



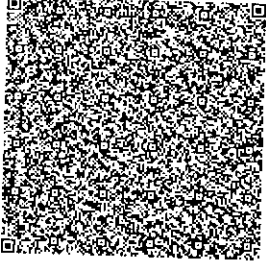
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL646223262931910
Certificate Issued Date	: 29-Jun-2016 11:03 AM
Account Reference	: IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP17286416952965380
Purchased by	: AMARJIT SINGH ADVOCATE
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: AMARJIT SINGH ADVOCATE
Second Party	: Not Applicable
Stamp Duty Paid By	: AMARJIT SINGH ADVOCATE
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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

Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

ARBITRATION AWARD
.IN REGISTRY - NATIONAL INTERNET EXCHANGE
OF INDIA
.IN domain Name Dispute Resolution Policy
INDRP Rules of Procedure

IN THE MATTER OF:

Quixey, Inc. 3250, Ash Street, Palo Alto
 California - 94306, U.S.A.

Now at:

Quixey, Inc. 303, Bryant Street
 Mountain View California - 94041, U.S.A.

....Complainant

VERSUS

Alex Wang
 995, Shangchuan Road, Pudong
 Shanghai- 210016, China

E-mail: HiMeMe@foxmail.com

Phone: +8602186868888

....Respondent



1. The Parties:

The complainant is Quixey, Inc. 3250, Ash Street,
Palo Alto

California – 94306, U.S.A.

Now at:

Quixey, Inc. 303, Bryant Street

Mountain View California - 94041, U.S.A.

The Respondent is Alex Wang 995, Shangchuan
Road, Pudong Shanghai- 210016, China.

2. The Domain Name and Registrar:

The disputed domain name Quixey.in is registered
with Webiq Domains Solutions Pvt. Ltd.

3. Procedural History

The Complaint was filed with the .In Registry,
National Exchange of India (NIXI) against Alex Wang
OF 995, Shangchuan Road, Pudong, Shanghai,
China 210016. The NIXI verified that the Complaint
together with the annexures to the Complaint
satisfied the formal requirements of the .in Domain
Name Dispute Resolution Policy (“The Policy”) and
the Rules of Procedure (“The Rules”).

- 3.1 The Panel submitted the Statement of Acceptance
and Declaration of Impartiality and Independence,
as required by NIXI to ensure compliance with the
Rules (paragraph-6).
- 3.2 In accordance with the Rules, Paragraph-2(a) and
4(a), NIXI formally notified the Respondent of the

Complaint, and appointed me as a Sole Arbitrator for adjudicating upon the dispute in accordance with The Arbitration and Conciliation Act, 1996, Rules framed thereunder, .in Dispute Resolution Policy and Rules framed thereunder and the parties were notified about the appointment of Arbitrator on 26th April, 2016.

3.3 In response to the notification for the commencement of arbitration proceedings, the Complainant was directed to forward a soft copy of the complaint as well as all the annexures to the Respondents registered email id within two days with a copy to the Centre and the panel on 28th April,2016. The consignment of complaint and documents annexed thereto could not be delivered to the Respondent due to “incomplete information” and therefore the Arbitrator wrote to the Complainant on 3rd May 2016 informing them about the same. In accordance with the rules, paragraph 5(c), the Respondent was notified about the commencement of arbitration proceedings and the due date for filing his response within ten days by e-mail dated 4th may 2016.

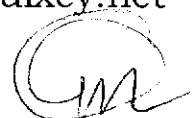
3.4 The Respondent, while acknowledging the receipt of E-mail dated 4th May,2016, submitted that he had received an incorrect complaint. The complainant was directed to forward a copy of the complaint pertaining to this matter along with annexures to the Respondent and the same was done under the cover of the complainant’s attorneys email dated 4th May, 2016.



- 3.5 The response was filed by the Respondent by his e-mail dated May 6, 2016 and copy thereof was forwarded to the Complainant with liberty to file rejoinder, if any, within ten days by any e-mail dated 7th May, 2016. The Complaint filed rejoinder on 17th May 2016.
- 3.6 Copies of all communication, documents and replies were forwarded to the parties and .IN Registry through E-mails for maintaining transparency in the proceedings.
- 3.7 The Panel considers that according to Paragraph-9 of the Rules, the language of the proceedings should be in English.
- 3.8 In the facts and circumstances, in-person hearing was not considered necessary for deciding the complaint and consequently, on the basis of the statements and documents submitted on record, the present award is passed.
- 3.9 The present award is passed within the period of 90 days from the date of commencement of Arbitration proceedings as per Paragraph-5 of the rules.

4 **Factual Background**

The present Complaint is based on, and is filed on account of, the unauthorized and illegal registration and use of the Complainant's registered trademark QUIXEY & registered domain names such as 'Quixey.com', 'Quixey.net' and



'Quixey.org' etc. as part of the Respondent's impugned domain name.

4.1 The Complainant 'Quixey, Inc' is a mobile technology company providing the world's leading mobile brands with its product 'Deep View Cards' connecting users to the functionality of applications and dramatically shortening users' time-to-action with easy access and engagement with the content.

4.2 The Complainant is one of the leading companies in the web/mobile applications sector providing search services *via* its online search application *viz.* 'QUIXEY'. The 'QUIXEY' service is available through the Complainant's website www.quixey.com since May, 2011 and was subsequently also released as a mobile application on October 23, 2013. The Complainant is also engaged in providing search solutions for third parties such as YunOS through a partnership with the famous online B2B portal www.alibaba.com allowing YunOS users to find applications based on what they want to do rather than through keywords. The Complainant has worked with business customers such as Sprint, Ask.com as well as with browser makers and Original Equipment Manufacturers (OEMs) by licensing its technology to power their applications/search engines.

4.3 The Complainant, during the year 2014, acquired a Bengaluru based start-up i.e. Dextra (a Company founded in 2010, engaged in the business of providing mobile applications). Currently, the Complainant has around 15 developers in



Bengaluru. The Complainant is also the creator of "Launch by Quixey", an application for the android operating system being developed and marketed in India which provides for management of contacts and applications on mobile devices, search capabilities and offering easy access to content within mobile applications. The application was publicly released on October 27, 2015 targeting the Indian market and has already been downloaded by over 100,000 users.

- 4.4 The Complainant uses its well-known trade/service mark/name QUIXEY upon and in relation to its business which is its extremely valued intellectual property. The trade/service mark/name QUIXEY also forms an integral part of the corporate name of the Complainant and serves as its principal trade/service mark and domain name. The Complainant's trade/service mark/name QUIXEY is subject of around 62 trade/service mark registrations/applications in about 30 countries worldwide.
- 4.5 The Complainant registered various domain names with QUIXEY as a leading part thereof and the earliest domain name(s) QUIXEY.COM was registered on 16.09.2009, QUIXEY.TV and QUIXEY.NET were registered on 28th March, 2011, domain names QUIXEY.CO, QUIXEY.INFO, QUIXEY.ME, QUIXEY.ORG, QUIXEY.US were registered on 29th March, 2011.
- 4.6 The earlier application for registration of trademark was filed by the complainant no 28.11.2011 in



United States. The Complainant hold registration for the trade/service mark QUIXEY in India under no. 2338074 dated May 25, 2012 in respect of the services falling in class 38.

- 4.7 The Complainant has registered numerous top level domain names (TLDs) such as 'Quixey.com', 'Quixey.net' and 'Quixey.org' etc. in addition to country level domain names (ccTLDs) such as 'Quixey.ag', 'Quixey.us' etc.
- 4.8 The Complainant became aware of a domain name Quixey.in being registered in the name of the respondent Mr. Alex Wang. The Complainant was also learnt that the said domain was also parked for sale by the Respondent without using or making any *bona fide* use of the same. The said domain name Quixey.in was registered on August 29, 2011, i.e. a day after the public announcement of complainant's series C financing. The Complainant through its representative Mr. Andrew Naylor addressed an email dated March 11, 2015 to the Respondent requesting him to intimate the expected price for the sale of the said domain. In response thereto, the Respondent offered to sell the said domain for USD 99,000.

5 Parties Contentions

A. Complainant:

- 5.A.1 The complainant claims that it was founded in the year 2009 and registered the domain name 'quixey.com' as far back as September 16, 2009 (Annexure F). Further the Complainant claims registration of many other domain names such as 'quixey.tv', 'quixey.net' on 28.03.2011 and quixey.co,



quixey.info, quixey.me, quixey.org, quixey.us on 29.03.2011 which were registered by the complainant much prior in point of time as compared to the registration of impugned domain on 29.08.2011.

5.A.2 The complainant claims to be one of the leading companies in the web/mobile applications sector providing search services *via* its online search application *viz.* 'QUIXEY'. The 'QUIXEY' service is available through the Complainant's website www.quixey.com since May, 2011 and was subsequently also released as a mobile application on October 23, 2013. In addition to the above, the Complainant is also engaged in providing search solutions for third parties such as YunOS through a partnership with the famous online B2B portal www.alibaba.com allowing YunOS users to find applications based on what they want to do rather than through keywords. The Complainant has worked with business customers such as Sprint, Ask.com as well as with browser makers and Original Equipment Manufacturers (OEMs) by licensing its technology to power their applications/search engines.

5.A.3 The Complainant's trade/service mark/name QUIXEY is subject of around 62 trade/service mark registrations/applications in about 30 countries worldwide. The Complainant's earliest registration in India for the trade/service mark QUIXEY dates back to the year 2012.



5.A.4 The Complainant has invested years of time, capital, efforts and resources in advertising and promoting its products under the trade/service mark/name QUIXEY across the globe through all forms of media in various countries of the world. The Complainant has also featured in a wide variety of press releases and coverage by the press. The press releases and coverage have left an indelible impression in the minds of the public that the mark/name QUIXEY is exclusively associated with the Complainant and none other. Owing to the excellent quality of the Complainant's services under the trade/service mark/name QUIXEY, the same commands tremendous popularity and has been used extensively the world over. The Complainant's current venture capital funding is approximately USD \$130M which clearly establishes the reputation and goodwill of its trade/service mark/name QUIXEY.

5.A.5 The Complainant has annexed a Chart having detail of Registration of Trade Mark "QUIXEY" word/device in various part of the world. The Complainant has also annexed the Registration of Trade Mark "QUIXEY" in India. The Trade Mark "QUIXEY" is registered in the name of Complainant under nos. 2338074 in class 38 in India.

5.A.6 The Complainant submits that the Respondent has no right or legitimate interest in respect of the domain name Quixey.in. The complainant also submits that the Registrant is a habitual cybersquatter and has been the subject of other



INDRP decisions including proceedings pertaining to the domains 'Udacity.in' as well as 'Udacity.co.in' (Case Nos. 717 and 718). The Registrant had registered the domain names 'Udacity.in' and 'Udacity.co.in' and complaints were instituted by 'Udacity, Inc', owner of the trade mark 'UDACITY' wherein Awards were passed directing the aforesaid domains to be transferred to the Complainant.

5.A.7 The Complainant further submits that a reverse WHOIS lookup identifies 562 domain names currently registered in connection with the Registrant's email address viz. 'foodgaga@gmail.com'. Out of the said 562 domains, 560 are .IN domain names. The complainant submits that that no website is active under the domain name in question and the same reveals a few sponsored listings including advertisement for sale of the said domain.

5.A.8 The Complainant submits that the Registrant of the domain name 'Quixey.in' has no affiliation with the Complainant and the impugned Domain name is being used illegally and dishonestly to derive unjust pecuniary gains.

B. Respondent

5.B.1 The Respondent filed his reply by his E-mail dated 6th May, 2016. The Respondent did not file any formal parawise reply to complaint.



5.B.2 The Respondent contends that the word "Quixey" is originally made by the Respondent, the Respondent registered it for one project. The Respondent further contends –"The Complainant registered the trademark later than the Respondent, and it is not a well-known trade mark, and it did not have a certain reputation in India or start its service in India or start an office in India or make some advertising in India, Almost no one knew the Complainant at the time before the disputed domain was registered."

5.B.3 The Respondent contends that before the disputed domain name was registered, the complainant neither provided any evidence of setup of an office in India nor provide evidence of its advertising in India nor registered trade/service mark in India or other countries including USA.

5.B.4 The Respondent contends that the evidences submitted by the complainant and the registration of domain name(s), did not indicate that the word "quixey" was associated with the complainant in India or other countries except USA before 29.08.2011.

5.B.5 The Respondent contends that the complainant registered the trademark later than the respondent and it is not a well-known trademark and the complainant has no exclusive right in India or any other countries. The Respondent also contends that the complainant has no reputation and goodwill in India and does not provide any service in India.



5.B.6 The Respondent contends that at the time of registration of domain name Quixey.in, there was no trademark issue and information about the word Quixey in the world including the WIPO and INDIA and any other places. The domain name trade is common in the world and though the Respondent prepared the domain name for a project, however, the respondent was willing to sell the domain name if he received a good offer for the same. The Respondent is a startup and develop the service for the people. The Respondent did not contact the Complainant to sell the domain via mail or other method.

5.B.7 The Respondent also contends that "The Complainant use little media report and other social media info to prove that the mark and service is well-known in the year of 2011.

C. REJOINDER

5C.1 The Complainant contends that the Respondent has miserably failed to disclose any plausible defence in its favour in the entire Reply.

5C.2 The Complainant further contends that the Respondent has not come with clean hands and has concocted a false and frivolous story.

5C.3 The Complainant state that the disputed domain name, quixey.in, is identical to Complainant's trade/service mark/name QUIXEY in which the Complainant has rights



since the year 2009 and even the domain 'quixey.com' is registered in favour of the Complainant since 16th September, 2009. The disputed domain name contains the trade/service mark QUIXEY in entirety and accordingly, use of the disputed domain name is likely to mislead consumers into believing 'quixey.in' is affiliated with the Complainant or that the Complainant has licensed the trade/service mark QUIXEY to Registrant or has authorized registration of the disputed domain name.

5C.4 The Complainant also stated that the Registrant has not filed even a shred of evidence to show any rights in the impugned domain name 'quixey.in' as there can be no such rights subsisting in its favour.

5C.5 The Complainant also stated that the Reply of the Respondent is baseless and does not deal with the case set up in the Complaint. It is irrelevant that -the Complainant's trade/service mark QUIXEY proceeded to registration after the malafide registration of the impugned domain name by the Respondent. The Complainant denies that it had not advertised the trade/service mark/name QUIXEY worldwide or in India, prior to the registration of the impugned domain name by the Respondent. The Complainant reiterates that it was founded in the year 2009 and registered the domain 'quixey.com' as far back as September 16,



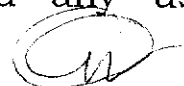
2009. Further, there are many other domains listed in Annexure F of the Complaint which were registered by the Complainant much prior in point of time as compared to the impugned domain. The Complainant submits that it has, since its formation, advertised and promoted the trade/service mark/name QUIXEY extensively and it is evident that a secondary meaning stands attached thereto and any use of the same and/or variations thereof is bound to be identified with the Complainant alone. The impugned domain was registered much later i.e. on August 29, 2011. Given that India is a common law jurisdiction where prior use of a mark takes precedence, the Complainant has unambiguous prior proprietary rights in the trade/service mark QUIXEY. In any event, apart from the mala fide registration of the objectionable domain name, the Respondent has failed miserably to demonstrate any rights whatsoever in respect of the trade/service mark QUIXEY. It is submitted that the use of a mark is of utmost importance and admittedly there is ample evidence in favour of the Complainant's prior use worldwide. It is submitted that the press releases and other media coverage featuring the Complainant's trade/service mark/name were publicised on the internet which can be accessed from any part of the world including India. It is submitted that it is irrelevant whether the Complainant provided services in India or had an office in India prior to the registration of the impugned domain



name. The mere fact that the Complainant advertised and promoted itself since the year 2009 globally is sufficient to establish its prior adoption and use of the trade/service mark/name QUIXEY and the consequent rights therein.

5C.6 The Registrant's domain name is identical and subsequent to Complainant's mark and the registration of the domain name impinges upon the Complainant's prior rights in the trade/service mark QUIXEY. On account of several registrations for the mark QUIXEY worldwide and in India and use thereof since the year 2009, including registration of the domain 'quixey.com' in the same year, the Complainant's mark QUIXEY has garnered substantial goodwill and reputation and use of the disputed domain name is likely to mislead consumers into believing that the domain name 'quixey.in' is affiliated with the Complainant or that the Complainant has licensed the trade/service mark/name QUIXEY to the Respondent or has authorized registration of the said domain name.

5C.7 The Complainant also stated that The Respondent, in his Reply, has failed to furnish any explanations for adoption/registration of the domain 'quixey.in'. The Respondent has failed to display any use or intention to use the disputed domain name. In fact, despite registering the domain in the year 2011, the Respondent has not commenced any use



thereof nor is offering any goods/services using the disputed domain name to date. In fact, the Respondent has stated in his Response that the word QUIXEY is originally made by the Respondent, and that it registered the same for one project. However, no explanation or evidence has been put forth by the Respondent in this regard. It is pertinent to note that at the time of filing of the Complaint, the website under objectionable domain 'quixey.in' was listed for sale and, therefore, the Respondent's assertion that the impugned domain was registered by him for his project is false and baseless. The Complainant further submitted that the website under the objectionable name continues to be available for sale. The latest printout of the impugned website has been filed on record. The Registrant has failed to produce any evidence to show that it has any rights or interest in the purported domain name beyond purely commercial interest in diverting legitimate customers from the Complainant's website.

5C.8 The Complainant also stated that the Respondent has completely disregarded the Complainant's prior rights, vesting in the trade/service mark/name QUIXEY. The Respondent has attempted to justify the adoption/use of the word QUIXEY by concocting a story that it registered it for a project. It is clear that the Respondent has simply lifted the Complainant's prior trade/service mark/name and registered the



same as a domain name thereby, having no rights/interests vesting in the same. Since the Complainant has been using the trade/service mark/name QUIXEY since the year 2009 including the domain quixey.com and the Registrant registered the impugned domain in the year 2011 much later to the Complainant's use of the same, the said explanation re coinage of the word QUIXEY cannot stand the test of reason and, therefore, is false.

5C.9 The Complainant also stated that the Respondent's use of the Complainant's well-known and prior mark/name QUIXEY as a part of the impugned domain name is with an exploitative intent to trade upon the Complainant's goodwill and reputation vesting therein. The Respondent's use intentionally trades on the fame of the Complainant and does not constitute a 'bona fide' offering of goods and services. It is trite law in respect of domain name proceedings that use which intentionally trades on the fame of another cannot constitute a 'bona fide' offering of goods and services. It is also pertinent to mention that the mere fact that the Respondent has used the domain name for a project is not sufficient to show that it has a right/legitimate interest or is bona fide offering goods or services. In any event, as mentioned above, the objectionable domain continuous to be listed/available for sale.



Whilst a business may be lawful, its use of the domain name may still be malafide. It is pertinent to mention that it is not the business model that upends a Registrant's contentions of legitimacy. What matters is whether the Registrant is entitled to the domain name it has selected and not whether its business is legal. If legality of business were the standard, then any cybersquatter that conducted a lawful business could always find refuge.

5C.10 The Complainant also stated that The sole intent of the Registrant, contrary to business ethics, is to seek pecuniary gains by using the trade mark QUIXEY as a domain name. This clearly establishes bad faith. It is settled law that use of a mark with the intent to trade upon the goodwill of the trade mark owner by creating source confusion does not amount to fair use.

6 Discussions and Findings

6.1 The Complainant, while filing the complaint, submitted to arbitration in accordance with the .in Dispute Resolution Policy and the Rules framed thereunder in terms of paragraph 3(b) of the Rules and Procedure. The Respondent also submitted to the mandatory arbitration proceedings in terms of paragraph 4 of the policy.

6.2 Paragraph 12 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted and that there



shall be no in-person hearing (including hearing by teleconference video conference, and web conference) unless, the Arbitrator, in his sole discretion and as an exceptional matter, otherwise determines that such a hearing is necessary for deciding the Complaint.

I do not think that the present case is of exceptional nature where the determination cannot be made on the basis of material on record and without in-person hearing.

Under Section 19 of the Arbitration & Conciliation Act, 1996, the Arbitral Tribunal is not bound by the Code of Civil Procedure, 1998 or Indian Evidence Act, 1872.

Sub-Section 3 of Section 19 also empowers the Arbitral Tribunal to conduct the proceedings in the manner it considers appropriate including the power to determine the admissibility, relevance, materiality and weight of any evidence.

It is therefore appropriate to examine the issues in the light of statements and documents submitted as evidence as per Policy, Rules and the provisions of the Act.

The Complainant has filed evidence by way of Annexure A-N with the Complaint. The Respondent has filed his reply with Annexures Res 1-Res 3.

A handwritten signature in black ink, consisting of a large, stylized 'M' or similar character, followed by a horizontal line.

6.3 That being so, the Panel will now proceed to examine if the Complaint has otherwise discharged its onus to prove each of the three elements specified in paragraph 4 of the Policy.

A. Identical or Confusingly Similar

6.A.1 The Complainant, Quixey, Inc. 3250, Ash Street, Palo Alto California – 94306, U.S.A, Now at: Quixey, Inc. 303, Bryant Street Mountain View California - 94041, U.S.A is the owner of trade/service mark “QUIXEY” word/device in various part of the world and is also the registrant of various domain names comprising QUIXEY as a prominent and essential component thereof.

6.A.2 The priority in adoption and use of the mark QUIXEY on the part of the complainant is established on record on perusal of the evidence as Annexure B, C, E, F and I to the complaint. The first registration of domain name Quixey.com on 16.09.2009 also establish the prior adoption of the mark QUIXEY on the part of the complainant apart from other domains as are registered on 28.03.2011 and 29.03.2011.

6.A.2 The Respondent’s impugned domain name ‘Quixey.in’ is comprises in entirety the Complainant’s trade/service mark/name QUIXEY which is registered in a number of countries including India.

6.A.4 The Respondent registered/adopted the impugned domain name ‘Quixey.in’ on August 29, 2011 whereas the Complainant’s domain ‘Quixey.com’ was created on September 16, 2009. The

Complainant's adoption of the trade/service mark/name/domain name QUIXEY is much prior to the Registrant's registration of the impugned domain name 'Quixey.in' and as such the complainant has common law proprietary right to the exclusive use thereof.

6.A.5 The Panel hold that the impugned domain name quixey.in is identical to the prior adopted trade/service marks and domain names of the complainant.

B. Rights or Legitimate Interests

6.B.1 Paragraph 7 of the Policy lists the following three nonexistence methods for determining whether the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the Registrant of the dispute, the Registrant use of, or demonstrate 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;
- (ii) the Registrant (as an individual, business, or other organization) have been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or (iii) the Registrant 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.

6.B.2 The Complainant's case is that the Respondent has no legitimate interest in respect of the domain name



QUIXEY.IN as the respondent is not commonly known by the domain name 'Quixey.in' and is not authorized or licensed by the Complainant to use its mark/name QUIXEY. The Respondent is not offering any goods/services under the domain name 'Quixey.in'. A review of the website under the objectionable domain name 'Quixey.in' reflects that the said domain is listed for sale by the Respondent.

6.B.3 The Respondent is not making any legitimate non-commercial or legitimate fair use of the domain name. Registration of the impugned domain is aimed to gain leverage from the goodwill and reputation of the Complainant's trade/service mark/name QUIXEY, divert visitors/customers by creating initial Internet confusion and thereby commercially profit from use of the Complainant's trade/service mark/name QUIXEY. Thus, the Respondent is indulging in (i) unfair use of the domain name with an intention to reap profits therefrom, (ii) misleading/diverting customers to competitor websites, and (iii) tarnishing the goodwill and reputation enjoyed by the Complainant's well-known trade/service mark/name QUIXEY. The Respondent, cannot justify any legitimate interest in the domain name 'Quixey.in'.

6.B.4 The Panel hold that the respondent has failed to demonstrate that it has any legitimate right or interest in the mark Quixey and/or has made any legitimate non-commercial fair use despite having obtained registration on 29.08.2011.

C. **Registered and Used in Bad Faith**



6.C.1 For a Complainant to succeed, the Panel must be satisfied that a domain name has been registered and is being used in bad faith.

6C.2 Paragraph 6 of the Policy states circumstances which, if found, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the Registrant has registered or the Registrant has 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 our 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 corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) by using the domain name, the Registrant has intentionally attempted to attract, Internet users to the Registrant website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Registrant website or location or of a product or service on the Registrant website or location".



6C.3 The Respondent's website has been constructed in a manner so as to portray an association/affiliation with the Complainant. The confusion is further enhanced by the presence of links to the websites of the Complainant's competitors. Thus, the conduct of the Respondent amply proves its *mala fide* to attract Internet users to its website by using the mark/name of the Complainant and consequently creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or of a product on the Respondent's website.

6C.4 The registration of the objectionable domain name immediately after the Complainant's public announcement of its Series C financing clearly establishes (mis)use of the Complainant's well-known trade/service mark/name/domain QUIXEY to gain illegal benefits.

6C.5 The Respondent has registered the impugned domain name 'Quixey.in' with the sole purpose of selling/transferring the same for excessive consideration to make illicit gains which is evident from the fact that the domain is available for sale.

6C.6 No reasoning has been given to evidence legitimate rights or interest in respect of the impugned domain name. The Respondent's *mala fide* is further evident from the fact that it has registered another domain 'quixey.in', a Complaint in respect whereof, is also pending before NIXI/.IN Registry.



6C.7 The Respondent has registered the impugned domain name 'Quixey.co.in' with the *mala fide* intent to trade upon the immense goodwill and reputation enjoyed by the Complainant in its well-known mark/name/domain name QUIXEY and thereby gain undue leverage from it and make illicit pecuniary gains.

6C.8 The Respondent has failed to dispel all the three elements of an INDRP complaint, i.e. (i) the domain name is identical or confusingly similar to the trade mark/name of the Complainant; (ii) The Respondent has no legitimate rights or interests in respect of the domain name; and (iii) The domain name is registered in bad faith by the Respondent.

7 **Decision**

For the foregoing reasons, the Panel orders that the disputed domain name < Quixey.in> be transferred to the Complainant.



Amarjit Singh

Sole Panelist

Date: 26th June, 2016