



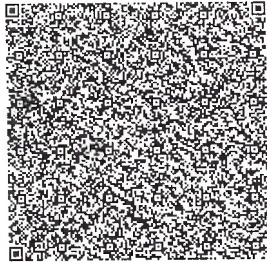
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL39022532417084P
Certificate Issued Date	: 17-Jan-2017 02:38 PM
Account Reference	: IMPACC (IV)/ dl876903/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL87690378503945849769P
Purchased by	: JAYANT KUMAR
Description of Document	: Article Others
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 BETWEEN

Amazon Technologies, Inc.

Complainant

v.

Surya Pratap

Respondent

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.

ARBITRATION AWARD

1. The Complainant is Amazon Technologies, Inc., a corporation organized and existing under the laws of State of Nevada. The Respondent is Surya Pratap, with his address at Shop No. 4114, Harihar Society, Chowk Area, Chandigarh – 400016, Haryana.
2. The Arbitration pertains to the disputed domain name <amazonsales.co.in>, registered on August 3, 2016 by the Respondent. The registrar for the disputed domain name is Godaddy.com.
3. The sole arbitrator appointed in this complaint by NIXI is Jayant Kumar. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence to NIXI.
4. The Complaint was handed over to the Arbitrator by NIXI on November 22, 2016. The Respondent, vide email dated November 25, 2016, was granted two weeks time to file its Reply to the Complaint. The Respondent was granted another opportunity vide email dated December 13, 2016 to file its Reply by December 18, 2016.
5. The Respondent did not file its Reply by January 9, 2017 and is therefore proceeded *ex-parte*.

Complainant's Submissions

6. The Complainant states that it has been using the mark AMAZON and AMAZON.COM since at least 1995. It is ranked 11th most innovative company worldwide and 12th world's most valuable brand by Forbes. The networth of the Complainant is US\$ 292.6 billion.
7. The Complainant has registered the mark AMAZON and AMAZON.COM in several jurisdictions of the world including Australia, Canada, European Union, Hong Kong, South Africa, Singapore, United, Kingdom, USA and India. The Complainant has given details of the numerous trademark applications and registrations of these marks in India alongwith copies of trademark registrations.
8. The Complainant further submitted that various Panel of NAF have held AMAZON to be well-known and famous marks - in *Amazon Technologies, Inc. v. Null*, FA 1488185; *Amazon.com, Inc. v. Digital Systems c/o Daniels*, FA 871120 and a few others.



9. The Complainant submitted that the domain name <amazonsales.co.in> is confusingly similar to its mark AMAZON and AMAZON.COM.
10. The Complainant submitted that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant's trade mark AMAZON being a highly distinctive and well-known trademark there can be no plausible justification for the adoption of the disputed domain name by the Respondent.
11. The Complainant submitted that the Respondent has not only adopted the disputed domain name but has entirely lifted the web pages of the Complainant's website and is resultantly using the Complainant's earlier well-known mark AMAZON. The said adoption and misuse of the contents of the Complainant's website not only amounts to trademark infringement of the earlier well-known mark AMAZON but also copyright infringement of the contents of the Complainant's website. The Complainant has filed snapshots of the Complainant's website and the Respondent's website to illustrate the similarity between the two websites. The webpages filed by the Complainant shows that the Respondent is also using the Complainant's logo AMAZON as well in an identical manner.
12. The Complainant further submitted that the Respondent's website can only be accessed from the web-browser of a mobile phone. On trying to purchase a product from the Respondent's website, the said website requires the visitor to share the link, as a final verification, under the disputed domain name with 8 groups or contacts on WhatsApp. The Complainant has filed the screenshots from the Respondent's website in support of its aforesaid submissions. The Complainant submitted that such use of the disputes domain name by the Respondent is sufficient evidence of bad faith use and registration.

Discussion and Finding

13. 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

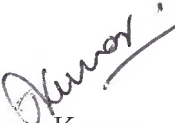



- c. The Respondent's domain name has been registered and is being used in bad faith.
14. The Arbitrator finds that the Complainant has submitted trademark registration certificates for various trademark registrations for the mark AMAZON and AMAZON.COM, which is sufficient documentary evidence to establish its rights in the mark AMAZON. The Arbitrator is convinced with the distinctive nature of and the Complainant's ownership in the mark AMAZON and its well-known status in India. The disputed domain name incorporates the mark AMAZON in entirety and merely adds a descriptive word 'SALES' therewith, which is insufficient to differentiate the disputed domain name with the mark AMAZON. The disputed domain name is therefore held to be confusingly similar with the Complainant's mark AMAZON.
15. 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. The Respondent appears to have intentionally adopted the mark AMAZON for unjust commercial gain, which is also evident from use of similar webpages as that of the Complainant on its website. Based on the above, the Arbitrator finds that the Respondent has no rights or legitimate interests in the disputed domain name.
16. The Arbitrator further agrees with the Complainant's submissions that it is inconceivable that the Respondent was unaware of the Complainant's trademark and its commercial attractiveness. Bad faith use and registration is therefore evident from the Respondent's attempt to intentionally attract, for commercial gain, interest users to their website and the services offered therein. The apparent copyright infringement and the trademark infringement of the Complainant's mark and its website contents by the Respondent further evidences bad faith use and registration of the disputed domain name by the Respondent. The Respondent's sole intention appears to be to gain profit by using the Complainant's mark AMAZON and amounts to bad faith usurpation of the recognition and fame of the Complainant's well-known mark. The Arbitrator accordingly finds bad faith use and registration of the disputed domain name by the Respondent.



Decision

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


Jayant Kumar
(Sole Arbitrator)


Dated: January 17, 2017