



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1500753
Complainant:	JASPER INFOTECH PRIVATE LIMITED
Respondent:	RAVIKUMAR SOMENENI
Disputed Domain Name(s):	<snapdeal.delivery>

1. The Parties and Contested Domain Name

The Complainant is JASPER INFOTECH PRIVATE LIMITED, of No.246, First Floor, Okhla Industrial Area Phase-III, New Delhi, INDIA.

The Respondent is RAVIKUMAR SOMENENI of Nellore-524305, Andhra Pradesh, INDIA.

The domain name at issue is <snapdeal.delivery>, registered by Respondent with 1 & 1 Internet, Inc., of C/o.Legal Compliance, 701, Lee Road, Suite 300, Chesterbrook, PA 19087.

2. Procedural History

April 25, 2015 Pursuant to the Internet Corporation For Assigned Names and Numbers (ICANN) Uniform Domain Name Policy (“**the Policy**”), the Rules of Uniform Domain Name Dispute Resolution Policy (“**the Rules**”) and the Asian Domain Name Dispute Resolution Centre Supplementary Rules to the ICANN Uniform Domain Name Dispute Resolution Policy and the Rules For the Uniform Domain Name Dispute Resolution Policy (“**the Supplemental Rules**”), the Complainant filed a Complaint in the English language with the Hong Kong Office of the Asian Domain Dispute Resolution Centre (“**ADNDRC-HK**”) and elected to have the case in question be dealt with by a single member panel.

- April 28, 2015 The ADNDRC-HK transmitted by email to the Registrar a request for Registrar verification in connection with the Disputed Domain Name.
- April 28, 2015 The Registrar transmitted by email to the ADNDRC-HK its verification.
- May 13, 2015 The ADNDRC-HK sent a Written Notice of Complaint (“the Notice”) to the Respondent, providing 20 days time to the Respondent to submit a Response (i.e. on or before June 02, 2015).
- May 18, 2015 The Respondent submitted his written response to the complaint.
- May 19, 2015 The ADNDRC-HK sent an email to DHANDAPANI SARAVANAN enquiring from him whether he could act as Panelist and if so, whether he could act independently and impartially in the matter in question.
- May 19, 2015 DHANDAPANI SARAVANAN made a declaration in writing that he was willing to act and if appointed would act independently and impartially.
- May 20, 2015 The ADNDRC-HK notified the parties that DHANDAPANI SARAVANAN had been appointed as a sole panelist.

3. Factual background

The Complainant owns and operates the online market place through their website www.snapdeal.com which was launched in February, 2010. www.snapdeal.com has grown to be India’s largest e-commerce marketplace and is a platform that facilitates online sale and purchase of products which are offered by third sellers who are registered on www.snapdeal.com. In addition to online market place services, Complainant also facilitates the shipment and delivery of the products purchased through www.snapdeal.com through its own & third party courier services. The Complainant became aware that the Respondent had unfairly registered the domain <www.snapdeal.delivery>. The Registrant has no right or legitimate interest in respect of the disputed domain name and has registered in bad faith for the sole purpose of selling.

The Respondent purchased <[snapdeal.delivery](http://www.snapdeal.delivery)> domain at 1and1.com for a price on March 21, 2015 and hence he has right over the same and also to sell the domain.

4. Parties' Contentions

A. Complainant

i) Jasper Infotech Pvt. Ltd. ("Complainant") owns and operates the online market place website www.snapdeal.com. Launched in February 2010, Snapdeal.com has grown to be India's largest e-commerce marketplace and is a platform that facilitates online sale and purchase of products which are offered by third sellers who are registered on Snapdeal.com. In addition to online market place services, Complainant also facilitates the shipment and delivery of the products purchased through Snapdeal.com through its own & third party courier services. (Web Page of Complainant website - Snapdeal.com is attached as Annex 1).

ii) Complainant's website – Snapdeal.com is extensively promoted and advertised through both visual and print media the world over. Complainant has also received numerous national and international recognitions in the form of award, news & media coverage. Snapdeal.com has a network of more than 100,000 sellers and has over 20 million members (which is 1 out of every 6 internet users in the country) and caters to the shopping needs of customers across 4000+ towns and cities. (The news reports featuring the Complainant's website are attached as Annex 2).

iii) Complainant is the registered proprietor of the trade mark "Snapdeal" in India in class 39 in respect of transport, packaging & storage of goods and travel arrangement. The Complainant had conceived, coined and adopted the distinctive trademark "Snapdeal" in the year 2010 for its services. Its trademark "Snapdeal" is a coined word and not a dictionary word and therefore it is entitled to protection of the trademark. Furthermore, 9 (nine) trade mark application filed by the Complainant seeking registration of the mark – 'Snapdeal' are currently pending before the Trade Mark Registry, Delhi, India. The Complainant has been continuously using the mark 'Snapdeal' since at least 2010. (The Copy of the Complainant's trade mark certificate for the mark – Snapdeal is attached as Annex 3).

iv) The Complainant further submits that it has spent huge amounts as promotional expenditure to promote the Snapdeal mark through extensive publicity and advertisements. It is submitted that due to the widespread use and publicity of the trademark, the public associates the trademark Snapdeal with it. The trademark Snapdeal has become a household word and has acquired the status of a well-known trademark. The Complainant also owns several domain names, which contain the trademark Snapdeal with or without addition of other word or words. (List of domains owned by the Complainant containing the mark – snapdeal is attached as Annex 4).

v) It is further submitted that owing to the honest, transparent and consumer friendly business practices adopted by the Complainant, it has on numerous occasions been conferred by award and recognitions. An illustrative list of the same is enumerated herein under: a) eRetailer of the Year & Best Advertising campaign of the year - Indian eRetail awards 2012 organized by Franchise India in Feb,2012. b) eRetailer of the Year & Best Advertising campaign of the year - Indian eRetail awards 2012 organized by Franchise India in Feb,2012. c) Winner of Red Herring Asia Awards 2011. d) E-commerce site of the year at WAT awards that took place in Jan 2012, Mumbai. e) Hottest Internet Companies of the year at the premier edition of the Young Turks Awards organized by Mercedes Benz and CNBC-TV 18 in New Delhi - Jan,2012. f) Rated the #1 e-commerce site in India, in terms of traction by Dataquest/Sapient E-commerce Survey 2011. g) Voted amongst the Buziestbrands of India in afaqs annual buzz-making poll. h) Rated the Cheapest Online Mobile Store for November 2013, in a study conducted by Zoutons.com. i) Silver for the Best Website – Service, at the Indian Digital Media Awards 2011, organized by the Exchange 4 Mediagroup - June 2011. j) Dataquest IT Person award for the 2014 – awarded to KunalBahl, CEO of the Complainant Company k) KunalBahl, CEO of the Complainant Company – name listed as one of Fortune Magazine’s 40 powerful people’s list under 40. Due to the extensive use of the trade mark –“Snapdeal” by the Complainant, the mark has acquired tremendous goodwill and reputation amongst the trade and public at large. (News report regarding the awards won by the Complainant in respect of Snapdeal.com is attached as Annex 5).

vi) Recently, the Complainant became aware that Mr. Ravi Kumar Someneni a resident of India (“Registrant”) had unfairly registered the domain – www.snapdeal.delivery. When the Complainant requested the Registrant to transfer the disputed domain name -www.snapdeal.delivery to the Complainant as the Complainant is owner of the trademark – Snapdeal (in India), the Registrant with complete malafide refused to transfer the domain and demanded a payment of \$ 10,000 to affect such transfer. (Copy of the WHOISreport of the disputed domain – www.snapdeal.delivery is attached as Annex 6).

vii) When the Complainant refused to pay such exorbitant and unreasonable amount to the Registrant, the Registrant demanded a payment of \$9500 in exchange for making such transfer. Furthermore, the Registrar further threatened the Complainant that in the event such payment was not, the Registrant would sell the domain – “www.snapdeal.delivery” to some other third party. (Copy of the emails exchanged between the Complainant and Registrant is attached as Annex 7).

viii) The Registrant has no right or legitimate interest in respect of the disputed domain name –“www.snapdeal.delivery” or in the mark/domain “Snapdeal” *per se*. The domain name – www.snapdeal.delivery has been registered in bad faith by the

Registrant. It is evident that the Registrant, being an Indian national is well aware of the Complainant and its well-recognized and well-known mark and domain– Snapdeal.com. It is apparent that the Registrant has registered the disputed domain name - www.snapdeal.delivery for the sole purpose of selling, renting or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark – Snapdeal or to a competitor of the Complainant for valuable consideration and the same is not permissible as per ICANN dispute resolution policy. The Complainant fears that the Registrant will use the disputed domain and derive undue pecuniary benefit from its mark/ name –Snapdeal as the Registrant's Domain Name is "identical" to a Complainant's trade mark and domain as Registrant's domain fully incorporates said mark. (Copy of the webpage of the disputed domain –www.snapdeal.delivery is attached as Annex 8).

ix) It is submitted that the Registrant does not have any justifiable reason for registering a domain which adopts and an identical trade mark which is owned by the Complainant. It is submitted that the users seeing the disputed domain name - www.snapdeal.delivery are likely to believe that the said domain name is that of the Complainant and are likely to visit the web site hoping to find information about the Complainant's company and services/products. The Complainant apprehends that the Registrant will disrupt its business and derive undue pecuniary benefit from its goodwill and reputation in the "Snapdeal" mark by diverting internet traffic to its website.

x) Moreover, the unwary Internet users can be easily misled into thinking that the disputed domain -www.snapdeal.delivery is directly or indirectly sponsored or affiliated or endorsed by the Complainant. The Complainant is exposed to the risk that the Registrant can at any time sell or transfer the said domain to a third party. The Complainant has not granted the Registrant permission or a license of any kind to use its trademark Snapdeal and register the disputed domain name. Such unauthorized registration and use of the trademark Snapdeal by the Registrant suggests opportunistic bad faith. The Registrant's true purpose in registering and using the disputed domain name which incorporates the well-known trademark Snapdeal is to capitalize on the reputation of the trademark Snapdeal.

B. Respondent

The Respondent purchased <snapdeal.delivery> at 1and1.com and immediately after making the payment he received the confirmation on 21st March, 2015. As per ICANN, if there any trademark for the company, firstly, 1and1.com should not even allow him to purchase the domain. The Respondent made the payment and own the rights of snapdeal.delivery domain. Like any other domain owner, the Respondent has right to sell his domain to any other 3rd party. Since snapdeal.delivery is more relevant to snapdeal.com, the Respondent had sent an email asking as if there is any interest in

purchasing the same. However, to the Respondent's surprise the Complainant were asking and threatening him to transfer the domain to them at free of cost. The Respondent states that he has purchased the domain legally and he not done anything wrong. The Respondent asked for \$10,000 for transferring the domain and demanding price could not be called as 'threaten'. The Respondents states that he had purchased the domain without any prior notice or acknowledgement about the snapdeal trademark. Hence, the Respondents has 100% rights on the disputed domain and he could sell it to anyone.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a) of the Policy, that each of three elements must be proved in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

(i) Paragraph 4(a)(i) of the Policy requires the Complainant to prove that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights. The Complainant has proved by documentary evidence under Annexure '3' that they are the registered owner of trademark i.e., SNAPDEAL on 7th April, 2011. That apart, the Complainant themselves own several domain names which contain the trademark 'snapdeal' with or without addition of the other word or words as evidenced under Annexure '4'. At this juncture, the Respondent seems to have purchased the disputed domain name in reference on 21st March, 2015.

(ii) As noted, the Disputed domain Name <snapdeal.delivery>, composes of "SNAPDEAL" and ".DELIVERY". "SNAPDEAL" is not only identical to the registered trademark of the Complainant but also the same is identical to the Complainant's previously registered domain names. ".delivery" is a new generic code top-level domain name (New gTLD) suffix. It is non-distinctive and is incapable of differentiating the Disputed Domain Name from the Complainant's registered trademark and domain names.

(iii) Based on the “SNAPDEAL” being a registered trademark and domain names of the Complainant, the Panel finds that the Disputed Domain Name is identical or confusingly similar to the Complainant’s registered trademark and domain names.

(iv) Accordingly, the Panel is satisfied that the Complainant has complied with Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

(i) The fact that the Complainant’s adoption and first use of the registered trademark predates (i.e., since 2010) the Respondent’s Disputed Domain Name has the practical effect of shifting the burden of proof to the Respondent in establishing that the Respondent has legitimate rights and/or interests in the Disputed Domain Name.

(ii) It is the specific case of the Respondent that he had purchased the disputed domain name from 1and1.com for a price who would not have allowed him to do so if there was any trademark for the Complainant, as per ICANN; such purchase was without any prior notice or acknowledgment about the snapdeal trademark; hence, he has every right over the domain so as to sell the same. The Respondent has not cited any specific Rules of ICANN in support of his contention. In the absence of any material or substantive evidence, the Panel is unable to countenance the contention of the Respondent. In fact, it is the responsibility of the domain name Registrants to investigate as to whether the domain name that they select or its use infringes legal rights of others. It is also not in dispute that the <snapdeal.com> is India’s largest e-commerce market place. The Respondent is also an Indian national. Hence, the contention of the Respondent is that he had purchased the domain name without any prior notice is illogical. That apart, there is absolutely no dispute over the trademark registration and previous very many domain name registrations by the Complainant which contain the trademark ‘snapdeal’ with or without addition of the other word/s. The Complainant has established a definite case of lack of rights and legitimate interest. Based on the record, the Respondent does not have rights or legitimate interests in the disputed domain name as the Respondent’s current use is neither an example of a bona fide offering of goods or services nor is there any legitimate non-commercial or fair use of the disputed domain name and as such there is no evidence that paragraphs 4(c)(i) or 4(c)(iii) of the Policy apply.

(iii) Accordingly, the Panel is satisfied that the Complainant has complied with Paragraph 4(a)(ii) of the Policy.

C) Bad Faith

I (i) Paragraph 4(b) of the Policy provides that:

“For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of a such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competition; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Interest users to you web site 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 your web site or location or of a product or service on you web site or location”.

(ii) On the information and the materials available before the Panel, the Respondent has been desiring to sell the domain name for a fancy price to the Complainant itself or else to the 3rd parties. Hence, the Panel finds that the Respondent registered and used the Disputed Domain Name in bad faith.

II. In reaching this conclusion, the Panel takes into account of a number of facts into consideration:

1. The Respondent has no rights or legitimate interests in the disputed domain Name, which is in itself evidence of bad faith.

2. The disputed Domain Name does not reflect or correspond to the Respondent’s own name.

3. In light of the fame of the “SNAPDEAL” trademark, and the fact that the word “SNAPDEAL” has no common or dictionary meaning in any language independent of the Complainant’s “SNAPDEAL” trademark, makes it inconceivable that the Respondent was not aware of the Complainant’s “SNAPDEAL” trademark when it acquired the Disputed Domain Name.

4. It is well established that the Respondent’s registration and use of the Disputed Domain Name must involve *malafides* where the registration and use of it was and continues to be made in the full knowledge of the Complainant’s prior rights in the “SNAPDEAL” trademark, and in circumstances where the Respondent did not seek permission from the Complainant, as the owner of the trademark, for such registration and use.

5. The Panel agrees that due to the fact that (i) the Disputed domain Name is identical to the Complainant’s “SNAPDEAL” trademark; (ii) the Respondent’s name does not correspond to the Disputed Domain Name; and (iii) the Respondent must have been aware of the Complainant and its “SNAPDEAL” trademark when it registered the Disputed Domain Name, it is lawful to hold that the Disputed Domain Name was registered and is being used to mislead and confuse users into believing that the Disputed Domain Name is associated with the Complainant and its “SNAPDEAL” trademark, in order to increase the number of users that access the Disputed Domain Name, for commercial gain.

6. The Respondent also registered the Disputed Domain Name for the purposes of selling the Disputed Domain Name for profit.

7. Accordingly, the Panel is satisfied that the Complainant has complied with Paragraph 4(a)(iii) of the Policy.

6. Decision

For the foregoing reasons, the Panel is satisfied that the Complainant has sufficiently proved the existence of all three elements pursuant to paragraph 4(a) of the Policy. In accordance with Paragraph 4(a) of the Policy and Paragraph 15 of the Rules, the Panel orders that the Disputed Domain Name <snapdeal.delivery> be transferred to Complainant.

DHANDAPANI SARAVANAN
Panelist
Dated: May 22, 2015