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RANJAN NARULA

ARBITRATOR

Appointed by the .In Registry - National Internet Exchange of India

In the matter of:

Broadcom Corporation
5300 California Avenue,
Irvine, California - 92617
U.S.A

.....Complainant

Rainer Lowack
13 112 ZC RD,
Hongkong City
Ballymoney BT53
Great Britain

.....Respondent

Disputed Domain Name: www.broadcom.in

AWARD

1) The Parties:

The Complainant in this arbitration proceeding is **Broadcom Corporation** of 5300 California Avenue, Irvine, California - 92617, USA. The Complainant is represented by its authorized representatives Mr. Rahul Chaudhry of Lall Lahiri and Salhotra, LLS house, Plot no. B-28, Sector-32 (Institutional Area) Gurgaon - 122001, India who have submitted the present Complaint.

The Respondent in this arbitration proceeding is **Rainer Lowack** of 13 112 ZC RD, Hongkong City, Ballymoney BT53, Great Britain as per the details available in the whois database maintained by National Internet Exchange of India (NIXI).

2) The Domain Name, Registrar & Registrant:

The disputed domain name is www.broadcom.in. The Registrar is Dynadot LLC

3) Procedural History:

This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28th June, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

As per the information received from NIXI, the history of the proceedings is as follows.

In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed Ranjan Narula as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.

The complaint was produced before the Arbitrator on April 04, 2012 and the notice was issued to the Respondent on April 09, 2012 at his email address with a deadline of 10 days to submit his reply to the arbitration. The Respondent did not submit any response. On April 27, 2012 the Arbitrator granted further opportunity to the Respondent to submit its response on or before May 07, 2012. However, no response was submitted by the Respondent within the stipulated time of thereafter. In the



circumstances the complaint is being decided based on materials submitted by the Complainant and contentions put forth by them.

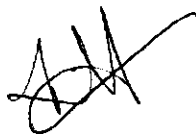
Grounds for administrative proceedings:

- A. The disputed domain name is identical with or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- B. The Respondent has no rights or legitimate interests in respect of the impugned domain name;
- C. The impugned domain name was registered and is being used in bad faith.

4) Summary of the Complainant's contentions:

The Complainant in support of its case has made the following submissions

- a) The complainant, Broadcom Corporation, is the registered proprietor of the trademark BROADCOM and is a corporation organized and existing under the laws of the State of California, United States of America of the address 5300 California Avenue, Irvine, California 92617, United States of America.
- b) The Complainant (NASDAQ: BRCM), a fortune 500 company, is a global leader and innovator in the field of wired and wireless communications with offices and design centers worldwide including in Bangalore, India and throughout Asia and the Middle East. Complainant is one of the world's largest semiconductor companies, placing among Gartner's Top 10 semiconductor companies by revenue worldwide.
- c) The Complainant is one of the several companies contributing to the infrastructure of communications and network devices that have brought high-speed Internet and other services to mobile devices, homes and offices. The Complainant specializes in designing high-speed integrated circuits (ICs), or chips, that are used in applications such as cable TV set-top boxes, cable modems, local area network (LAN) cards, laptop and desk top computers, digital televisions, routers, networking equipment, global positioning equipment and cellular phones (e.g., the Apple iPhone). The Complainant's products enable the delivery of voice, video, data and multimedia to and throughout the home, the office and the mobile environment.
- d) The Complainant also provides key technology and products in emerging broadband markets such as fixed wireless, direct broadcast satellite, cable modems, digital set-boxes, residential broadband gateways, high-speed home networking and fast Ethernet networking, and provides technology and terrestrial digital broadcast.
- e) The Complainant is number one among fables semiconductor companies in innovation, and holds over 6,000 U.S patents and 2,550 foreign patents, more than 7,350 additional pending patent applications, and one of the broadest intellectual property portfolios in the world addressing both wired and wireless transmission of voice, video, data and multimedia.



- f) The Complainant is the prior adopter and user of the trademark BROADCOM, which was coined by Complainant. The first use of the said mark can be traced to the year 1994. Since the first adoption of the mark, the same has been extensively and continuously used the world over and has come to be associated with the Complainant and its goods/services exclusively. The Complainant is also the registered proprietor of the mark BROADCOM in various jurisdictions around the world, including but not limited to Argentina, Australia, Bangladesh, Canada, China, India, the European Union, and the United States. Details of a few of these registrations have been filed with the complaint as **Annexure A**.
- g) The Complainant is well-known around the world by the name of BROADCOM and substantial revenue has been generated by the Complainant under the said name. People associate the 'BROADCOM' mark and name exclusively with the business of the Complainant. Copies of a sampling of articles, advertisements, brochures published and circulated in different countries including India discussing the popularity and recognition of the BROADCOM trademark have been filed with the complaint marked as "**Annexure B**". Annual revenue figures of the Complainant for the period 2001-2011 has been provided below -

Year	Revenue (in USD)
2001	961.8 million
2002	1.08 billion
2003	1.61 billion
2004	2.40 billion
2005	2.67 billion
2006	3.67 billion
2007	3.78 billion
2008	4.66 billion
2009	4.49 billion
2010	6.82 billion
2011	7.39 billion

The above mentioned figures have been taken from the books and records maintained by Broadcom Corporation in the ordinary course of business.

- h) The Complainant is the registered proprietor of the mark BROADCOM in class 09. Details of the trademark registrations in the name of the Complainant in India are given below:

Reg. no.	Class	Trademark	Reg.date
877840	09	BROADCOM	September 22, 1999

Goods: Computer hardware; integrated circuits; and software for controlling and using integrated circuits.

Reg. no.	Class	Trademark	Reg.date
855367	09	BROADCOM	May 7, 1999

Goods: Computer hardware; integrated circuits; and software for controlling and using integrated circuits.

A schedule of the registrations mentioned above along with copies of registration certificates have been filed as **Annexure C**.

- i) The Complainant's website www.broadcom.com was created on May 9, 1994 and is equally popular among the viewers all over the world including India. According to the details of traffic rankings available on the website www.alexa.com, the viewers of the website www.broadcom.com come from various countries including but not limited to India, United States, Germany, China, Taiwan, Indonesia, Pakistan, Spain and Canada. The trademark BROADCOM has also been used extensively over the internet to identify the Complainant and to associate the said mark exclusively with the Complainant. Relevant information pertaining to the Complainant and its well known brand is readily available on the website www.broadcom.com. The Complainant has also registered various domain names for and containing the mark BROADCOM, an exemplary listing of which is below:

S.no	Domain Name	Registrant	Date of registration
1	Broadcom.com	Broadcom Corporation	09-May-1994
2	broadcom.com.sg	Broadcom Singapore Pte Ltd.	18-Feb-1999
3	Broadcom.net	Broadcom Corporation	04-Dec-1999
4	Broadcom.ca	Broadcom Canada Ltd.	01-Feb-2001
5	Broadcom.info	Broadcom Corporation	10-Aug-2001
6	Broadcom.us	Broadcom Corporation	19-Apr-2002
7	Broadcom.cn	Broadcom Corporation	17-Mar-2003
8	Broadcom.ru	Broadcom Corporation	15-Oct-2004
9	Digitalbroadcom.co.in	Broadcom Corporation	13-Aug-2005
10	Broadcom.eu	Broadcom Corporation	08-Jul-2006
11	Broadcom.com.hk	Broadcom Singapore Pte Ltd.	22-Feb-2007
12	Broadcom.hk	Broadcom Singapore Pte Ltd.	07-Mar-2007
13	Broadcom.co.in	Broadcom Corporation	24-Jun-2007
14	Broadcom.com.tw	Broadcom	23-Aug-2007

		Corporation	
15	Broadcom.tw	Broadcom Corporation	23-Aug-2007
16	Broadcom.asia	Broadcom Corporation	07-Jan-2008

j) The trademark, corporate name and ant domain name with the word BROADCOM is associated exclusively with the Complainant, for all of which, the mark forms the forepart and most distinguishing feature of the name. The Complainant has spent a considerable amount of money promoting BROADCOM brand worldwide. By virtue of its continued use since the year 1994, the Complainant has acquired a substantial reputation and goodwill in the BROADCOM brand and earned huge revenues.

k) That recently, the Complainant became aware of the website www.broadcom.in. A printout of the whois status of the said website is annexed hereto as Annexure D. The said website appears to be a parking page following a "pay-per-click" format and listing various websites under titles such as "Mobile video optimization", "Samsung dual sim", "AirMagnet wi-fi analyzer", "kindle store" and others, which continue to change periodically. Print-outs of the said website are annexed hereto as **Annexure E**. It is clear that the website is attempting to create confusion in the minds of consumers by associating itself with the Complainant and thereby generating revenue by directing the said users, to other websites and other businesses providing other goods and services, including competing, identical and highly-related goods and services.

5) **Respondent**

The Respondent has not filed any response to the Complaint though they were given an opportunity to do so. Thus the complaint had to be decided based on submissions on record and analyzing whether the Complainant has satisfied the conditions laid down in paragraph 3 of the policy.

6) **Discussion and Findings:**

The submissions and documents provided by Complainant in support of use and registration of the mark 'BROADCOM' leads to the conclusion that the Complainant has superior and prior rights in the mark BROADCOM. Thus it can be said a) the web users associate the word Broadcom with the goods and services of the Complainant b) the web users would reasonably expect to find Complainant's products and services at the www.broadcom.in and c) they may believe it is an official website of the Complainant and the services being offered/ advertised are associated or licensed by the Complainant.

Based on the elaborate submission and documents, I'm satisfied that the Complainant has established the three conditions as per paragraph 4 of the policy which are listed below. Further the Respondent has not contested the claims therefore deemed to have admitted the contentions of the complainant.



- (1) the Respondent's domain name is identical or confusingly similar to the trademark in which he has rights;

It has been established by the Complainant that it has trademark rights, and rights on account of prior and longstanding use of the mark 'BROADCOM'. The Complainant has in support submitted substantial documents. The disputed domain name contains or is identical to Complainant's 'BROADCOM' trademark in its entirety. The mark is being used by the Complainant to identify its business. The mark has been highly publicized by the Complainant and has earned a considerable reputation in the market.

- (2) the Respondent has no rights or legitimate interests in respect of the domain name;

The Complainant has not authorised the Respondent to register or use the 'BROADCOM' trademark. Further, the Respondent has never used the disputed domain name for legitimate business services and their purpose for registration appears to be diverting internet traffic.

The Respondent has not rebutted the contentions of the Complainant and has not produced any documents or submissions to show his interest in protecting his own right and interest in the domain name. Further, the Respondent has not used the domain name or a name corresponding to the disputed domain name in connection with a bonafide offer of goods or services. Further, the Respondent is not commonly known by the disputed domain name and has not made any legitimate non-commercial or fair use of the disputed domain name.

The above leads to the conclusion that Respondent has no right or legitimate interest in respect of the disputed domain name 'broadcom.in'

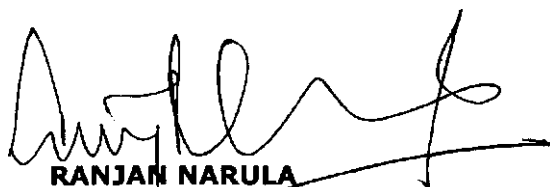
- (3) the domain name has been registered in bad faith.

It may be mentioned that since the Respondent did not file any response and rebut the contentions of the Complainant, it is deemed to have admitted the contentions contained in the Complaint. As, the Respondent has not established its legitimate rights or interests in the domain name, an adverse inference as to their adoption of domain name has to be drawn.

Based on the documents filed by the Complainant, it can be concluded that the domain name/mark 'BROADCOM' is identified with the Complainant's products, therefore its adoption by the Respondent shows 'opportunistic bad faith'.



In view of the foregoing, I am convinced that the Respondent's registration and use of the domain name www.broadcom.in is in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name. In accordance with the Policy and Rules, the arbitrator directs that the disputed domain name www.broadcom.in be transferred from the Respondent to the Complainant.



RANJAN NARULA
SOLE ARBITRATOR
NIXI
INDIA

21 May, 2012