



महाराष्ट्र MAHARASHTRA

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अनु. क्र. ३०० र. ११/४७८ मु. श. रकम. ५ लाख
 दस्तावेज क्र. ३००
 दस्त. कोणी नसताना असेल त्या १ कोन (एकी).
 शिक्ककताप बजाव
 मुद्रांक क्र. २०० शिरीगु चिंतामणी स्वामी
 पत्ता २०० शनिवार पेठ, पुणे ४०
 दुसऱ्या पक्षासाठी कोन शिरीगु
 हस्ताक्षर कोन शिरीगु माने - निपदेगुव पुणे ४०



मुद्रांक विकत घेणाऱ्याची सही
 ली. जयशंकर शिरीगु बेळकर
 परवाना क्र. २७००११
 ४२५ ब, शनिवार पेठ पुणे-३६

**AWARD
 IN ARBITRATION**

BLOOMBERGTRADEBOOK.IN

INDRP CASE NO.969

Bloomberg Finance L.P.
 731 Lexington Ave.
 New York, New York. 10022
 United States of America

THE COMPLAINANT

AND

Ye Genrong
 Pudong Ave. 2288
 Shanghai. 200200. China.

**THE RESPONDENT /
 THE REGISTRANT**

**IN THE MATTER OF DISPUTED DOMAIN NAME: -
'BLOOMBERGTRADEBOOK.IN'**

**ARBITRATION PANEL: - MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.
SOLE ARBITRATOR**

**DELIVERED ON THIS ELEVENTH DAY OF APRIL TWO THOUSAND
EIGHTEEN AT PUNE, INDIA.**

II] SUMMARISED INFORMATION ABOUT THE DISPUTE: -

SR. NO.	PARTY TO THE DISPUTE	NAME	ADDRESS
01	COMPLAINANT	Bloomberg Finance L.P.	731, Lexington Ave. New York, 10022 United States of America.
02	AUTHORISED REPRESENTATI VE OF THE COMPLAINANT	Sudarshan Sen-Mitra, Constituted Attorney of Complainant.	D.P. Ahuja & Co. 14/2, Palm Avenue Kolkata. 700019. India
03	RESPONDENT / REGISTRANT	Ye Genrong	Pudong Ave. 2288 Shanghai, 200200 China.
04	DOMAIN NAME REGISTRAR	1APi GmbH (R98- AFIN)	Talstraße 27, 66424, Homburg, Germany

III] CALENDER OF MAJOR EVENTS:-

Sr. No.	Particulars	Date (All communications in electronic mode)
01	Arbitration case referred to me by NIXI	12.03.2018
02	Acceptance given by me	12.03.2018
03	Hard copy of complaint received	15.03.2018
04	Notice of Arbitration issued, with the period to file reply, if any, latest by 26.03.2018	15.03.2018
05	Period to file reply, if any, by the Respondent, extended by Arbitration Panel suo-motu till 30.03.2018	27.03.2018
06	Notice of closure of arbitration issued	02.04.2018
07	Award passed	11.04.2018

III] PARTICULARS OF DISPUTED DOMAIN NAME & REGISTRATION:

1. Disputed domain name is 'BLOOMBERGTRADEBOOK.IN'.
2. Date of registration of disputed domain name by Respondent is 17.09.2016
3. Registrar is IAPi GmbH (R98-AFIN), Talstraße 27, 66424, Homburg, Germany

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 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.

V] BRIEF INFORMATION OF THE COMPLAINANT: -

According to the Complaint, the Complainant - Bloomberg Finance L.P., is a U.S.A. based company which is a multinational financial news corporation, founded in 1982 by Mr. Michael R. Bloomberg, 108th Mayor of New York city, USA. The Complainant is present in India since 1996. Bloomberg L.P. currently uses Bloomberg trade name under the license from the Complainant. Bloomberg is one of the largest providers of global financial news and data and related goods and services and is recognised and trusted worldwide as a leading source of financial information and analysis. One of the many products and services offered by Bloomberg is the BLOOMBERG TERMINAL which provides access to news, analytics, communications, charts, liquidity, functionalities and trading services. Bloomberg employs 19000 people in 176 locations around the world. The Complainant adopted and commenced use of 'BLOOMBERG TRADEBOOK' and 'TRADEBOOK' in 1996.

A Deed of Assignment dated 14th November 2007, was executed between Bloomberg L.P. (The Assignor) and Bloomberg Finance L.P. whereby the trademarks mentioned in Schedule A to the said Deed were assigned in favour of Bloomberg Finance L.P. (The Assignee). Vide this Schedule A, the said Assignor, *among others*, has assigned the trademark 'BLOOMBERG TRADEBOOK' registered in India at Registration No.839178 in Class 16, registered on 1st February 1999, in favour of the Assignee - present Complainant. It is also stated in the Complaint that Bloomberg L.P. uses the BLOOMBERG trade name under license from the Complainant.

IV] SUMMARY OF THE COMPLAINT: -

The Complainant's Complaint is based on the following points, issues, representations or claims in brief:-

(A) CONTRAVENTION OF THE REGISTERED TRADEMARKS AND DOMAIN NAMES OF THE COMPLAINANT (CONTRAVENTION OF POLICY PARA 4(i) OF THE .IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP) :-

The Complainant states that the domain name registered by the Respondent viz. BLOOMBERGTRADEBOOK.IN, is virtually identical to the trademarks BLOOMBERG / BLOOMBERG TRADEBOOK registered in India. The Complainant has furnished a list at Exhibit B containing 56 trademarks registered in different classes in the name of Bloomberg Finance L.P. and Bloomberg L.P. collectively. They have been registered since 1994 at different points of time. The Complainant has also furnished a list of well known marks published by ipindiaonline.gov.in wherein the mark BLOOMBERG is stated at Sr. NO.71.

In India the complainant has three marks registered in its name which are valid as on the date of filing the complaint. some of them are as follows: -

Sr. No.	Trademark	Class	Regn. No.	Regn. Date	Status
01	BLOOMBERG	09	724377	26.07.1996	Valid
02	BLOOMBERG	16	724378	26.07.1996	Valid
03	BLOOMBERG TRADEBOOK	16	839178	01.02.1999	Valid

The Complainant owns and relies on various domain names like bloomberg.com, bloomberg.net, **bloombergtradebook.com** (registered in the name of complainant since 04.03.1999), **bloombergtradebook.net** (regd. on 04.03.1999), **bloombergtradebook.org** (regd. on 08.03.1999), **bloombergtradebook.info** (regd. on 31.07.2001), **bloombergtradebook.biz** (regd. on 15.11.2001), **bloombergtradebook.co.in** (regd. on 12.10.2004). In addition the Complainant owns over 3000 other domain names incorporating the word bloomberg.

The Complainant adopted and commenced use of BLOOMBERG TRADEBOOK' and 'TRADEBOOK' in 1996.

The Complainant has also provided a list of about eight cases decided in its favour by international as well as Indian arbitration panels involving the word BLOOMBERG. Accordingly the Complainant states that it has rights in accordance with paragraph 4(i) of the policy.

(B) NO RIGHT OR LEGITIMATE INTEREST IN DISPUTED DOMAIN NAME (PARA 4(ii) OF INDRP): -

The Respondent's name is Ye Genrong and hence he is not commonly known by a name or carrying a business under name corresponding to the disputed domain name. He does not appear to be dealing with the products and services offered under the Bloomberg / Bloomberg Tradebook marks in any manner. The Complainant has never granted license or otherwise authorized the Respondent to use the distinctive mark BLOOMBERG TRADEBOOK or to register the disputed domain name. The Respondent does not appear to have registered or applied for registration of bloomberg tradebook as a trademark. The disputed domain does not support a legitimate website of Respondent. The website address www.bloombergtradebook.in directs internet users to a parking page which contains pay-per-click advertisements and highly misleading links.

(C) REGISTRATION AND USE IN BAD FAITH (PARA 4(iii) OF INDRP: -

Due to the global presence and in particular in China also, of the Complainant, and also due to the websites like www.bloomberg.cn, www.bloomberg.com/asia, and www.bloomberg.com, the Respondent cannot be said to be unaware of the Bloomberg / Bloomberg Tradebook brand name at the time of obtaining the disputed domain name. The Respondent was also served a notice of Complainant's trademark rights when the Complainant approached him for transfer of the domain making him aware of the legitimate rights or interests of the Complainant in the disputed domain name.

The Respondent is not using the disputed domain name for any apparent fair and legitimate purpose, but has already put the domain on sale. Non-use and passive holding are evidence of bad faith registration. The Respondent has acquired several domain names most of which contain well known trademarks and trade names. The Complainant has attached reverse Whois record at Exhibit N for this purpose.

When the Complainant notified the Respondent of its exclusive and absolute rights in the BLOOMBERG / BLOOMBERG TRADEBOOK marks and asked for transfer of the disputed domain name in its favour, the Respondent demanded USD 5000 to sell the disputed domain to the Complainant. The disputed domain name is being used to direct visitors to a parking page which contains pay-per-click advertisements and misleading links associated with the services and products of the Complainant under its Bloomberg marks. The Respondent is guilty of wilful misrepresentation and providing incorrect information to the Registry at the time of registration of domain name since he is duty bound to represent that to the Respondent's knowledge the registration of the domain name will not infringe upon or otherwise violate the rights of any third party.

(D) REMEDIES SOUGHT BY THE COMPLAINANT: -

On the above background of the Complaint and reasons described therein the Complainant has requested for transfer of the disputed domain name to it with costs.

VI] RESPONDENT'S DEFENSE: -

The Respondent has failed / neglected to file any reply, say, statement in response to the Complaint or Notice of Arbitration, even within the period extended suo-motu by this panel.

VII] REJOINDERS OF THE PARTIES: -

In view of non-filing of any say / reply by the Respondent, no rejoinder was called for.

VIII] EVIDENCE RELIED UPON: -

This panel has placed reliance upon the following evidences / details thereof, submitted by the Complainant: -

1. List of trademarks registered in various countries in the name of the Complainant

2. Copies of trademarks registered in India and in other countries in the name of the Complainant
2. List of domain names registered in the name of the Complainant
3. Screenshot of official BLOOMBERG website
4. Ye Genrong's Reverse Whois record
5. Copies of the emails dated 27 September 2016, 28 September 2016 and 22 January 2018, exchanged between the Complainant and Respondent
6. List of Well Known Marks in India from the website of Indian Trade Marks Registry
7. List at Point No.3, on Page No.6 of the Complaint, containing the already decided disputes in favour of the Complainant, concerning the trademark BLOOMBERG by UDRP and INDRP
8. List of several domain names acquired by the Respondent involving well known trademarks and trade names at Point No.4 on page No.8 of the Complaint

VIII] DISCUSSION: -

The Complainant has brought out his case in the dispute by way of contents of the Complaint and annexures attached to it. This panel has noticed following important aspects and facts pertaining to the dispute under arbitration proceedings: -

1. The Respondent has registered disputed domain name on September 17, 2016 while the Complainant has trademarks, including BLOOMBERG TRADEBOOK, registered in India way back in 1996 with continuous use of the same, i.e. about twenty years prior to the Respondent's registering disputed domain name.

The Complainant having his business spread over 176 locations across the world and several websites already in use by it, it cannot be believed that the Respondent was not aware of the Complainant's registered trade marks and rights in it, much less of its global standing, reputation and goodwill built over several years.

2. The Complainant has trademarks registered in several countries, including in India. It has also various domain names which include the term 'BLOOMBERG' as integral part of it.

Looking at the long standing of the Complainant, its reputation, goodwill and also registered domain names, it is beyond doubt that the Respondent has attempted to encash on the same by registering disputed domain name.

3. The Complainant has furnished a list of domain disputes containing the word BLOOMBERG and decided in its favour at Point No.3, Page No.6 of the Complaint, which are decided by UDRP as well as INDRP arbitration panels. This clearly establishes its legitimate rights and interests in the word BLOOMBERG.

As against it, the Respondent has not proved any trademark containing the word BLOOMBERG or legitimate right or interest in it.

4. The disputed domain name is being used as parking page where links to products and services are provided to earn on the basis of pay-per-click.

This establishes not only the bad faith in registering the disputed domain name by the Respondent, but also a planned activity of the Respondent to earn by using the reputation and goodwill of the Complainant.

This act of mala fide registration of disputed domain name also leads to attracting the internet users and creating a misunderstanding or likely confusion in their minds about ownership and / or association of the Complainant with the Respondent. Since the disputed domain name is also advertised for sale, it would lead to diminishing goodwill or reputation of the Complainant in the business world, which is a serious damage to it.

5. The Respondent, upon receipt of the notice of cease and desist issued by the Complainant, has offered to sell the disputed domain name at US \$ 5000, which is much in excess than the actual registration costs.

Thus it is proved by the Complainant that the Respondent intends to sell the disputed domain name, in which he does not hold any legitimate right or interest and earn / profit from it illegally and immorally. This is a clear cut case of, knowingly registering disputed domain name in bad faith.

6. The Respondent is not known by the word Bloomberg or any resembling word to it. Nor is he authorised to use it by the Complainant.

Accordingly the Respondent does not have any right to register or use the disputed domain name.

7. The Respondent resides in China. He has registered the disputed domain name with the suffix ccTLD **.in in India**. It is not being used for any legitimate business purpose.

This establishes the mala fide intention of the Respondent in registering the disputed domain name.

8. According to the information, based on reverse Whois record also provided at Exhibit N, furnished at point No.4 on page No.8 of the Complaint, it is observed that the Respondent has registered several domain names involving well known trademarks and trade names of many reputed companies / organizations world over.

This act itself proves that the Respondent has made it a regular business of registering domain names involving the names, trade names and trademarks of companies and organizations of global reputation, for the purpose of illegally profiteering based on pay-per-click and ultimately by selling it for exorbitant prices. It reveals that the Respondent is a habitual cybersquatter and is involved in several such instances. Such a person cannot come clean to seek justice.

9. The Respondent / Respondent has not filed any reply / say, to the Complaint or to the Notice of Arbitration, even within extended period. Had it been the case that he

holds trademark or any legitimate right or interest in the word BLOOMBERG, he would have come forward to defend the case.

None of the emails sent to the Respondent to his registered email id has bounced back. In other words he has received complaint, notice of arbitration and subsequent correspondence pertaining to the present dispute. However he has kept quiet and not responded to any of it. His silence amounts to acceptance of all the contentions, facts and records produced by the Complainant before this arbitration panel.

10. The disputed domain name contains the registered trade mark BLOOMBERG in its entirety. It is widely established that mere suffix like ccTLD *.in* does not distinguish the disputed domain name from the registered trademark.

The Respondent is accordingly barred from claiming any right or interest in the disputed domain name merely on this ground.

11. The Respondent has neither been authorized nor licensed, to use this word by the Complainant, who is the registered owner of the trademark.

Thus registration and use of the disputed domain name by the Respondent, is illegal and unauthorised.

12. It is the duty cast by INDRP read with INDRP Rules, on every person aspiring to register any domain name: -

(i) to verify whether any similar domain name exists, before registration of proposed domain name,

(ii) whether any registered trademark exists similar to the proposed domain name,

(iii) whether said domain name or registered trademark, has been in prior use by others

It is mandatory to represent that proposed registration of the domain name would not infringe other rights or interests, especially of the owners of registered trade marks and trade names. If he fails or neglects to check on above points, he is registering domain name with the risks of infringing other's rights, interests and claims. Further in case of proved infringement, his domain name is liable to be transferred to legitimate owner / stakeholder.

In the present dispute the Respondent has ventured to take all those risks knowingly and in a planned manner to earn illegally by trading on the reputation and goodwill of the Complainant. It also establishes that he has furnished false representation of 'not infringing others rights or interests' at the time of registering disputed domain name.

IX] FINDINGS & DISCUSSION

On the basis of the averments in the Complaint, citations, documentary evidence and other substantiating points, this Arbitration Panel has come to the following conclusions: -

a. that the registered domain name is identical or confusingly similar to a name, trademark in which the Complainant has legitimate rights and interests.

The Complainant has placed reliance on the decided case ITC Limited v Travel India, Case No. INDRP/065, wherein it has been held that if a well known trademark is incorporated in its entirety, it is sufficient to establish that the domain name is identical or confusingly similar to Complainant's registered mark. This panel finds that the registered trademark BLOOMBERG TRADEBOOK is adopted in its entirety in the disputed domain name and hence holds that the disputed domain name is identical to a registered trademark of the Complainant.

b. that the Respondent has no rights or legitimate interests in respect of the domain name.

The Complainant has cited the decided case Chanel Inc. v Cologne Zone, WIPO Decision D2000-1809, wherein it has been held that 'bona fide use does not exist when the intended use is a deliberate infringement of another's rights'. All the facts that the Respondent does not have registered trademark involving the word BLOOMBERG, he is not known by this name and that he has not been authorized to use this word for registering the disputed domain name, prove that the Respondent does not have any right or legitimate interest in the disputed domain name.

c. that the disputed domain name is registered and is being used in bad faith.

The Complainant has relied upon the decided case 'American International Group Inc. v Walter Busby d/b/a/ AIG Mergers and Acquisitions' decided by National Arbitration Forum Claim No. FA0304000156251. The disputed domain name resolves into a parking page providing links to products and services which are not of the Respondent. He uses these links for earning by pay-per-click method. He has offered to sell the disputed domain name for US \$ 5000 to the Complainant. Even otherwise the disputed domain name is for sale as stated on the webpage. All these facts lead to one single conclusion that the disputed domain name is registered and is being used in bad faith.

Thus the Complainant satisfies all the tests laid down in the INDRP and Rules of Procedure to establish that he has legitimate rights and interests in the disputed domain name and that the same are being violated, infringed and misused by the Respondent, who does not have any legitimate right or interest or entitlement to it.

XI AWARD: -


On the basis of above findings on issues and foregoing discussion, this panel passes the following award: -

a. The Complainant is entitled to the disputed domain name `BLOOMBERGTRADEBOOK.IN and hence the same be transferred to the Complainant.

b. The Respondent shall pay costs of these arbitration proceedings including legal expenses to the Complainant.

Date: - 11.04.2018

Place: - Pune, India


**(S.C.INAMDAR)
SOLE ARBITRATOR**