



सत्यमेव जयते

INDIA NON JUDICIAL

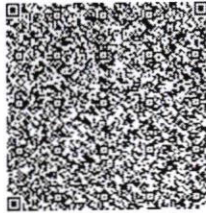
Government of National Capital Territory of Delhi

₹100

e-Stamp

Certificate No. : IN-DL33595295825225U
Certificate Issued Date : 19-Dec-2022 01:38 PM
Account Reference : SELFPRINT (PU)/ dl-self/ NEHRU/ DL-DLH
Unique Doc. Reference : SUBIN-DLDL-SELF41453147574585U
Purchased by : IRA LAW PREETIKA KASHYAP
Description of Document : Article 12 Award
Property Description : ARBITRATION AWARD
Consideration Price (Rs.) : 0
(Zero)
First Party : BINNY KALRA
Second Party : BINNY KALRA
Stamp Duty Paid By : BINNY KALRA
Stamp Duty Amount(Rs.) : 100
(One Hundred only)

₹100₹100₹100₹100



₹100

SELF PRINTED CERTIFICATE TO BE
VERIFIED BY THE RECIPIENT AT
WWW.SHCIESTAMP.COM

IN-DL33595295825225U

Please write or type below this line

ARBITRATION AWARD
IN REGISTRY

DISPUTED DOMAIN NAME (KEAADVERSANDPACKERS.IN)

INDRP CASE NO. 1629

INTER IKER SYSTEMS B.V.

— COMPLAINANT

PUSHPENDRA NAMDEV

v

— RESPONDENT

Bunny Kalra

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App 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
.IN REGISTRY**

(C/O NATIONAL INTERNET EXCHANGE OF India)

Before the Sole Arbitrator, Binny Kalra

Disputed domain name <**IKEAMOVERSANDPACKERS.IN**>

In the matter of:

Inter IKEA Systems B.V.
Olof Palmestraat 1,
2616 LN Delft,
The Netherlands

... Complainant

V

Pushpendra Namdev
Infoact
Church Road New Abadi
Sikandra, Agra, Uttar Pradesh-282007
India

... Respondent

INDRP Case No. 1629

1. The Parties:

The Complainant is Inter IKEA Systems B.V. (IKEA), a company incorporated under the laws of The Netherlands with its principal place of business at Olof Palmestraat 1, 2616 LN Delft, Netherlands. The Complainant is represented in these proceedings by Shwetasree Majumder and Astha Negi of Fidus Law Chambers, having its address at F-12, Ground Floor, Sector 8, Noida-201301 (UP), India. The Respondent is Pushpendra Namdev with the organization name Infoact and admin email namdevji1988@gmail.com.

2. The domain name, Registrar, and Policy:

Binny Kalra

The disputed domain name is < ikeamoversandpackers.in> (hereinafter referred to as the "**Disputed Domain Name**"). The sponsoring Registrar for the Disputed Domain Name is GoDaddy.com, LLC (R101-AFIN) having its address at 14455 North Hayden Road, Suite 219 Scottsdale, AZ 85260-6993, United States of America.

The present arbitration is being conducted in accordance with the Arbitration and Conciliation Act, 1996, the .IN Domain Name Dispute Resolution Policy ("**Policy**") and the INDRP Rules of Procedure ("**Rules**").

3. Procedural history:

- 12 November 2022: Statement of acceptance along with a declaration of impartiality and independence sent to the .IN Registry by the arbitrator
- 14 November 2022: The .IN Registry transmitted information of appointment of the arbitrator and circulated the complaint and its annexures to the parties.
- 14 November 2022: The Complainant submitted an amended complaint with complete details of the Respondent/Registrant as provided by NIXI
- 14 November 2022: Notice of commencement of arbitration proceedings was sent by the Panel to the parties and a period of 15 days, until 30 November 2022, was given to the Respondent to submit a statement of defense
- 1 December 2022: Since no response was received from the Respondent it was deemed to have forfeited its right to file a statement of defence. The award was reserved.

4. Complainant's case:

Amey *hale*


The complaint is based on the trademark IKEA registered in favour of the Complainant in several classes. The disputed domain name fully incorporates the well-known trademark IKEA of the Complainant. Reliance is placed on the extracts of the homepage of the Respondent's website at Annexure C. The exhaustive submissions of the Complainant in its complaint are paraphrased and summarized below.

1. The Complainant is a company within the Franchise Division of the Inter IKEA Group ('the Complainant Group') which also includes service companies and companies selling IKEA products to franchisees in certain markets. The Complainant Group is engaged in, inter alia, manufacturing and selling a large number of retail, office and hospitality products and offering retail store services, restaurant services, transportation services, insurance services, e-commerce services, bathroom and kitchen installation services, interior design services, issuing of credit cards, education and training, development of the franchise business, philanthropic services, under the trademark IKEA. Printouts from the Complainant's website showing use of the mark IKEA in relation to a variety of products and services in India are at Annexure D.
2. The Complainant is the owner of the IKEA Concept and the IKEA Retail System which is franchised to Retailers [hereinafter the IKEA Retailers], specifically dealing in the Complainant Group's products, worldwide. The IKEA Retailers operate 474 stores in about 64 markets of the world and collectively make up the world's largest network of retailers. Reliance is placed on Annexure E being the Complainant's website highlighting the above figures.
3. The trademark IKEA was adopted in 1943 by the Complainant's founder Ingvar Kamprad. The Complainant's trademark IKEA is an acronym of the initials of Ingvar Kamprad, Elmtaryd (the farm where he grew up), and Agunnaryd (his hometown in Småland, South Sweden). The Complainant has continuously used the trademark IKEA globally since its adoption in 1943. The trademark is inherently distinctive and is a strong identifier of source for the Complainant and its goods and services. It has no dictionary meaning and does not otherwise

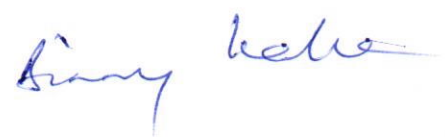
Ingvar Kamprad

exist in the English language. The Complainant is the proprietor of the IKEA trademark by virtue of priority in adoption, continuous and extensive use and advertising, and the reputation consequently accruing thereto in the course of trade.

4. The Complainant's trademark IKEA is registered in 109 countries of the world, including in India where it owns 87 applications and registrations for the trademark IKEA and vernacular versions thereof. The trademark IKEA forms a part of the trade names of nearly all the companies under the Complainant Group. A list of the Complainant's trademark applications and registrations in India is at Annexure F.
5. The Complainant adopted the trademark IKEA as an essential and integral part of its domain name www.ikea.com in 1995. The Complainant also has an India specific website www.ikea.in which was registered on 14 February 2005 and this provides information on the Complainant Group's presence in India. As of 2021 there were approximately 4.3 billion visits to IKEA websites. Extracts from the websites www.ikea.com and www.ikea.in along with the WhoIs details are at Annexure G.
6. The Complainant is one of the top 500 most valuable brands of 2018 and 2017 in the rankings by Brand Finance Global 500 and is currently valued at USD 24,351 million. Interbrand, the Millward Brown survey and Forbes have also rated the Complainant as one of the Best Global Brands in the World in 2017. In 2021, IKEA ranked 21 on the list of World's Best Employers by Forbes. Reliance is placed on documents pertaining to the above at Annexure H.
7. There are 2 companies in India, IKEA India Private Limited and IKEA Services Pvt. Ltd., belonging to the IKEA Group of Companies and the Complainant Group which operate from the same registered office in Delhi since 1 August 2013. These companies are authorized under confidential trademark and trade name agreements to use the trademark and trade name IKEA in India. Print outs from the records of the Ministry of Corporate Affairs are at Annexure I.



8. The Complainant Group is the first major single brand retailer to be given FDI approval to set up retail operations in India. The first IKEA store opened in Hyderabad in July 2018 and the launch was widely promoted across media. Reliance is placed on some articles evidencing the above at Annexure J.
9. The transborder reputation and goodwill of the Complainant in the trademark IKEA was recognized in a Delhi High Court decision dated 9 September 2016 in the case titled 'Inter IKEA Systems BV versus Imtiaz Ahmed; CS(OS) No. 3295 of 2014' filed at Annexure K. The Complainant has succeeded in restraining several third parties from using the trademark IKEA unauthorizedly in relation to their business. A table listing 13 cases in which injunction orders and final orders were passed by the Delhi High Court and the District Courts has been given in point 6.12 of the amended complaint. Reliance is placed on copies of the court orders at Annexure L (collectively).
10. Additionally, the Complainant's rights in the IKEA trademarks have been upheld in several UDRP and INDRP decisions. Particulars of 11 cases have been set out in point 6.13 of the amended complaint. Reliance is placed on copies of some of the decisions at Annexure M.
11. The Respondent has registered the disputed domain name www.ikeamoversandpackers.in without authority and misappropriated the Complainant's trademark/trade name IKEA. The disputed domain name was registered on 23 May 2022 many years after the Complainant established its rights in the well-known trademark IKEA. The Respondent has done so with a view to capitalise on the well-known nature of the trademark IKEA to maximise the earning potential of the Respondent's domain.
12. The Complainant sent a legal notice dated 16 June 2022 to the Respondent at its email address info@ikeamoversandpackers.in mentioned on its website. The Respondent did not respond to the said legal notice. A copy of the legal notice and the email delivery confirmation is filed as Annexure N.



6. Legal grounds:

Under Paragraph 4 of the Policy, the Complainant must establish the following three elements to succeed:

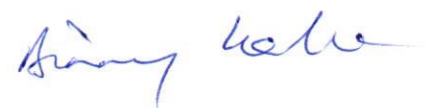
- (a) the Disputed Domain Name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
- (b) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (c) the Disputed Domain Name has been registered or is being used in bad faith.

The Complainant's case is that the legal grounds under the INDRP are met. The reasons are paraphrased below:

- a. The term "IKEA" is not a dictionary word or a common personal or a nick name but a composition of letters originating from the initials of Complainant's founder. The Complainant has not authorized or licensed the Respondent to use any of its trademarks in any way. The unlicensed and unauthorized use of the disputed domain name is solely with a view to misleading / divert consumers and to tarnish the trademark of the Complainant.

There is a great likelihood that actual or potential visitors to the present website of the Respondent will be induced to:

- believe that the Complainant has licensed its trademark/trade name/trading style IKEA to the Respondent or authorized the Respondent to register the disputed domain name; and
 - believe that the Respondent has some connection with the Complainant in terms of a direct nexus or affiliation.
- b. The Respondent is not commonly known by the domain name and has no rights over the trademark IKEA. The Respondent's website states that they are movers and packers and they provide packing services, furniture installations



and relocation services. There is malafide commercial use of the disputed domain name by the Respondent of IKEA which is a prior registered trademark of the Complainant. It is evident that the Respondent's use of the disputed domain name is neither a bona fide offering of services, nor a legitimate non-commercial or fair use pursuant to Policy.

- c. The domain name was registered and is being used in bad faith. A trademark search and an internet search at the time of the registration of the disputed domain name would have revealed the Complainant's trademark rights and presence. It is very unlikely that Respondent created the disputed domain name independently without any knowledge of the Complainant's trademark, 28 years after the registration of the Complainant's domain and its trademark registrations. Even constructive knowledge of a famous trademark like IKEA is sufficient to establish registration in bad faith.

7. Discussion and findings:

The Panel has gone through the complaint and annexures submitted by the Complainant. The three elements that the Complainant must satisfy to succeed in the Domain Name Dispute are discussed below.

A. Whether the Disputed Domain Name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights

- i) The Complainant has shown that it has rights in the IKEA trademark by virtue of:
- registrations in India (Annexure F);
 - use by way of physical stores and online presence through operation of websites at www.ikea.com and www.ikea.in (Annexures D, E and J);
 - third party ratings of the IKEA brand (Annexure H);
 - The distinctive nature of the Complainant's trademark IKEA together with the statutory protection granted to the mark in India and the Complainant's

Amey Kulkarni

common law rights in the said trademark of which note has been taken in several court decisions and awards in its favour (Annexures K, L, M).

Thus the Panel finds that the Complainant has strong and enforceable rights in the trademark IKEA. The Panel accepts the Complainant's statement that IKEA is an invented word with no known meaning in English or Indian languages. Trademark jurisprudence laid down over the years is clear that invented words are inherently distinctive and deserve a higher degree of protection. In *The Timken Company vs Timken Services Private Ltd.* [(2013) 15 PTC 568] the Hon'ble High Court of Delhi held:

"8.12. The defendant has not offered any plausible explanation for adopting the mark "Timken". The name "Timken" is neither parental name of defendant nor in any way connected with them. The word "Timken" does not appear in the dictionary. It cannot be a mere co-incidence that the defendant had adopted the same mark for their products which was registered in the name of the plaintiff and which have a worldwide market. As noticed earlier, the mark "Timken" is attributable to the surname of plaintiff's founder, Henry Timken. The trade mark and trade name "Timken" has become distinctive of the plaintiff's goods as a result of substantially exclusive and continuous use in commerce since 1899. It appears that defendant's desire to market their goods under the name of mark "Timken" is to trade upon and encash on the name, fame, reputation, image and goodwill acquired by the plaintiff."

- ii) The Disputed Domain Name is < **ikeamoversandpackers.in** > which contains the Complainant's trademark IKEA as a salient feature. It is apt to quote a couple of passages from *Beiersdorf A.G. vs Ajay Sukhwani & Another* (2008 SCC OnLine Del 1226) in this context:

"8. A domain name is an identity or name, which distinguishes the registrant from another. Internet allows universal access cutting across boundaries. Domain name therefore gives universal exclusivity. No two domain names can be exactly similar..."

Arjun Kataria

"32. The word NIVEA is common to both the plaintiff and the defendants. The use of the word International by the defendants with the word NIVEA does not in any manner distinguish the defendants from the plaintiff. On the other hand, word International symbolizes and conveys that the defendants have international presence and when used with the word NIVEA amounts to a representation that the defendants are or may be associated or connected with the plaintiff, an international company having presence all over the globe ... In these circumstances, it is held that the plaintiff has been able to establish misrepresentation on the part of the defendants."

Similarly, in this case the words 'movers and packers' suffixed to IKEA in the disputed domain name are completely descriptive and must be ignored in a determination of whether the disputed domain name is identical or confusingly similar to the Complainant's trademark. It is highly likely that someone accessing the Respondent's website would be confused into believing that the disputed domain is owned by the Complainant or is in some way connected with it. Therefore, the Panel finds that the disputed domain name which contains an identical trademark IKEA, is identical and/or confusingly similar to a trademark in which the Complainant has rights.

B. Whether the Respondent has any rights or legitimate interests in respect of the disputed domain name

There are certain obvious factors which show that the Respondent does not have any rights or legitimate interests in respect of the disputed domain name, i.e.:

- The registration of the disputed domain name is many years subsequent to the registration and use of the trademark IKEA in India by the Complainant.
- The Respondent did not reply to a legal notice that was issued by the Complainant asking it to transfer the disputed domain name which was an early opportunity for it to justify its registration of the disputed domain name.

Amey Kulkarni

- The Respondent has not submitted a statement of defence in the present dispute which is a further tacit admission that it does not have defensible rights or any claim / counter claim in respect of the disputed domain name.
- The Respondent does not appear to be known by the name IKEA.

Thus, there is no doubt that the Complainant has satisfied the second requirement under the INDRP. The Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

C. Whether the Disputed Domain Name has been registered or is being used in bad faith

Section 3 of the INDRP clearly stipulates that by applying to register a domain name, or by asking a Registrar to maintain or renew a domain name registration, the Registrant thereby represents and warrants that:

- (a) the credentials furnished by the Registrant for registration of Domain Name are complete and accurate;
- (b) to the knowledge of registrant, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party;
- (c) the Registrant is not registering the domain name for an unlawful and malafide purpose; and
- (d) the Registrant will not knowingly use the domain name in violation or abuse of any applicable laws or regulations."

A registrant thus has an express duty of care when it applies to register a domain name. The Respondent clearly did not exercise this duty of care and specifically, it made misrepresentations in respect of Section 3(b), (c) and (d).

The Respondent remaining silent in response to a legal notice from the Complainant and staying away from the INDRP proceedings are also clear pointers to bad faith registration of the disputed domain name. Hence the Complainant's claim is plausible that the Respondent registered the domain name to attract for

Binay Kalia

commercial gain internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location and to prevent the Complainant from reflecting the mark in a corresponding domain name.

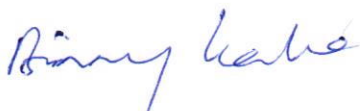
In view of the factors discussed above, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith.

Decision:

For the reasons discussed above, the Panel finds that the Complainant has satisfied all three elements required under Paragraph 4 of the Policy to obtain the remedy of transfer of the disputed domain name. Therefore, the Panel directs that the disputed domain name **<ikeamoversandpackers.in>** be transferred to the Complainant.

The Panel also directs the Respondent to pay INR 30000 towards costs to the Complainant because the filing of the complaint could have been averted by the Respondent.

Signed:



(Binny Kalra)

Arbitrator

Date: 19 December 2022