

ADMINISTRATIVE PANEL DECISION

Infosys Limited v. Pradeep Shukla, Infosys Limited
Case No. D2022-1167

1. The Parties

The Complainant is Infosys Limited, India, represented by K&S Partners, India.

The Respondent is Pradeep Shukla, Infosys Limited, India.

2. The Domain Name and Registrar

The disputed domain name <infosysinvestment.com> is registered with Hosting Concepts B.V. d/b/a Openprovider (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2022. On April 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 5, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 5, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 8, 2022.

The Center verified that the Complaint together with the amended Complaint] satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2022.

The Center received informal communication emails from a third party associated with the email address of the Respondent (as confirmed by the Registrar) on April 5, 9, 11, 12, 13, and 30, 2022, stating that the disputed domain name was registered by a direct customer of this third party to the name of Pradeep Shukla. The informal communications contend that this third party has no connection with the Registrar-confirmed Respondent, Pradeep Shukla, since it is a hosting provider in Netherlands and his email address was used for the registration of the disputed domain name. According to the informal communications received from this third party, the Respondent appears to have instructed another third party hosting provider who has then instructed this same third party hosting provider in Netherlands to register the disputed domain name on behalf of the Respondent.

The Center appointed Shwetasree Majumder as the sole panelist in this matter on May 4, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a consulting and IT services company established in India in the year 1981. The Complainant is the registered owner, user, and proprietor of the mark INFOSYS in India as well as in several jurisdictions in the world. Indian trademark registration number 475267, dated July 15, 1987, is the Complainant's earliest registration for its mark INFOSYS. The Complainant's mark INFOSYS is listed in the Indian Trademarks Registry's list of well-known marks.

The disputed domain name <infosysinvestment.com> was registered on October 14, 2021. At the time of filing the Complaint, the disputed domain name resolved to a one-page website with the message "This site is under construction" along with the mark INFOSYS (figurative mark). This figurative mark is identical to the blue version of the Complainant's figurative mark INFOSYS under Indian registration number 637315 dated August 18, 1994.

5. Parties' Contentions

A. Complainant

The Complainant claims to be one of the biggest consulting and IT services companies established in India in 1981.

The Complainant claims to have a global footprint with subsidiaries in several countries. With operations globally, serving nearly 2,000 clients, the Complainant has offices not just in India but across the globe.

The Complainant's mark INFOSYS and several INFOSYS formative marks are registered in India as well as in other jurisdictions. The Complainant's earliest Indian registration in respect of the mark INFOSYS under number 475267 dates back to July 15, 1987. The Complainant also owns Indian registration number 637315 for figurative mark INFOSYS dated August 18, 1994. The Complainant has filed copies of Indian trademark registration certificates for its mark INFOSYS and its variants along with the Complaint as Annex J. The Complainant has registered various domain names incorporating its mark INFOSYS.

The Complainant states that its mark INFOSYS has been held as a well-known mark in India by order of the Delhi High Court in the year 2007 and is also listed in the Indian Trademarks Registry's list of well-known marks. Copy of the order and extract from the Trademarks Registry's list is submitted as Annex M.

The Complainant argues that the disputed domain name uses its mark INFOSYS in its entirety and hence is identical and confusingly similar to the Complainant's mark INFOSYS. The Complainant argues that the Respondent has no legitimate rights in the disputed domain name. According to the Complainant, the Respondent registered the disputed domain name with *mala fide* intention being fully aware of the Complainant's mark INFOSYS. Given that INFOSYS is a well-known mark, the Complainant argues that the Respondent knew or should have known of the registration and use of the Complainant's mark prior to the registration of the disputed domain name. It is the Complainant's case that the Respondent registered the disputed domain name in bad faith to ride upon the goodwill associated with the Complainant's well-known mark INFOSYS.

B. Respondent

The Respondent did not submit any official response; nor did any supposed third party beneficial holder. However, as summarized above under the Section 3. Procedural History, a third party associated with the email address of the Respondent (as confirmed by the Registrar) shared informal communication emails (not responding to the substance, but clarifying its role in registration).

6. Discussion and Findings

As per paragraph 5(f) of the Rules where a Respondent does not submit a response, in the absence of exceptional circumstances, the panel may decide the dispute based upon the Complaint. The Panel does not find any exceptional circumstances in this case preventing it from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a response. As per paragraph 14(b) of the Rules, where a party does not comply with any provision of the Rules, the panel may draw such inferences as it considers appropriate. It remains incumbent on the Complainant to make out its case in all respects under paragraph 4(a) of the Policy.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements required under by a preponderance of evidence:

- i. the disputed 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 disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant has produced trademark registration certificates in India, and other jurisdictions, in respect of the mark INFOSYS. (From perusal of Annex M, this Panel additionally notes that Complainant's mark INFOSYS is included in the list of well known marks maintained by the Indian Trademarks Registry.) The disputed domain name incorporates the Complainant's mark INFOSYS in its entirety, together with the term "investment". Referring to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, this Panel notes that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element. In the present case, the Complainant's mark INFOSYS is clearly recognizable in the disputed domain name and therefore the addition the term "investment" does not prevent a finding of confusing similarity. (See *F. Hoffmann-La Roche AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org / Conan Corrigan*, WIPO Case No. [D2015-2316](#)).

The generic Top-Level-Domain (“gTLD”) “.com” is generally disregarded for the purposes of comparison under this element.

In view of the above-mentioned findings, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s mark INFOSYS and that the requirement of paragraph 4(a)(i) of the Policy stands satisfied.

B. Rights or Legitimate Interests

The consensus view with regards to the second element under paragraph 4(a) of the Policy requires the Complainant to establish on a *prima facie* basis that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant has already submitted evidence that it holds exclusive rights in the trademark INFOSYS by virtue of statutory registrations (declared famous by a competent court) and by common law use, which rights have accrued in the Complainant’s favour. Furthermore, the use of the disputed domain name to resolve to a website displaying the Complainant’s figurative mark INFOSYS is neither a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use in the present circumstances.

The view of previous UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy has been summarized in section 2.1 of the [WIPO Overview 3.0](#), which states: “While the overall burden of proof in UDRP proceedings is on the complainant, [...] where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating its rights or legitimate interest in the domain name”.

The Respondent has failed to file a response to rebut the Complainant’s *prima facie* case or to advance any claim as to rights or legitimate interests in the disputed domain name (particularly, in accordance with paragraph 4(c) of the Policy). Accordingly, the Panel finds the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

In order to prevail, the Complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith according to paragraph 4(a)(iii) of the Policy. Bad faith is understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark (see section 3.1 of the [WIPO Overview 3.0](#)).

As set out in the [WIPO Overview 3.0](#), section 3.1.4, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Here, there is no doubt that the Complainant’s mark INFOSYS is a recognised and popular mark, in particular in India where the Parties are located. In fact, in a lawsuit filed by the Complainant regarding its trademark rights in INFOSYS, the Delhi High Court in the year 2007 held INFOSYS as a well-known mark. Hence, the Panel is satisfied that the Respondent, who is residing in India as disclosed by the Registrar, knew, or in any event ought to have known, of the mark’s existence.

The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith.

Absent any formal response from the Respondent, little is known about the Respondent. The Respondent has not availed himself of the opportunity to present any case of good faith that it might have had, and, in view of the circumstances, the Panel cannot conceive of any. The Panel finds that, on the balance of probabilities, the Respondent’s conduct in registering and using the disputed domain name constitutes opportunistic bad faith under the Policy.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) of Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <infosysinvestment.com> be transferred to the Complainant.

/Shwetasree Majumder/

Shwetasree Majumder

Sole Panelist

Date: May 23, 2022