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Harini Narayanaswamy

Mrs G. VASANTHA

Stamp Vendor

No: 10, Jawaharlal Nehru Salai  
Ashok Nagar, Chennai - 600 083

L. No. 02 / 3 / 99

IN THE MATTER BETWEEN

HSBC Holdings plc

v

Hooman Esmail Zadeh , M-Commerce Ag

Case No. L-2/5/R2 -HSBC.IN

ARBITRATION AWARD

**THE PARTIES**

The Complainant is HSBC Holdings plc limited, a British company, represented here by AZB & Partners, New Delhi, India.

The Respondent is Hooman Esmail Zadeh / M- Commerce Ag, of Zurich, Switzerland.

Harini Narayanaswamy

## **THE DOMAIN NAME**

The disputed Domain Name <hsbc.in> , is registered with the .IN Registry .

## **LAW, POLICY AND RULES APPLICABLE**

This Arbitration Proceeding is conducted in accordance with the Arbitration and Conciliation Act of 1996, the .IN Domain Name Dispute Resolution Policy (the INDRP Policy"), and the INDRP Rules of Procedure (the "Rules").

## **PROCEEDURAL HISTORY**

The Complaint was filed with the .IN Registry in December 2006. The sole Arbitrator appointed in the case is Mrs. Harini Narayanswamy. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, in compliance with the Rules.

A notification of commencement of Arbitration proceedings was sent to the Respondent under Paragraph 5 (c ) of the INDRP Rules of Procedure on January 30<sup>th</sup>, 2007, by fax , post and by email. The Arbitration Proceedings accordingly commenced from this date. The Respondent was given fifteen days time to file a Response. The Respondent, by email dated February 15, 2007, requested for an extension of time to file the response. The Arbitrator granted an extension of time till February 22, 2007. The Respondent sent a response on February 22, 2007 by email without the supporting documents. The Arbitrator, grants a further ten days time for filing the documents in support. On March 5, 2007 the Respondent again made a request to the Arbitrator, for a further extension of time to file an Additional Response and the documents .On March 7' 2007 the Respondent sent the Additional Response along with documents as email attachments.

The Arbitrator proceeds under paragraph 11 of the Rules, to determine the merits of the case, based on the submissions made by the parties and the documents on record.

## **FACTUAL BACKGROUND**

### **PARTIES CONTENTIONS**

#### **Complainant**

The Complainant, HSBC Holdings plc, is a British company established in 1991 and is part of the HSBC Group. The HSBC group evolved from the Honk Kong and Shanghai Banking group, which was established in 1865. It is one of the largest banking and financial services organizations of the world and has operations in Europe, Americas, Asia Pacific region, Middle East and Africa.

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The HSBC group has a big presence in India which includes the HSBC Asset Management (India) Private Ltd, HSBC Electronic Data Processing Enterprise India, HSBC Primary Dealership (India) Pvt. Ltd, HSBC Private Equity Management (Mauritius) Limited, HSBC Professional Services (India) Pvt. Ltd., HSBC Securities and Capital Markets (India) Pvt. Ltd., HSBC Primary Dealership (India) Private Limited, HSBC Insurance Brokers India, HSBC Software Development India.

The Complainant claims that it is recognized as one of India's leading private banks. The Complainant further claims that members of the HSBC group have a pronounced position, fame and good will internationally, for over 175 years, for its quality services. The Complainant's various businesses include personal financial services, commercial banking, corporate investment banking, asset management, audit services, insurance broking, investment banking, primary dealership and private equity.

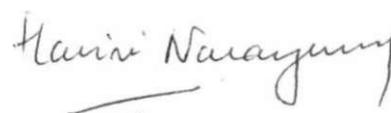
The Complainant states that its group has about 9500 offices worldwide, employing approximately 284,000 employees in 76 countries and has more than 125 million customers and an e-customer base of over 25 million. The Complainant is listed in stock exchanges in London, Hong Kong, New York, Paris and Bermuda. The shares are held by around 200, 000 shareholders in approximately 100 countries.

The Complainant states that it uses advanced information technology, with an annual spending of US \$ 4.4 billion. The HSBC Group e-business channels include the internet, PC banking and telephone banking via both fixed and mobile phones. It is estimated that the customer's of the Complainant have conducted approximately 183 million transactions online.

The trademark HSBC was first adopted by the Hong Kong and Shanghai Banking Corporation Limited, Hong Kong in the year 1994. The Complainant states its group undertook an exercise to uniformly use the trademark HSBC in relation to all its group companies in the year 1999. The Complainant and members of its group are the owners of the HSBC trademark across the world for the following among other "HSBC Trademarks". HSBC , India trademark No. 648158 and 1236603 in class 36, HSBC , HSBC PREMIER and HSBC REPUBLIC, HSBC AMANAH in Singapore, trademark numbers T3640946TZ, T9907968G, T0213246D, T02013301 in class 36 respectively ; INVESTDIRECT HSBC and HSBC INVESTDIRECT in Canada bearing numbers TMA 617366 and TMA 5556903 respectively; and HSBC PREMIER , bearing number 2732468 in class 36 in USA. The Complainant has furnished copies of the documents of these trademark registrations or applications in the respective countries as evidence.

The Complainant states that its trademark has been extensively used in India and all over the world in connection with financial services, which it also provides via the internet to its several thousand customers worldwide, who associate the mark with the Complainant and members of its group. The Complainant states that the members of its group are also owners of several domain names incorporating the HSBC mark, and has provided a list of such domain names.

In India, the Complainant claims, it is a leading provider of financial services to small medium sized and middle market enterprises as well as retail customers. It claims to have over 43,000 customers in India, including sole proprietors, partnerships, clubs and associations, incorporated businesses and publicly quoted companies.



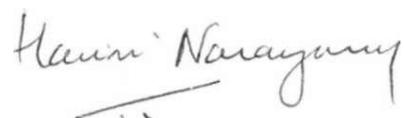
The Complainant provides its customers the option of internet and phone banking for which it invests vast amounts in developing technology to provide services to customers worldwide. HSBC Software, which is the Global Technology Center (GLT) was established in April 2002 to develop technology solutions for the HSBC Group's global operations. HSBC Software is based in India and allegedly employs over 2,200 software professionals. HSBC Software, according to the Complainant is CMMi Level 5 certified and caters to the group's information technology requirements worldwide through the development, maintenance and support of diverse banking applications.

The Complainant's commercial banking business has about forty five branches covering twenty four key cities in India. The Complainant also claims to have one of the largest equity funds in India and has won several awards. The Complainant claims that the HSBC trademark is internationally well known and prominent among the leading financial services providers. Its trademark is displayed in prominent manner on the material in connection with promotion and services provided by the Complainant.

The Complainant claims that its services bearing the HSBC Trademarks are of a superior quality and are well known for the same. The Complainant has filed photographs of the display of HSBC trademarks by the branches and offices as well as samples of other corporate material bearing the HSBC Trademarks. Other evidence filed by the Complainant include advertisements and promotional material, which shows extensive use of the HSBC mark. The Complainant submits that the HSBC trademarks are also considered to be a leading brand for the services it provides and are well known to the public at large due to the extensive use and excessive sales. The Complainant states that the revenue indicated from sales turnover using the trademark for the year 2005, was US \$57,637 million and for the year 2004 it was US \$ 51,353 million, and has filed its annual reports for this period to support these assertions.

The Complaint further adds that, it has incurred substantial expenditure on advertising and promoting its services bearing the trademark. Its advertisements have appeared in all leading print media. Some of the daily newspapers, which carry these advertisements, are the Times of India, Hindustan Times, Telegraph and Economic Times. The Complainant also claims that it advertises its services under the HSBC Trademark on outdoor hoardings in prominent locations in various metropolitan cities in India such as Delhi, Mumbai, Chennai, Bangalore and Hyderabad and also in seventy six other countries and territories around the world including United Kingdom, France, United States and Hong Kong. The HSBC trademark is also advertised through the electronic and audio visual media such as television, radio and Internet. Internationally, the Complainant states that the approximate annual advertising and promotional expenses was to the tune of US \$ 630 million for the year 2004-05, and it was approximately US\$ 784 million for the year 2005-06.

The Complainant states that it has extensively used its HSBC trademarks by itself and through other members of the HSBC group world wide. The Complainant submits that through its long, open, continuous and extensive use, the HSBC trademarks are associated with the Complainant and its group of companies and the high quality of services provided by them under the HSBC trademarks. The Complainant submits that the HSBC trademarks have acquired tremendous recognition and good will over the past several decades since the first use of the HSBC Trademark.



The Complainant submits that due to continuous extensive use and publicity over a long period of time, the HSBC trademarks are well-known all over India and across the world. The Complainant adds that the HSBC mark is well known, and the use of a similar mark by anyone else, is likely to be taken as a indication of a connection or association with the Complainant, or as originating from the Complainant.

Having regard to the wide reputation acquired by the Complainant in its well known trademark, the use or registration of a domain name which incorporates the Complainant's HSBC Trademark by anyone else would likely cause deception and confusion in the minds of the public in the course of trade. This is particularly in view of the Complainant providing its services through the internet to millions of customers worldwide through its several websites.

The Complainant submits that when the Respondent adopted the said domain name www.hsbc.in , it was aware of the Complainant's well known mark. The adoption of the domain name by the Respondent was therefore mischievous and bad in law since the domain name is identical to the trademark HSBC which is the most significant of all the HSBC trademarks. The use of the trademark by the Respondent in such a manner, according to the Complainant, indicates that the Respondent intends to attract Internet users to the Respondent's website or other online location by creating a likelihood of confusion with the Complainant's well known HSBC Trademark. In doing so the Respondent would be creating confusion for internet users as to the source, affiliation sponsorship or endorsement of the Respondent's website.

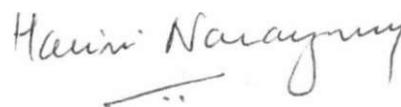
The Complainant further submits that as the disputed domain name registered by the Respondent is not in use it has been registered in bad faith. The Complainant further submits that the domain name registered by the Respondents amounts to an infringement of the HSBC trademark and that such registration amounts to cyber squatting

The Complainant submits that the domain name conflicts with the Complainant's legitimate rights and interests since the same is identical to its registered mark. The Respondent has no rights or legitimate interests in respect of the domain Name.

The Complainant further states that the domain name has been registered in Bad Faith. Non use of the domain name indicates that the Respondent 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 is the legitimate owner of the trademark, or to a competitor of the Complainant for valuable consideration in excess of the Respondent's documented out of pocket costs directly related to the domain name.

The Complainant additionally claims that the non use of the domain name by the Respondent could signify that the domain name was registered in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the Respondents have engaged in a pattern of such conduct The Complainant has furnished a screen shot of the website to demonstrate the non use of the domain name. The Complainant requests for the transfer of the domain name.

## **Respondent**



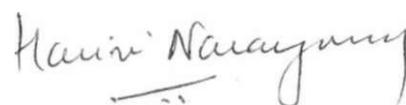
The Respondent has filed its response in two parts. In the first part, the Respondents states that it is not clear as to what claims are being made by the Complainant. The Respondent then states that it disagrees with the Complainant's contentions, that the HSBC name is being used by the Respondent for banking related purposes. The Respondent further states that it has no intention of using the name in relation the Complainant and denies that the domain name is confusingly similar to the Complainant's trademark HSBC.

The Respondent avers that its version of HSBC stands for Hindustan Swiss Business Consulting, which it claims, has been responsible for development of various software products in the past few years, for shared India based outsourcing environment [sic] primarily for five firms. The five firms listed are: Swiss Technologies Group (Schweiz) Ltd. Switzerland, Swiss Forex AG Switzerland, Israel and New York, Swiss Commerce Corp., New York, M-Commerce Ltd, Zurich and New York, Swiss Capital, Switzerland and UK. The Respondent further states in parentheses, that a list of the software developed and the IT services given by HS Business Consulting, for each of the entities will be provided on request.

The Respondent further claims that, it is presently in the process of promoting and making available HS Business Consulting, to the general public for offshore IT outsourcing. The Respondent states that the website is being currently developed with marketing material, sales material and other related steps. It further goes on to state, that no trademark registration has been filed, as it is too early in stage, and that a trademark is not required to secure a domain name. The Respondent further, provides a web link, to "a sneak preview" of its web site development. This, according to the Respondent, is proof that it is in the process of launching HS Business Consulting to the public by fall 2007. No reasonable explanation has however been provided by the Respondent as to why there was a delay of nearly two years from the date of domain name registration to the date of proposed launch of the alleged business website.

The Respondent further states, that "during the design process, we made sure that we had a unique approach, to prevent any confusion with the following websites that share the same initials HSBC, even tough they do not share i) the full business name ii) the same nature of business as ours in any way ii) geographical locations in most cases". These websites, according to the Respondent are the Hong Kong and Shanghai Banking Corporation, The World Health Organization's survey of Health Behavior in School Age Children, HSBC Arena, Home of the national hockey League's Buffalo sabers, Hobo Sound Bible College, and Hunter Street Baptist Church. According to the Respondent this list represents a fraction of other businesses and organizations that share the same four initials as HSBC Holdings Plc.

The Respondent further adds that, it has been approached by buyers who were interested in purchasing the domain name and had refused to sell the domain name to these parties. The Respondent states that in some instances it has "offered the buyer an extreme dollar amount just to stop them from emailing". The Respondent states the domain name was "secured for its active use in association with the IT outsourcing service in India". The Respondent further states that if it had intended to generate income from this domain name in bad faith, it could have placed sponsored links similar to Google advertisements. It claims that since the launch of its website was planned only in fall 2007, it could have used the domain name to generate income, particularly due to the amount of traffic the domain name has presently generated, but did not do so.



The Respondent states that it has provided correct and full contact information in the Whois records. The Respondent offers to provide a list of its IT staff located in several locations in India and the service fee payments to India for IT related work of HS Business Consulting, and adds, only if it is absolutely necessary.

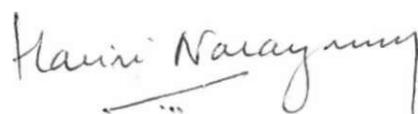
The Respondent argues that thousands of businesses world wide would have the same initials HSBC or the initials HSB, while even more would have the initials HS and therefore it would be "absurd" to think that the Complainant bank or its group should have priority to this domain name. The Respondent then mentions "Nissan and other cases", however no reference or citation of these cases have been provided by the Respondent. Neither has the full case name or the jurisdiction been stated by the Respondent, to determine whether it is relevant to the present case.

The Respondent's next contention is that, had it registered domain names such as HSBCBank.in or HSBC Holding.in Complainant would have a valid claim. The Respondent asserts that it conducts business in IT services, which is relevant to the country India, therefore its name is more relevant than the name Hong Kong and Shanghai Banking Corporation. The Respondent further clarifies, that the reason for this assertion, is that IT Services in India are among the fastest growing sectors.

The next argument put forth by the Respondent is that the Complainant being the holder of HSBC.com name does not give the Complainant rights to collect all other domain extensions, where it has business whether active or inactive. According to the Respondent, this was not the purpose of having different domain extensions on the World Wide Web, and states "it will be unfair and disturbing to all future cases, which are of same nature as this case".

According to the Respondent, HSBC Consulting is "indented" [sic] for a shared Indian based IT outsourcing contact point, to serve primarily, but not limited to the firms Swiss Forex AG, Swiss Technologies Group (Schweiz) Ltd., M-Commerce AG, Swiss Capital and their clients with Swiss Commerce being the primary contact for all administrative, recruitment, financial and technology related issues outside of India. The Respondent adds, that the idea of shared IT in India has been around and active for several years, the marketing aspect, incorporation and official use is being developed with plans for launch in fall 2007. The names which were intended to be used by the Respondent came up in 2005, which according to the Respondent, were either Hindustan Swiss Business Consulting or Swiss Hindustan Business Consulting .The Respondent then states that due to the long name it decided to use only the initials HSBC instead of the full name, just like Hong Kong Shanghai Bank uses HSBC or the bank Credit Suisse uses CS.

The Respondent states that it has provided the job description and resumes received. However it has only furnished snapshot of a list incoming emails. There is no indication from this snapshot whether these emails are for the alleged Hindustan Swiss Business Consulting. The Respondent states that it has shared IT staff in India. With whom the staff is shared and why it has shared staff is also not mentioned clearly. According to the Respondent communications are between the developers in India and the Swiss firm, Swiss Commerce which is the primary contact for the project management. The Respondent has provided snapshot of payments via an internet site Xoom.com, which are allegedly the payments made for IT related work. There is no indication from these snapshots what the purpose for these



amounts or transactions are meant for and whether it pertains to the entity called Hindustan Swiss Business Consulting, as there are no other supporting documents provided by the Respondent to verify these statements made in the Response.

The Respondent also mentions the names of twelve Indian people, which it claims are its shared IT staff in India. It has provided snapshots of Skype online instant messages and email messages between some people and Swiss Commerce where several portions are blacked out. The name Hindustan Swiss Business Corporation does not figure in any of these snapshots. The Respondent states that it has provided information of shared IT resources such as a common server installation for the Swiss firms as proof that they have been managed by the same IT department. Here again the snapshot shows no reference to the name Hindustan Swiss Business Corporation or the domain name hsbc.in.

The Respondent finally states that it is too early a stage to create a corporation just for the Hindustan Swiss Business Corporation project and in parentheses adds that it is "not a requirement to register and own a domain name" especially since most administration, funding and management have been done from Europe and U.S. The Respondent also states that it is unable to provide proof of existence of the five firms named and further states that it can be verified, as these are public records, and also adds that the documents can be sent later upon request.

In its concluding remarks, the Respondent states that, in order to gain its client confidence it is important to show their clients that the IT staff is in India and the actual work is performed in India, while the financials, security, servers and management is handled in Europe and the US. An Indian based website is therefore, important and necessary to fulfill the purpose until [sic] later this year.

## **DISCUSSION AND FINDINGS**

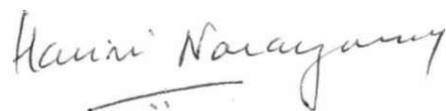
Under the .IN Policy the Registrant of the domain name is required to submit to a mandatory Arbitration proceeding in the event that a Complaint is filed in the .IN Registry, in compliance with the .IN Policy and the INDRP Rules.

Under Paragraph 4 of the .IN Policy the Complainant has to establish the following three criteria:

- (i) The 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 interests in respect of the domain name
- (iii) The Registrant's domain name has been registered or is being used in bad faith.

The Arbitrator now proceeds to find whether the Complainant has discharged the burden of proof in respect of each of the three criteria referred to in Paragraph 4 of the Policy. In the absence of evidentiary hearings the Complainant has the burden of proving a prima facie case. The following are the findings, based on all the material on record.

### **Identical or Confusing similarity**



The first criterion requires the Complainant to prove it has rights in the trademark HSBC and that the domain name is identical or confusingly similar to this mark. It has been established beyond reasonable doubt that the Complainant is the owner of the well known trademark HSBC. Ample evidence has been provided by the Complainant of its longstanding use, by both Indian and international trademark registrations, which is filed as evidence and establishes its national and international fame.

Clearly, the HSBC mark has been used extensively in commerce for a sufficient length of time and the Complainant has also established in these proceedings that it has made enormous investments to advertise the trademark in India and internationally. The Complainant has demonstrated that the HSBC trademark is a highly distinctive one, especially in banking and financial services. The fame of the mark has been recognized in many previous domain name cases such as *HSBC Holdings Plc v. domainchronicle* WIPO Case No D 2002-1173.

The Respondent has not been able to furnish documents to establish that it has rights in the HSBC mark. Neither has it been able to show any bona fide use of the mark in commerce. While the Respondent's contention is true, that a trademark is not required to register a domain name, it is well established in trademark and domain name jurisprudence, that a domain name which is found to be identical or confusingly similar to an existing trademark particularly a well known trademark is cyber squatting. When a domain name wholly incorporates a well known registered trademark, it is held to be sufficient similarly. See *Magnum Piering, Inc. v. The Mudjakers* and *Garwood S. Wilson, Sr.*, WIPO Case No. D2000 1525.

Accordingly, the disputed domain name <hsbc.in>, is found to be identical to the Complainant's trade mark. It is likely that the public and internet users, in particular, may be confused to thinking that the disputed domain name is in some way associated with the Complainant. In *Boehringer Ingelheim Pharma GmbH & Co.KG v. Philana Dhimkana*, WIPO Case No.2006 - 1594, it was held that, if a well known trademark was incorporated in its entirety, it is sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered mark.

The Complainant has successfully established that the disputed domain name is identical to the trademark in which Complainant has rights and the Complainant has proved the first criterion under paragraph 4(i) of the .IN Policy.

### **Rights or Legitimate Interests**

The Complainant has asserted that Respondent has no rights or legitimate interests to the disputed domain name for the reason that the mark HSBC is well known and widely used by the Complainant. The Respondent has not been able to file evidence to show that the domain name is being used for a bona fide offering of goods or services to establish any legitimate right in the domain name. Use of another's trademark in the domain name does not confer rights or legitimate interests in favor of the owner of the domain name. See e.g *America Online Inc., v. Xianfeng Fu* WIPO Case No.D2000-1374.

The domain name was registered on February 16, 2005 as per the .IN WHOIS search records. The transactions shown in the snapshots filed by the Respondent indicates only the name

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Swiss Commerce, the name Hindustan Swiss Business Corporation has not been used in any of the transactions. Further no explanation has been provided by the Respondent why the name of the registrant of the domain name is M-commerce and not Hindustan Swiss Business Corporation, particularly when the Respondent states that the name had been thought of in 2005 , when the domain name was registered .

The snapshots of emails and money transfers filed by the Respondent, does not show how these communications and transactions support a legitimate use of the HSBC mark. Several Portions of the snapshots of Skype online instant messages and email messages are blacked out. These snapshots do not show that the Respondent has a business organization called Hindustan Swiss Business Corporation or that it is engaged in a bona fide offering of goods and services. Although assertions are made by the Respondent that it is presently trying to promote a new venture which has not even been incorporated or formalized and to that extent, even its existence is dubious. The Respondent has not filed any proper documents such as promotional expenditure or an annual statement of accounts to show bona fide commercial activity undertaken through the use of the domain name. The unsupported arguments put forth by the Respondent are unconvincing.

The Complainant's rights in the HSBC mark predate the Respondent's registration of the domain name by more than one hundred and seventy years. This coupled with the fact that the Complainant's mark is very well known and is universally recognized, renders it doubtful for the Respondent to put forth any arguments that may establish a right or legitimate interest for the Respondent. See *General Electric Company v. LaPorte Holdings Inc.*, WIPO Case No D 2005-0076.

Based on all of the evidence in the record, and as discussed above, it is found that the second criterion under paragraph 4(i) of the .IN Policy, namely, that the Respondent has no rights or legitimate interest in the domain name has been established by the Complainant.

### **Bad Faith.**

The Complainant has to establish that the domain name was registered and used in bad faith. The .IN Policy lists the following non exhaustive circumstances that would indicate bad faith registration and use:

*"For the purposes of Paragraph 5(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*

*Havini Narayana*<sup>10</sup>

*(Hi) 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."*

The Complainant is a leading banking institution, and it is reasonable to infer that the Respondent has registered the domain name knowing that it represents a well known trademark. If the Respondent were indeed looking for a unique name, as indicated in the Response, the domain name <hsbc.in> will not be an ideal choice. Which fact also leads to the suspicion of the intentions of the Respondent in having registered such a famous mark as a domain name.

The evidence furnished by the Respondent does not give a plausible explanation as to why there was no use or the domain name for more than two years. Non use and passive holding is evidence of bad faith use. See *Bayer Aktiengesellschaft v. Henrik Monssen*, Wipo Case No! 1)2003-0275. Also' see *Telstra Corporation Limited v. Nuclear Marshmallows* WIPO Case No. D 2000-0003.

The Respondent has stated that to gain its clients' confidence, it has organized its business in such a manner that the IT staff is in India and the actual work is performed in India, while the financials, security, servers and management is handled in Europe and the US. Along similar lines of reasoning, it will not be far fetched to say, that the Respondent's clients would probably have a better impression of the Respondent if the domain name used by the Respondent is one that is not identical or infringing a well known trademark.

The Respondent is obviously aware of the commercial value of the name, and has admitted that considerable internet traffic is generated by this domain name. Clearly, by registering the domain name in this manner, the Respondent's domain name has generated internet traffic as a result of the likelihood of confusion with the (Complainant's trademark. Further by registering the domain name, the Respondent has prevented the owner of the trademark from using the mark in a corresponding domain name. These aspects indicate both bad faith" registration and bad faith use of the domain name.

- The Complainant has successfully established the third criterion under paragraph 4(i) of the .IN Policy, that the domain name was registered and used in bad faith.

### **DECISION**

In the light of all that has been discussed above, it is appropriate to order that the domain name <hsbc.in> be transferred to the Complainant.

Harini Narayanswamy  
Arbitrator  
March 24, 2007

