



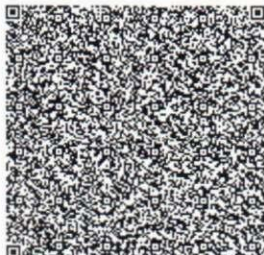
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL15600939091522K
Certificate Issued Date : 25-Aug-2012 11:28 AM
Account Reference : SHCIL (FI)/ dl-shcil/ HIGH COURT/ DL-DLH
Unique Doc. Reference : SUBIN-DL DL-SHCIL31402813672594K
Purchased by : NIKILESH RAMA CHANDARAN
Description of Document : Article 12 Award
Property Description : NA
Consideration Price (Rs.) : 0
(Zero)
First Party : NIKILESH RAMA CHANDARAN
Second Party : NA
Stamp Duty Paid By : NIKILESH RAMA CHANDARAN
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



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ARBITRATION CASE NO.7 OF 2012

IN THE ARBITRATION MATTER OF:-

CHOCOLADEFABRIKEN LINDT & SPRUNGLI AGCOMPLAINANT

VERSUS

APEX LABORATORIES LIMITED ...RESPONDENT

Statutory Alert:

1. The authenticity of the Stamp Certificate can be verified at Authorised Collection Centers (ACCs), SHCIL Offices and Sub-registrar Offices (SROs).
2. The Contact Details of ACCs, SHCIL Offices and SROs are available on the Web site "www.shcilestamp.com"

AWARD:

The present dispute relates to the registration of the domain name WWW.CAFFAREL.IN in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the domain name <WWW.CAFFAREL.IN> in favour of the Respondent. Pursuant to the In Domain Name Dispute Resolution Policy (INDRP) and the rules framed there-under, the Complainant has preferred this arbitration for raising this dispute for redressal of its grievances.

In its complaint, the Complainant has stated that it is the owner of the trademark "CAFFAREL" and other trademarks in which the CAFFAREL mark as a component thereof. The mark CAFFAREL was adopted in the year 1826 for premium chocolates and has ever since been continuously and extensively used. In 1997, the complainant acquired the Italian Chocolate company and all the rights in and to the CAFFAREL brand were assigned to the complainant. Therefore the complainant maintains websites at the domain CAFFAREL.COM and the said domain was registered on 24.04.1997. The complainant is the proprietor of the trademark CAFFAREL and top level domain name CAFFAREL.COM.

The complainant states that it's trademark and domain name were used and applied for registration long before the respondents' registration of the disputed domain name. The complainant has filed the registration details of the domain CAFFAREL.COM in support of its aforesaid contention.

The complainant has further contended that its trademark CAFFAREL is registered and/or pending registration around the world including Australia, Austria, Bahrain, Benelux, Brazil, Bulgaria, Canada,



China, Costa Rica, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hong Kong, India, Italy to name a few

The trademark CAFFAREL has been extensively advertised and promoted on the internet inter alia through the website i.e. CAFFAREL.COM. The website contains extensive information about the complainant and the products marketed and sold under the trademark CAFFAREL.

The complainant states that the respondent has also sent an email to the complainant asking to contact them for the domain name in question offering a good price deal. The complainant states that both at the time of registration and continuing to the present, the respondent has sought to profit from an unauthorized registration of the complainant's trademark as a domain and that the same has been done only to extort money and make unlawful gain.

The complainant has stated that there exists no relationship between the complainant and the respondent that would give rise to any license, permission, or authorization by which respondent could own or use the disputed domain name, which is identical to complainant's Mark

I entered upon reference regarding the instant dispute on 10.07.2012 and notice was sent to the Respondent calling upon for their response to the said complaint. I had issued notice to the respondent on whoisearch.com However, even after granting considerable time to the Respondent, there has been no response. Accordingly, the Respondent is proceeded ex-parte.

I have perused the records and have gone through the contents of the complaint. Although there has been no reply on behalf of the Respondent to the complaint, I shall deal with the complaint on the basis of its merits. Several grounds have been



raised by the Complainant regarding the transfer of the domain name <WWW.CAFFAREL.IN> in its favour.

Firstly I shall deal with the ground regarding the rights of the Complainant vis-à-vis that of Respondent's over the domain name <WWW.CAFFAREL.IN>. The mark "CAFFAREL" is a unique and distinct word and has acquired distinctiveness and is known to be a trademark owned by the complainant since 1997. It has been shown by the complainant that the use of the said mark has been for quite some time and that too for world over. The complainant has shown its various trade mark registration details world over. Although the Respondent has not appeared in these proceedings to present their case, but it is borne out from the records that Respondent has no bonafide or legitimate right over the mark "CAFFAREL". Merely by the adopting the said word it cannot mean to be a mark different from the registered mark. This itself reflects the fact that the respondent wanted to create confusion in the minds of the public and wanted to use the same for its own substantial commercial profit and gain taking advantage of the goodwill of the and fame of the complainant's well known trademark CAFFAREL. Hence the Respondent's action to register the said domain name is not bonafide as he has no right over the mark "WWW.CAFFAREL.IN."

Secondly as the Respondent's action to register the said domain name is not bonafide. The same is amply clear from the records, i.e. Annexure J, produced by the complainant. Therefore the said registration is done in bad faith. The Respondent is not either as an individual, business or other organization, commonly known by the name "CAFFAREL". Therefore the Respondent has no legitimate right and interest over the said domain name.



Considering the facts and circumstances of the present matter and taking view of the precedents in this context, I am of the view that the complainant has proprietary right over the mark "CAFFAREL". Under the facts and circumstances and on perusal of the records, I deem it fit and proper to allow the prayer of the Complainant in its favour and direct the Registry to transfer the said domain name i.e. <WWW.CAFFAREL.IN> in favour of the complainant.

Parties to bear their costs.



(NIKILESH RAMACHANDRAN)

ARBITRATOR

Dated 29th August 2012.