

ARBITRATION PROCEEDINGS OF DOMAIN NAME

www.alamocar.in

between

**VANGUARD TRADEMARK HOLDINGS
USA LLC**

....COMPLAINANT

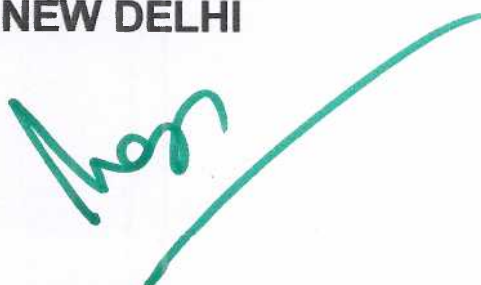
AND

CHEN BOXIN

...RESPONDENT

AWARD

**VISHESHWAR SHRIVASTAV
SOLE ARBITRATOR
NEW DELHI**

A handwritten signature in green ink, appearing to be 'Visheshwar', followed by a long, sweeping green checkmark.



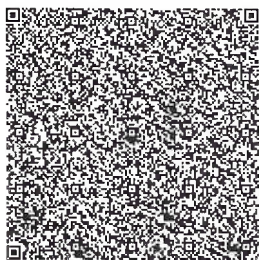
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL87701015394315P
Certificate Issued Date : 30-May-2017 11:32 AM
Account Reference : IMPACC (IV)/ dl851303/ DELHI/ DL-DLH
Unique Doc. Reference : SUBIN-DL85130376262244389060P
Purchased by : V SHRIVASTAV
Description of Document : Article 12 Award
Property Description : J-22, SAKET, NEW DELHI-110017
Consideration Price (Rs.) : 0
(Zero)
First Party : V SHRIVASTAV
Second Party : Not Applicable
Stamp Duty Paid By : V SHRIVASTAV
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



Please write or type below this line

VISHESHWAR SHRIVASTAV

SOLE ARBITRATOR

IN

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1

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 22/04/2017. However, while checking the records of the proceedings, this Tribunal found that there is nothing on record which shows that the copy of the complaint has been supplied to the Respondents. Accordingly vide the aforesaid communication this Tribunal directed the Complainants to either supply proof of dispatch of the hard copy of the complaint to the respondent or send a copy of their complaint to the Respondents vide Courier .
2. That NIXI vide their email dated 24/04/2017 stated that they have already sent the complaint by courier giving dispatch receipts of the same.
3. This Tribunal on tracking with the tracking number given by NIXI found that the complaint has been duly received by the Respondent.



4. That vide its order dated 06/05/2017 this Tribunal directed the Respondent to send their Statement of Defense to the Complaint by soft as well as hard copy to the Tribunal by 17/05/2017.
5. This Tribunal observed vide its order dated 18/05/2017 that the Respondents had not complied its earlier order dated 06/05/2017 to send their SOD within the time frame. In view of the above the Complainants were directed to file their Evidence by way of Affidavit as soft copy by email and hard copy by courier in 7 days so that it reaches this Tribunal by 25/05/2017.
6. The Complainant sent the soft as well as hard copy of their Evidence by way of Affidavit on 24/05/2017. Hence, this Tribunal vide its order dated 25/05/2017 reserved its award clarifying that incase the respondents send their response /evidence in support thereof, the same would be taken into consideration by this Tribunal at the time of making the award.

CLAIM

7. The claim as put forward by the complainant is briefly as under:

- A. It is claimed that the Complainant is a Limited Liability Company incorporated under the laws of the State of Delaware, United States of America having the address 600 Corporate Park Drive, St. Louis, Missouri 63105 USA.
- B. It is claimed that the Complainant is the owner of the ALAMO mark which it licenses to the Alamo Rent A Car operating companies (Alamo) which was started in 1974.
- C. It is claimed that Alamo is a value-oriented, internationally recognized brand serving the daily rental needs of the airport leisure traveler throughout the United States, Canada, Mexico, the Caribbean, Latin America, Asia and the Pacific.
- D. It is claimed that Alamo also is the largest car rental provider to international travelers visiting North America. Alamo, as Complainant's licensee, operates an online vehicle rental site

at alamo.com that offers airport vehicle rentals. Reliance is placed on **Annexure 1**.

- E. It is claimed that the Complainant and its licensees employ more than 10,000 associates/employees worldwide and serve thousands of customers per day.
- F. It is claimed that the Complainant's mark ALAMO is registered in more than 100 jurisdictions of the world including but not limited to Algeria, Andorra, Argentina, Aruba, Bermuda, Brazil, Canada, Chile, China (PRC), Colombia, Costa Rica, European Union, Germany, India, Iran, Ireland, Jamaica, Malaysia, Netherlands Antilles, New Zealand, OAPI, the Philippines, Romania, Saudi Arabia, Singapore, South Africa, and the United Kingdom. Reliance is placed on **Annexure 2**.
- G. It is claimed that the trademark and/or trade name ALAMO is well established and/or well known amongst the general public around the globe since 1974.
- H. It is claimed that the Complainant is the registered proprietor



of the trademark ALAMO in classes 16 and 39 in relation to various goods and services in India. Details of its registrations in India are given herein-below:

Trademark	Registration No.	Class	Date
ALAMO	1291187	39	18 June 2004
ALAMO	1918326	39	05 February 2010
ALAMO Logo in Color	1915017	39	29 January 2012

Reliance is placed on **Annexure 3**.

- I. It is claimed that the Complainant being a privately held company and does not publicly disclose its sales or profits.
- J. It is claimed that the Complainant's licensee operates a website at alamo.com (to which alamo.in, alamo.co.in, alamocarrental.in and alamocarrental.co.in also resolve).

K. It is claimed that the website at alamo.com was created on 14 April 1999 and is available to anyone with Internet access anywhere in the world, including India.

L. It is claimed that the trademark ALAMO has also been used extensively over the Internet to identify the Complainant and to associate the said mark exclusively with the Complainant. Relevant information pertaining to the Complainant and its well-known brand is readily available at the website alamo.com besides the Complainant has also registered various domain names for and containing the mark ALAMO, an exemplary listing of which is below:

alamo.com

alamocar.com

alamo.in

alamo.co.in

alamocarrental.in

alamocarrental.co.in

M. By relying on **Annexure 4**, it is claimed that the Complainant became aware of the website alamocar.in.

- N. It is claimed that the website at **alamocars.co.in** appears to be a parking page following a “pay-per-click” format and listing various websites and/or businesses, which may change periodically and as at 07 March 2017 the **alamocar.in** web page contained the following links:

Alamo Rental Car DFW
Cheap Car Rental Cars
Car Rental Miami Airport
Compare Car Rental
Alamo Car Hire
Alamo Car Hire Deals
Car Rental at Lax
One Way Car Rental
Rent a Car Rental
Cheapest Car Rental Deals

- O. It is claimed that the website at **alamocar.in** also goes further by providing links to other websites upon clicking on any of the links. Reliance is placed on **Annexure 5**.



- P. It is claimed that the website in dispute is attempting to create confusion in the minds of consumers by associating itself with the Complainant and thereby generating revenue by directing the said users, to other websites and other businesses providing services in direct competition with Complainant's licensee(s).
- Q. It is claimed that the domain name is identical and confusingly similar to the Complainant's ALAMO trademark.
- R. It is claimed that the Respondent has no rights or legitimate interests in respect of the disputed domain name.
- S. It is claimed that the domain name was registered and is being used in bad faith.
- T. Claimants have relied on the following cases
- i. ***Rediff.com India Limited v. Mr. Abhishek Varma &Anr. Case No. INDRP/1***
 - ii. ***Kingston Technology Co. v. Web Master, Skype Network Limited, Case No. INDRP/033***

- iii. **Hindustan Petroleum Corporation Limited v. M. Ram Swamy, Case No. INDRP/059**
- iv. **Kentucky Fried Chicken (KFC) Corporation v. Webmaster Casinos Ltd. Case no. INDRP/066**
- v. **(Ingersoll-Rand Co. Frankly Gully d/b/a Advcomren, WIPO Case No. D2000-0021).**
- vi. **BoehringerIngelheim Pharma GmbH & Co. KG v. PhilanaDhimkana WIPO Case No. D2006-1594.**
- vii. **Societe Des Prodi Its Nestle SA, Switzerland v. Nescafe Limited, Case No. INDRP/100.**
- viii. **Croatia Airlines d.d. v. Modern Empire Internet Ltd. WIPO Case No. D2003-0455**
- ix. **eBay Inc. v. AkramMehmood, [WIPO Case No. DAE2007-0001](#)) and Drexel University v. David Brouda Case No. D2001-0067.**
- x. **Kangaroo Kids Education Ltd. v. Anupam Devi, Case No. INDRP/146.**
- xi. **(Factory Mutual Insurance Company v. Rhianna Leatherwood WIPO Case No. D 2009).**

- xii. **Owens Corning v. NA**, [WIPO Case No. D2007-1143](#).
- xiii. **Oki Data. Oki Data Americas Inc v ASD Inc**[WIPO Case No. D2001-0903](#)).
- xiv. **Luxottica Holdings Corp. v. Lokesh Morade**, case no. **INDRP/139**
- xv. **Television Food Network, G.P. v. Arif Siddiqui**, Case No. **INDRP/138**
- xvi. **Microsoft Corporation v. Chun Man Kam**, Case No. **INDRP/119**.
- xvii. **Compagnie Gervais Danone v. yunengdonglishangmao(beijing)youxiangongsi** Case No. **D2007-1918**.
- xviii. **Exxon Mobil Corp. v. Prop. Mgmt. Prof'l**, **FA 1059655**.
- xix. **Exxon Mobil Corp. v. Exxon Mobil c/o Internet Coordinator**, **FA 1220454**.
- xx. **Société Nationale des Chemins de Fer Français v. ostrid co.**, **D2008-0627**.
- xxi. **Yahoo! Inc. v. Whois Privacy Protection Serv., Inc.**, **FA 412705**.

xxii. Busy Body, Inc. v. Fitness Outlet Inc., D2000-0127.

xxiii. Homer TLC v. Kang, FA 573872.

U. It is also alleged that the Respondent has also made fraudulent and incorrect claims while registering the impugned domain.

8. The Complainant *inter alia* seeks the following reliefs from this Tribunal

*"To immediately transfer the Domain Name **alamocar.in** to the Complainant and direct the Respondent to take all necessary steps with the domain name registering authority to transfer the domain name in the name of the Complainant.*

To order payment of costs related to the present proceedings, including fee paid for initiating the administrative process.

Any further order(s) which the Learned Arbitrator may find fit and proper given the facts and circumstances of the present complaint."

ORDER

9. This Tribunal has perused the complaint and the documents relied upon by the complainants and the same has not been controverted 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 did not have any claim on the domain name www.alamocar.in hence this Tribunal directs the Registry to transfer the domain name www.alamocar.in to the complainants.
10. The Complainants too are free to approach the Registry and get the same transferred in their name.
11. There is no order as to the cost as no details of the cost / damages have been specified / detailed in the complaint nor have the complainants disclosed their revenue figures.



12. The original copy of the Award is being sent along with the records of this proceedings 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 31st day of May, 2017.

NEW DELHI
31/05/2017



V. SHRIVASTAV
ARBITRATOR