

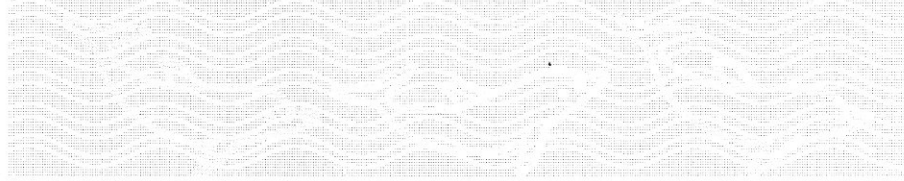
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL0791283970777S
Certificate Issued Date : 10-Jan-2020 11:25 AM
Account Reference : IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH
Unique Doc. Reference : SUBIN-DLDSLHIMP1724685755947700S
Purchased by : VISHESHWAR SHRIVASTAV
Description of Document : Article 12 Award
Property Description : Not Applicable
Consideration Price (Rs.) : 0
(Zero)
First Party : VISHESHWAR SHRIVASTAV
Second Party : Not Applicable
Stamp Duty Paid By : VISHESHWAR SHRIVASTAV
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



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

VISHESHWAR SHRIVASTAV

SOLE ARBITRATOR
IN

ARBITRATION PROCEEDINGS OF DOMAIN NAME
www.rpsgroup.co.in
between

RPS GROUP PLC.

...COMPLAINANT

RPS GROUP

AND

...RESPONDENT

AWARD

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.

1. This Arbitral Tribunal was constituted by nomination of undersigned as the Arbitrator in the aforesaid proceeding vide communication by NIXI and accordingly this Tribunal issued notice to the parties on 28/11/2019. This Tribunal was in receipt of an email from the Complainant dated 28/11/2019 showing they have given the complaint along with copies of the same to NIXI for dispatch, which was done by NIXI but no copy of the courier receipt was sent to this Tribunal. This Tribunal noticed that the POA does not carry any attachment of Resolution of the Board of Directors of RPS Group Plc. authorizing Mr. John Douglas to authorize Mr. J. Suresh and S.Sridharan Advocates to sign & verify the Complaint in questions. The Complaints were given time till 08/12/2019 to send a Proper POA to the Tribunal.

2. This Tribunal had also marked the email dated 28/11/2019 to Mr David Gormley Company Secretary of RPS Group who replied on behalf of the Complainants stating as under:

"Mr Shrivastav,

Thank you for your email. John Douglas is the Chief Executive Officer and a director of RPS Group plc, as registered at Companies House, and therefore has full authority to sign a POA on behalf of RPS Group plc, without the need of a board resolution.

I can however provide this, should you believe this to be absolute necessary?"

3. Hence, this Tribunal vide order dated 01/12/2019 directed that it looks forward to the relevant law of UK which substantiated the above statement and incase this Tribunal is satisfied then it can waive the requirement of Board Resolution. However, the Company Secretary should send the copy of the relevant UK Law within next 5 days ending on 06/12/2019. In default of the above, this Tribunal directed that a copy of resolution of Board of Directors of the Complainant Company be sent by the Complainants.
4. This Tribunal directed the Complainants to send the courier receipt for dispatch of hard copy of complaint to the Respondent. Since, the Respondent was already in receipt of the soft copy of the complaint by email sent by NIXI as well as



complainant hence, vide the aforesaid communication dated 01/12/2019 this Tribunal gave them time of 10 days till 11/12/2019 to file their respective response / SOD.

5. After receipt of emails 05/12/2019 and 06/12/2019 from the Complainants and filing of the soft copy of their Board Resolution regarding the POA and also a copy of the tracking report of the Courier Company stating that the Complaint sent by courier has been successfully delivered to the Respondent. This Tribunal vide its order dated 07/12/2019 directed the Complainants to send the hard copy of the aforesaid Board Resolution.
6. This Tribunal was also in receipt of an email dated 07/12/2019 allegedly from the Respondent stating as under:

"Received, thank you. As per my last conversation We have already told you, we have no tieup or branch in U.K, Due to my developer issue it was shown on website, So please forgive is about that mistake. thanks."



7. In view of the above the Respondent was directed to give the aforesaid statement by way of an affidavit duly notarized by a Notary Public and send the Original to this Tribunal with a copy to the Complainants so as to reach this Tribunal by 17th December, 2019.
8. The Complainants did not comply with the orders dated 07/12/2019 hence a Last and Final Opportunity was given to them to comply with the directions, which later was complied by the Complainants. Hence, this Tribunal vide its order dated 28/12/2019 directed the Complainants to send their Evidence by way of Affidavit by 08/01/2020 The Respondents were also directed to file their Affidavit by 08/01/2020.
9. The complainants vide email dated 05/01/2020 filed the soft copy of their Evidence by way of Affidavit, and dispatched the hard copy which was later received by this Tribunal.
10. The award was reserved vide order dated 09/01/2020.

CLAIM

11. The claim as put forward by the complainant is briefly as under:
- A. The Complainant is **RPS Group Plc**, a registered public limited company that is incorporated in the United Kingdom and claims to be engaged in the design and management of professional business services in diverse sectors, in many countries.
 - B. It is further claimed that the Complainant Company was founded in the year 1979 and is in the business of providing business services, besides it is also engaged in design and management of projects in diverse sectors and in different countries and is operating in about 125 countries.
 - C. It is claimed that the Complainant uses various trademarks, in order to indicate the source and origin of its various services and to help consumers identify and distinguish the Complainant's services from those of others in the market and



for this it has conceived and adopted, the mark **rps** as a trading style and the trade mark, in respect of its services.

D. It is claimed that the Complainant has been using the mark **rps** continuously, openly and without any interruption whatsoever since the year 1979 and by virtue of such long, continuous, uninterrupted use, the Complainant's trade mark, trade dress and other unique elements such as color combination and the artistic style depicting the trade mark have become distinctive of the services of the Complainant.

E. It is further claimed that the Complainant is the proprietor and owner of the trade mark **rps**, its trade dress and is the author and owner of any and all copyrights in its presentation, arrangement of elements, color combination and the artistic style and for this it has also secured statutory registrations for its mark **rps** in many jurisdictions. Reliance is placed on Annexure C.



- F. By relying on Annexure D it is further claimed that the Complainant has also secured an International Registration of the trademark "**RPS**", under Madrid Protocol, bearing the Registration No. 1452114.
- G. The Complainants rely upon Annexure E and submit that the Complainant in order to expand their presence in the Internet decided to obtain a domain name registration and in pursuance thereof the Complainant registered the domain name www.rpsgroup.com on 14.6.2004 which was a natural extension of their corporate name.
- H. By further relying on Annexure F the Complainant also registered several active domain names with "RPS" as the essential element and have been using its **RPS** mark with respect to services all over the world including India.
- I. It is claimed that the **RPS** mark is universally associated by the general trade and public as originating from the

Complainant and indicating high quality and the Complainant's goodwill and renown thereto.

- J. It is claimed that the Complainants have spent considerable time, money and labor in promoting its **RPS** mark all over the world and have attained a high degree of distinctiveness, reputation and goodwill.
- K. It is claimed that the Complainants came to know that a domain name www.rpsgroup.co.in [**Disputed Domain Name**] stands registered, in respect of the services that are identical or similar to that of the Complainant. Hence, they engaged an investigator to ascertain the person(s) behind the web site under the disputed domain name and from the investigation, it is revealed that one Mr. Ram Pratap Singh is also found doing business under the name and style of RPS Group and under the trade mark **RPS**. The Complainants have placed copy of the Affidavit from the investigator as Annexure G.

L. It is alleged by inviting attention to Annexure H that the trade mark that are adopted by the Respondent are identical to and colorable imitation of the Complainant's trade mark **rps** and domain name www.rpsgroup.com and is aimed at the same class of consumers and operates in the same trade channels as that of the Complainant.

M. Being aggrieved by the Respondent's infringing adoption of copyright in and use of trade mark and domain names www.rpsgroup.co.in and www.rpsgroup.websites.co.in, the Complainant had issued Cease & Desist Notice to the Respondent, *inter alia*, seeking an immediate transfer of the impugned domain names to the Complainant which the Respondent has failed to comply. Reliance is placed on Annexure I.

N. Left with no alternative the Complainant filed the present Complaint.





O. In view of the above the Complainant relies on the following grounds in support of this action the complainant allege as under in preventing the abuse of the Complainant's domain name and seeks *interalia*, transfer of the disputed domain name(s) to the Complainant.


P. The disputed domain name www.rpsgroup.co.in is identical with and confusingly similar to the Complainant's trade mark **RPS** and identical with the Complainant's domain name www.rpsgroup.com in respect of identical and similar services. Reliance is placed on following authorities

- ***Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr., WIPO Case No. D2000-1525;***
- ***Rollerblade, Inc. v. Chris McCrady, WIPO Case No. D2000-0429;***
- ***Wells Fargo and Company v. Jessica Frankfurter, INDRP/392 (September 25, 2012)] besides***
- ***Farouk Systems, Inc. v. Yishi Case No. D2010-0006***

Q. It is stated that the disputed domain name www.rpsgroup.co.in is:

(a) identical with and confusingly similar to the Complainant's prior trade mark "RPS" represented in unique artistic style and colour combination as  and "" ; and

(b) identical with and similar to the Complainant's prior registered domain name www.rpsgroup.com and other registered domain names in respect of similar/identical services in the marketplace.

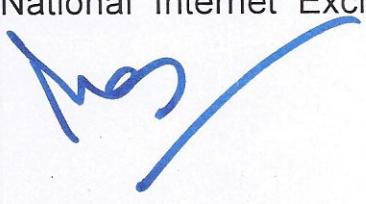
R. The Respondent has no rights or legitimate interests in respect of the disputed domain name www.rpsgroup.co.in The Complainant submits that it is the prior adopter [year 1979] author of copyright and user of the mark "RPS" that is represented in a unique artistic style and with a colour combination as  and the Complainant's mark RPS has acquired extensive use and a substantial reputation and is well known in many countries across the globe.

- S. It is alleged that the Respondent has no proprietary or contractual rights in any registered or common law trade mark corresponding in whole or in part to the disputed domain name www.rpsgroup.co.in besides the Respondent registering the disputed domain name.
- T. By relying on Annexure J it is alleged that the Respondent is misleading, spreading false information on its web site and using the disputed domain name create unnecessary confusion in the market place.
- U. That the disputed domain name www.rpsgroup.co.in is created and is being used in bad faith by the Respondent.
- V. To substantiate its allegation of bad faith the Complainant draws attention to the inaccurate WHOIS contact details which is in violation of Paragraph 3 of the 'Terms & Conditions for Registrants'.



ORDER

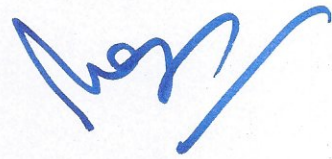
12. This Tribunal has perused the complaint / Evidence and the documents relied upon by the complainants and notices that the same have not been rebutted or challenged by the Respondents despite opportunity being given to them by this Tribunal. Hence, in view of the un-rebutted evidence of the Complainants this Tribunal holds that the respondents do not have any claim on the domain name www.rpsgroup.co.in, and this Tribunal directs the Registry to transfer the domain name www.rpsgroup.co.in to the complainants.
13. The Complainants too are free to approach the Registry and get the same transferred in their name.
14. There is no order as to the cost as no details of the cost / damages have been specified / detailed in the complaint.
15. The original copy of the Award is being sent along with the records of this proceeding to National Internet Exchange of



India (NIXI) for their record and a copy of the Award is being sent to both the parties for their records.

Signed this 24th day of January, 2020.

NEW DELHI
24/01/2020



V. SHRIVASTAV
ARBITRATOR