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ARBITRATION CASE NO.4 OF 2012

IN THE ARBITRATION MATTER OF:-

E-ON A

COMPLAINANT

VERSUS

DANIEL MEYER

RESPONDENT

AWARD

The present dispute relates to the registration of the domain name Eon.in in favour of the Respondent.

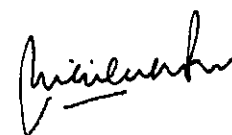
The Complainant has filed the instant complaint challenging the registration of the domain name <Eon.in> in favour of the Respondent. The contested domain name was created on 29.03.2008. The complainant has stated that its core range of business activities include, but is not limited to, the business of generating and supplying energy, producing and supplying gas, building construction, mechanical engineering and maintenance in field of power stations, wind parks , gas generators, pipelines and biogas plants as well as trading activities in the

energy and energy related commodities sector. The complainant states that it has well known domain name www.eon.com and the said name was registered on 20th July 1993. It is further stated by the complainant that it owns the intellectual property of all the worldwide trademark applications and registrations and domain name registrations comprising of brand name "e.on". That the complainant is the first to conceive, adopt, use and promote the mark "e.on" in respect of generating electrical agency and producing biogas from regenerative sources. The details of the aforesaid are also filed before me by the complainant.

I entered upon reference regarding the instant dispute on 02nd April 2012 and notice was sent to the Respondent calling upon for their response to the said complaint. However, even after granting considerable time to the Respondent, there has been no response. Accordingly, the Respondent is proceeded ex-parte.

On consideration of entire complaint as well as the documents filed along with it, I am of the view that the complainant who has established proprietary right over the mark "e.on" by showing its registration through document i.e. Exhibit "B" filed by it. The complainant has also stated that it is the proprietor of the Community trade mark registration no. 6296529 "E.ON" and has shown by a name within its compliant. Therefore, in view of such facts the complainant has the right, title and interest over the mark "e.on".

The complainant's grievance is that the Respondent has registered the domain name Eon.in and the name without any due cause and is taking or would take unfair advantage of and/or be detrimental to the distinctive character and repute of the complainant's mark, corporate name and domain names. It has been contended that the respondent's domain name is phonetically, visually and conceptually identical to that of the complainant and is nothing but a blatant imitation of the complainant's corporate name, prior and registered trademarks. The complainant



therefore stated that its search engine ranking would also be adversely effected thereby directly resulting in drop of reputation and revenue. The complainant has also contended that the creation of the contested domain name was done in 2008 as opposed to the complainant's domain name in 1993 and that the complainant already had a global presence in 2008. Since the respondent has not entered its appearance and rebut the assertions made by the complainant, I therefore, hold that the contentions stands proved against the respondent.

Considering such facts and circumstances I am of the view that the complainant has a proprietary right over the mark **Eon** and therefore, 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. Eon.in in favour of the complainant.

Parties to bear their costs.


(NIKILESH RAMACHANDRAN)
ARBITRATOR

Dated 24th May 2012.