

# INDIA NON JUDICIAL

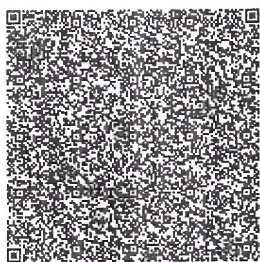
## Government of National Capital Territory of Delhi



सत्यमेव जयते

### e-Stamp

**Certificate No.** : IN-DL70044203514278Q  
**Certificate Issued Date** : 27-Aug-2018 02:35 PM  
**Account Reference** : IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH  
**Unique Doc. Reference** : SUBIN-DLDSLHIMP1744231284172931Q  
**Purchased by** : JAYANT KUMAR  
**Description of Document** : Article 12 Award  
**Property Description** : Not Applicable  
**Consideration Price (Rs.)** : 0  
(Zero)  
**First Party** : JAYANT KUMAR  
**Second Party** : Not Applicable  
**Stamp Duty Paid By** : JAYANT KUMAR  
**Stamp Duty Amount(Rs.)** : 100  
(One Hundred only)



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

**BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA**

**IN THE MATTER OF:**

Automobile Club Di Brescia

..Complainant

Versus

Wang Liqun

..Respondent

**Statutory Alert:**

1. The authenticity of this Stamp Certificate should be verified at "www.shoilestamp.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

1. The Complainant is 'Automobile Club di Brescia', an organization existing under the laws of the Italy having its address at Via Enzo Ferrari, 4/6, 25134 Brescia, Italy.
2. The Arbitration pertains to the disputed domain name <1000miglia.co.in>, registered on January 8, 2015 by the Respondent. The Registrar for the disputed domain name is Endurance Domains Technology LLP.
3. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence to NIXI.
4. The Respondent was served with an electronic copy of the complaint along with Annexures by NIXI vide email dated June 15, 2018. The Respondent was then granted two weeks time to file its Reply to the Complaint by the Arbitrator vide email dated July 6, 2018. The Respondent was granted another opportunity vide email dated July 27, 2018 file its Reply by August 4, 2018.
5. The Respondent did not file its Reply by August 4, 2018 and is therefore proceeded *ex-parte*.

### Complainant's Submissions

6. The Complainant states that it started organizing a competition of car race under the name 'Mille Miglia' which stands for 1000 miles in Italian. It has been organizing the said competition since 1927. The competition has been organized under the mark MILLE MIGLIA and 1000 MIGLIA.
7. The Complaint is hosting its website at [www.millemiglia.it](http://www.millemiglia.it), which receives over 750,000 visitors every year from more than 170 countries. The aforesaid website



is accessible in India. It also owns domain name registration for <1000miglia.it> and <1000miglia.ch>.

8. The Complainant has registered the marks MILLE MIGLIA and 1000 MIGLIA in various jurisdiction, including in India. In India, it owns trademark Registration No. 1528693 in class 14 for the mark 1000 MIGLIA as of February 6, 2007 and Registration No. 1610042 in class 14 for the 1000 MIGLIA (Label) as of October 10, 2007. The Complainant has given an exhaustive list of trademark registrations held by it in various jurisdictions. It also owns about 80 domain names featuring the mark MILLE MIGLIA or 1000 MIGLIA.
9. The Complainant further asserts that the mark MILLE MIGLIA has been held to be a trademark with fame and reputation by WIPO Administrative Panel in the case of *Autombile Club di Brascia v. Li Fanglin*, Case No. D2015-0975.
10. The Complainant submits that the Respondent has no affiliation with the Complainant. The impugned domain name was registered on January 8, 2015 viz. much subsequent to the Complainant's first adoption and use of the trade mark/domain name registration. It has also been stated that the Respondent is offering the impugned domain name for sale "*for an asking price of 3250 EUR*". The domain name is parked for sale without making any bonafide use of the same.
11. The Complainant further submits that the Respondent is a cybersquatter and has registered almost 216 domain names under his name. The Respondent has also registered the domain name '1000miglia.club', and when the Complainant asked it to transfer the said domain name, the Respondent asked for US\$ 2999. The Complainant then initiated domain name dispute complaint for the said domain name wherein the Panel on November 9, 2017 directed to transfer the said domain name in favour of the Complainant.



## Discussion and Finding

12. Under the .IN Policy, the registrant of the domain name is required to submit to a mandatory arbitration proceeding in the event that a complaint is filed in the .IN Registry, in compliance with the .IN Policy and the INDRP Rules. The .IN Policy, Paragraph 4 requires the Complainant, to establish the following three elements:

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

13. The Arbitrator finds that the Complainant has obtained trademark registrations in India for the mark 1000 MIGLIA, and that establishes its rights in the mark 1000 MIGLIA. The disputed domain name incorporates the mark 1000 MIGLIA in entirety. The disputed domain name is therefore held to be confusingly similar with the Complainant's mark 1000 MIGLIA.

14. Paragraph 7 of the Policy states a Respondent's or a registrant's rights can be found from the material on record, if (i) before notice of the dispute, the registrant had used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services or (ii) the registrant (as an individual, business organization) has been commonly known by the domain name, or (iii) The registrant is making legitimate, non-commercial or fair use of the domain name without intent for commercial gain. The Complainant has made a strong *prima facie* case that the Respondent has no rights and legitimate interest in the disputed domain, which remains uncontroverted by the Respondent. Given the reputation of the Complainant's mark and the factum of

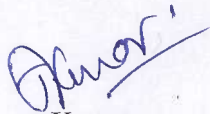


the Respondent's such adoption thereof to sell the disputed domain name for Euro 3250 is not bonafide. Furthermore, the Respondent is not making any legitimate non-commercial or legitimate fair use of the domain name. Based on the above, the Arbitrator finds that the Respondent has no rights or legitimate interests in the disputed domain name.

15. The Respondent had earlier registered the domain name <1000miglia.club> against which UDRP complaint was filed by the Complainant and then it has registered the impugned domain name. Both these domain names were offered for sale by the Respondent, which is clearly an evidence of bad faith registration and use. The Arbitrator accordingly finds bad faith registration and use of the disputed domain name by the Respondent.

### **Decision**

16. In light of the aforesaid discussion and findings, the Arbitrator directs that the disputed domain name <1000miglia.co.in> be transferred to the Complainant.



Jayant Kumar  
(Sole Arbitrator)

Dated: August 27, 2018