



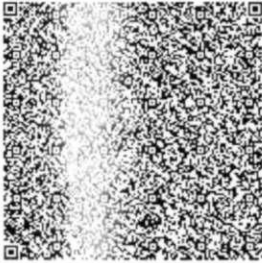
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL29098830907649L
Certificate Issued Date	: 27-Jun-2013 01:34 PM
Account Reference	: IMPACC (IV)/ dl712203/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL71220357295437658617L
Purchased by	: V K Agarwal
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: V K Agarwal
Second Party	: Not Applicable
Stamp Duty Paid By	: V K Agarwal
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line.....

NATIONAL INTERNET EXCHANGE OF INDIA
Flat No. 6 B, 6th Floor, Uppals M 6 Plaza,
6, Jasola District Centre,
NEW DELHI – 110 025

Riot Games, Inc v. Thomas Lee Trading as Hokar Group

AWARD

V K Agarwal

1. The Parties

The Complainant is Riot Games, Inc, 2450, Broadway Santa Monica, California 90404, United States of America.

The Respondent is Thomas Lee Trading as Hokar Group, Haizhu District, Guangzhou, Guandong 510288, China.

2. The Domain Name and Registrar

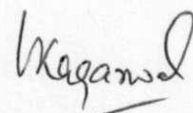
The disputed domain name is <www.riotgames.co.in>

The particulars of registration of the disputed domain name, (as per Annexure B of the Complaint) are as follows:

- | | |
|----------------------------|------------------------------------------|
| (a) Name of the Registrant | : Thomas Lee |
| (b) Domain ID | : D 6938087.AQFIN |
| (c) Created on | : 16 December 2012 |
| (d) Expiration date | : 16 December 2013 |
| (e) Registrar | : IN Registrar d.b.a.
inregistrar.com |

3. Procedural History

- (a) A Complaint dated May 13, 2013 has been filed with the National Internet Exchange of India. The Complainant has made the registrar verification in connection with the domain name at issue. It is confirmed that the Respondent is listed as the registrant and provided the contact details for the administrative, billing, and technical contact. The Exchange verified that the Complaint satisfied the formal requirements of the Indian



Domain Name Dispute Resolution Policy (INDRP) (the “Policy”) and the Rules framed thereunder.

- (b) The Exchange appointed Dr. Vinod K. Agarwal, Advocate and former Law Secretary to the Government of India as the sole arbitrator in this matter. The arbitrator finds that he was properly appointed. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Exchange.
- (c) In accordance with the Rules, the Sole Arbitrator formally notified the Respondent of the Complaint by post. The Respondent was required to submit his defence within 15 days. The Respondent was informed that if his response was not received within that period, he would be considered in default and the matter will proceed ex-parte.
- (d) No response has been received from the Respondent.

4. Factual Background

From the Complaint and the various annexure to it, the Arbitrator has found the following facts:

Complainant’s activities

In these proceedings the Complainant has its principal place of business and corporate headquarters in California, United States of America. In 2009 the Complainant released their debut titled *League of Legends*. *League of Legends* is played over 32 million plays ever

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month. The Complainant has offices at Australia, Brazil, Ireland, Korea, Russia, Turkey and United States of America. ,

Respondent's Identity and Activities

Respondent did not file any reply. Hence, the Respondent's activities are not known.

5. Parties Contentions

A. Complainant

The Complainant contends that each of the elements specified in the Policy are applicable to this dispute.

In relation to element (i), the Complainant contends that its name is RIOT GAMES Inc, The disputed domain name is www.riotgames.co.in. Thus, the disputed domain name contains the complete name of the Complainant. The addition of the words "co" or "in" is insignificant. Further that, the Complainant has registered the trademark "RIOT GAMES" much before the Respondent registered the disputed domain name <www.riotgames.co.in>.

Further that the Complainant is the registered owner of a large number of trademarks consisting of or including the words "riot games" in various countries, such as, European Community, Hong Kong, Mexico, New Zealand, Philippines, Russia, United States, World Intellectual Property Organization, etc. They are registered in various Classes including 9, 28, 39, 41, Therefore,

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the Complainant is well known to its customers as well as in business circles as RIOT GAMES. The Complainant contends that it has domain names containing its trademark "RIOT GAMES" such as <www.riotgames.com> etc.

In relation to element (ii), the Complainant contends that the Respondent (as an individual, business, or other organization) has not been commonly known by the mark "RIOT GAMES". Further, the Respondent is not making a legitimate or fair use of the said domain name for offering goods and services. The Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public.

In support of its contentions, the Complainant has relied on the decisions in the cases of *Guerlain S.A. v. PeiKang*, WIPO Case No. D2000-0055 wherein it has been held that "bad faith is found where a domain name is so obviously connected with such a well known product that its very use by someone with no connection with the product suggests opportunistic bad faith". Also *Veuve Clicquot Ponsardin v. The Polygenix Group Co.*, WIPO Case No. D2000-0163; *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. D2000-0403.

Regarding the element at (iii), the Complainant contends that the main object of registering the domain name <www.riotgames.co.in> by the Respondent is to mislead the general public and the customers of the Complainant. The Complainant has stated that the use of a domain name that appropriates a well known trademark or service mark to promote

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competing or infringing products cannot be considered a “*bona fide offering of goods and services*”.

Further that, on March 19, 2013 the Complainant received an e mail from the e mail address shawn@gehid.com offering to sell the disputed domain name. This e mail is sufficient evidence of the fact that the Respondent has registered and is using the disputed domain name in bad faith and to make profit out of the same by selling the domain name to the Complainant herein.

In support of its contentions the Complainant has relied on the decisions in the cases of *Caravan Club v. Mrgsale, NAF*, (Claim No. FA0007000095314); *CBS Broadcasting Inc., v. Worldwide Webs Inc.*, WIPO Case No. D2000-0834 wherein it has been held that “The Respondent sought to profit from the mere registration of the Complainant’s trademark and service mark as a domain name which constituted bad faith”. See also *Playboy Enterprises International, Inc. v. Hector Rodriguez*, WIPO Case No. D2000-1016; *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003.

B. Respondent

The Respondent did not submit any evidence or argument indicating his relation with the disputed domain name <www.riotgames.co.in> or any trademark right, domain name right or contractual right. Therefore, the Respondent has no legal right or interest in the disputed domain name.

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6. Discussion and Findings

The Rules instruct this arbitrator as to the principles to be used in rendering its decision. It says that, “a panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any rules and principles of law that it deems applicable”.

According to the Policy, the Complainant must prove that:

- (i) The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The Respondent has no rights or legitimate interests in respect of the domain name that is the subject of Complaint; and
- (iii) The domain name in question has been registered and is being used in bad faith and for the purposes of trafficking;

A. *Identical or Confusingly Similar*

The Complainant contends that he is the owner of the trademark RIOT GAMES for a long time and that the said trademark is registered in a number of countries.

The present dispute pertains to the domain name <www.riotgames.co.in>. The Complainant possesses other domain names, as mentioned above, with the word “RIOT GAMES”. The Complainant is also the owner of trademark “RIOT GAMES” or “riotgames.” Most of these domain names

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and the trademark have been created by the Complainant much before the date of creation of the disputed domain name by the Respondent. The disputed domain name is very much similar or identical to these domain names and the trademark of the Complainant.

Therefore, I hold that the domain name <www.riotgames.co.in> is confusingly similar to the Complainant's marks.

B. Rights or Legitimate Interests

The Respondent may demonstrate its rights to or legitimate interest in the domain name by proving any of the following circumstances:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) The Respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent's response is not available in this case. There is no evidence to suggest that the Respondent has become known by the disputed domain name anywhere in the world. Based on the evidence adduced by the Complainant, it is concluded that the

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above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

Riot Games Inc., is the name of the Complainant. The trade mark of the Complainant "RIOT GAMES" has acquired unique importance and is associated with the Complainant. A mention of the said trademark establishes an identity and connection with the Complainant. The Respondent is known by the name of Mr. Thomas Lee. It is evident that the Respondent can have no legitimate interest in the domain name. Further, the Complainant has not licensed or otherwise permitted the Respondent to use its name or trademark or to apply for or use the domain name incorporating said name. The Complainant has no relationship whatsoever with the Respondent.

The decisions relied upon by the Complainant support its contentions that the use of domain name consisting of a trademark is not a bona fide offering of goods or services and cannot confer any rights or legitimate interests upon the Respondent.

I, therefore, find that the Respondent has no rights or legitimate interests in the domain names.

C. Registered and Used in Bad Faith

Any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

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- (i) Circumstances indicating 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 owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of documented out of pocket costs directly related to the domain name; or
- (ii) The Respondent 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 it has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or location.

The contention of the Complainant is that the present case is covered by the above circumstances. There are circumstances indicating that the Respondent has intentionally attempted to attract, for commercial gain, internet users to the disputed website.

The Complainant has further contended that, through an e mail, the disputed domain name <www.riotgames.co.in> was offered for sale to the Complainant. Therefore, the purpose of registration of the disputed domain name is to make illegitimate or improper

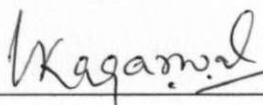
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benefit or profit out of its sale.

The foregoing circumstances lead to the presumption that the domain name in dispute was registered and used by the Respondent in bad faith. Therefore, I conclude that the domain name was registered and used by the Respondent in bad faith.

7. Decision

In the light of the foregoing findings, namely, that the domain name is confusingly similar to a mark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the domain name, and that the domain name was registered in bad faith and is being used in bad faith, in accordance with the Policy and the Rules, the Arbitrator orders that the domain name <www.riotgames.co.in> be transferred to the Complainant.



Vinod K. Agarwal

Sole Arbitrator

Date: August 9, 2013