

## Summary

In May 2001 Osho Dhyan Mandir, an Osho Meditation centre based in New Delhi, India won the right to use the name of Osho for its portal Osho World.com at the National Arbitration Forum in the United States of America. The case is considered as a landmark event in the ongoing efforts to bring Osho in the free domain. The summary of the case is as follows:

**Complainant - Osho International Foundation**  
**Respondent - Osho Dhyan Mandir and Atul Anand**  
**Arbitrator - M. Kelly Tillery Esquire (NAF)**

In mid June 2000, National Arbitration Forum (NAF) received a complaint from Osho International Foundation (OIF) pursuant to the Uniform Domain Name Policy of the Internet Corporation for Assigned Names and Numbers (ICANN), stating that:

1. OSHO and OSHO ACTIVE MEDITATIONS are trademarks of OIF and are registered with the United States Patent and Trademark Office.
2. The Complainants rights for the above mentioned trademarks broadly cover the following goods and services.
3. The domain name OSHOWORLD.com is confusingly similar/identical to the complainants OSHO.com trademarks.
4. The respondents, by using the domain name OSHOWORLD.com that is in confusion with complainants trademarks.
5. The Complainants also operate the OSHO Commune in Pune, India, that is the largest meditation centre in the world.

In response to the above complaint, the respondents contented that:

1. The term OSHO refers to the widely known Indian spiritual mystic Bhagwan Shree Rajneesh.
2. He was born in India, and served as a Professor of Philosophy at an Indian University. OSHO travelled to the USA in 1973.
3. He moved to Pune in 1974 and started a commune with people around the world.
4. He lived in USA from 1982 to 1985.
5. He adopted the name OSHO in 1989 and "left his body"\* in 1990.

6. It was in 1989 that he first used the word OSHO and before that the word was never used by any of the
7. The complainant filed the earliest trademark application on January 7, 1992.
8. Respondent OSHO Dhyan Mandir is a non-profit, charitable organization registered under the Societies
9. OSHO is not a Valid Trademark for materials by or regarding OSHO, as there are more than 500 meditations
10. OSHO is the common name of the goods and services which Complainant provides by and regarding
11. Complainant committed fraud on the patent and Trademark Office and has unclean hands because
12. In the pending application for OSHO Active Meditations, complainant stated that it used the mark OSHO
13. Regarding the Domain name, the respondent said the complainant's claim is preposterous and is targeting
14. The Complainants' attempt to deprive the respondents from using the domain name is in violation of
15. Other facts to show that the respondents are using OSHOWORLD.COM in good faith.  
This contention was supported by a number of affidavits of OSHO Lovers across the globe, apart from the

In its reply to the above submission, OIF reiterated almost the same facts it had put in its original complaint and argued that:

1. The domain name OSHOWORLD.com is confusingly similar to that of Complainants' viz. OSHO.com,
2. The complainants also said that the NAF is not a competent body to ascertain the legality of registered
3. Respondents have no legitimate interest OSHOWORLD.com
4. The complainants also raised the issue of a link to the website Meditate-Celebrate.com from the respondents
5. And, that the Complainants possess an oral trademark license and have been exercising the same.

In its response to the above, OSHO Dhyan Mandir i.e. the respondents contested the claims of Complainant and argued that:

- a. Marks can be cancelled when they become generic as in this case.
- b. The term OSHO did not serve as a source indicator, it is generic and is widely understood to refer to Osho.
- c. The respondents are known as OSHO World and have other rights to the word OSHO like the Oral Trademark License.
- d. Prima facie the complainant does not have any such license and assuming arguendo, that this trademark license is valid.
- e. Indian Law does not permit Complainants alleged Oral Trademark License.
- f. WIPO Case Precedents as in Weber - Stephen Products Co. v. Armitage Hardware (WIPO Case No. D/2000/1000).

### **Findings and Decision of NAF**

The complainant has not met its burden to prove by a preponderance of relevant, admissible evidence that:

1. Respondents' domain name is confusingly similar or identical to a trademark or a service mark in which Complainant has a right.
  2. The respondents have no right or legitimate interests in respect to the domain name.
  3. The respondents' domain name has been registered and is being used in bad faith.
- On these grounds, Complainants request that the domain name be transferred is denied.

The Arbitrator M. Kellery Tillery Esquire in his decision observed that:

"As this Arbitrator imagines Osho himself might observe, one cannot possess trademark rights in a name/mark of such universal significance which cannot and clearly does not serve as a source indicator or distinguishing moniker for Complainant or Complaint's goods or services." He added, "As Osho himself might observe, one cannot possess trademark rights in a name/mark of such universal significance" and also said that, "To grant Complainant's request for relief would be to permit virtual monopolization on the Internet by Complainant of any domain name which includes the name of a great spiritual teacher and leader. While making no judgment on the relative merits or validity of the world's religions or spiritual movements or any leader thereof, this Arbitrator finds that permitting this would be as improper as doing the same with Christianity, Judaism, Islam, Zoroastrianism, Hinduism, Buddhism, Taoism, Confucianism, Shintoism or any of the several hundred other of the world's religions and/or spiritual movements."

Decision on National Arbitration Forum Website:

<http://www.adrforum.com/domains/decisions/94990.htm>