respondent is "**youtube.in**"

The trademark of the complainant is "YOUTUBE". The registry is National Internet Exchange of India (NIXI).

3. BRIEF BACKGROUND:

This arbitral proceeding commenced in accordance with IN Dispute Resolution Policy (INDRP) and rules framed thereunder.

The complainant submitted his complaint in the registry of NIXI. Shri Sanjay Kumar Singh was appointed as Sole Arbitrator in the matter by NIXI.

The complainant has submitted that complainant has applied for the said trade mark "YOUTUBE" in a number of countries like USA, ARGENTINA, BRAZIL, CANADA etc (as mentioned in para 7 of the complaint).The complainant has also annexed Exhibit F as the specimen copies of the Trademark Registrations/applications filed by the complainant for the registration of the "YOUTUBE" mark in a number of countries across the world. The complainant has

Sanjay Kumar Singh

further submitted that in India, the complainant has sought protection of the trade mark "YOUTUBE" by filing trade mark application nos. 1474312 and 1474313 for the work "YOUTUBE" and design respectively in classes 38, 41 and 42. **(para 8 of the complaint)**. The complainant has further submitted that domain name "youtube.in" which according to complainant is phonetically, visually and conceptually identical to complainant's well known and highly distinctive trade mark and domain name "YOUTUBE".

A copy of complaint has already been sent to the respondent by the .In Registry through e-mail. Upon receipt of the complaint, the Arbitrator sent a notice dated 27.09.2007 to the respondent to send his defence / counter to the complaint alongwith supportive documents / evidence at his e-mail address within 10 days from receipt. But the respondent did not come forward and did not send his defence / counter to the complaint.

In spite of notice, the respondent has not come forward and has not sent any reply / defence / counter to the either notice or complaint to the Arbitrator. The respondent has sent a letter dated 3rd October 2007 vide e-mail through **Mr. VIJAY NAIDU** stating that the dispute with "YOUTUBE" has settled. It has been further stated that Mr. Kohli has transferred the domain name to you tube. A copy of this e-mail was also sent to Nigel Robb who acts for YOUTUBE by Mr. VIJAY NAIDU . However respondent has not sent any reply / defence / counter to the either notice or complaint to the Arbitrator. The complainant also sent a letter vide e-mail through **MS. RACHNA** for Mr. Ranjan Narula of Ranjan Narula Associates stating that parties have arrived at a settlement and a copy of the settlement document signed by both the parties ie "**CONFIRMATORY AGREEMENT FOR**

Sanjay Nar Singh

TRANSFER OF DOMAIN NAMES" signed by Mr.ROHIT KOHLI on 03-10-2007 and Mr. Terri Y. Chen for YOUTUBE,LLC as trade mark counsel on 10-08-2007 has also been sent by **MS. RACHNA** for Mr. Ranjan Narula of Ranjan Narula Associates vide e-mail dated 9th October 2007.

The complainant as such has prayed for an award in the above matter for transfer of the domain name "**youtube.in**" in favour of the complainant.

Therefore, this matter is being decided in view of the "**CONFIRMATORY AGREEMENT FOR TRANSFER OF DOMAIN NAMES**" signed by Mr.ROHIT KOHLI on 03-10-2007 and Mr. Terri Y. Chen for YOUTUBE,LLC as trade mark counsel on 10-08-2007 and as per law of the land.

4. FINDINGS

After going through the submission made by both the parties and considering the settlement arrived at between the parties on 9th August 2007 whereby Mr.ROHIT KOHLI agreed to transfer the Domain Names to YOUTUBE vide "**CONFIRMATORY AGREEMENT FOR TRANSFER OF DOMAIN NAMES**" signed by Mr.ROHIT KOHLI on 03-10-2007 and Mr. Terri Y. Chen for YOUTUBE, LLC as trade mark counsel on 10-08-2007, the complainant has established the right over the above domain name "**youtube.in**".

5. CONCLUSION:

The complainant is entitled to transfer of domain name "**youtube.in**" in view of the **CONFIRMATORY AGREEMENT FOR**

Sanjay Kumar Singh

TRANSFER OF DOMAIN NAMES" signed by Mr.ROHIT KOHLI on 03-10-2007 and Mr. Terri Y. Chen for YOUTUBE,LLC as trade mark counsel on 10-08-2007. Hence I direct that the Domain name be transferred to the complainant by registry on payment of requisite fee to the registry.

No order as to costs.

Delhi

Date: 07-11-2007.

Sanjay Kumar Singh
(Sanjay Kumar Singh)

Arbitrator