



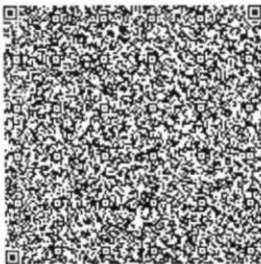
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL52731905858780K
Certificate Issued Date	: 06-Dec-2012 02:29 PM
Account Reference	: IMPACC (IV)/ dl719103/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL71910305387577325461K
Purchased by	: SANJAY KUMAR SINGH
Description of Document	: Article 12 Award
Property Description	: NA
Consideration Price (Rs.)	: 0
	(Zero)
First Party	: SANJAY KUMAR SINGH
Second Party	: NA
Stamp Duty Paid By	: SANJAY KUMAR SINGH
Stamp Duty Amount(Rs.)	: 100
	(One Hundred only)



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BEFORE SH. SANJAY KUMAR SINGH Sole Arbitrator.

ARBITRATION AWARD

DATED - 23-12-2012

Access PREPAID WORLD LTD - - - COMPLAINT

VS

DE GUI WANG

- - - RESPONDENT

Sanjay K. Singh
23-12-2012

Statutory Alert:

1. The authenticity of the Stamp Certificate can be verified at Authorised Collection Centers (ACCs), SHCIL Offices and Sub-registrar Offices (SROs).
2. The Contact Details of ACCs, SHCIL Offices and SROs are available on the Web site "www.shcilestamp.com"

BEFORE SHRI SANJAY KUMAR SINGH ARBITRATOR

IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

IN THE MATTER OF:

Access Prepaid Worldwide Ltd,
Worldwide House, Thorpe Wood,
Peterborough PE3 6SB,
United Kingdom

THROUGH

Khurana & Khurana,
Advocates & IP Attorneys,
E-mail: tarun@khuranaandkhurana.com

..Complainant

Versus

Degui Wang
Pukou, Nanjing Jiangsu ,
CHINA 2118
E-mail: onedogreat@yahoo.com.cn

..Respondent

1. THE PARTIES:

The complainant is Access Prepaid Worldwide Ltd, Worldwide House, Thorpe Wood, Peterborough PE3 6SB, United Kingdom.

(Complaint has been filed by through Khurana & Khurana, Advocates & IP Attorneys, E-mail: tarun@khuranaandkhurana.com)

The Respondent is Degui Wang, Pukou, Nanjing Jiangsu , CHINA 2118, E-mail: onedogreat@yahoo.com.cn

2. DOMAIN NAME AND TRADEMARK IN DISPUTE:

Domain name of the respondent is "**cashpassport.in**"

The trademark of the complainant is "**CASH PASSPORT**".

Sanjay Kumar Singh
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AWARD

1. This arbitral proceeding commenced in accordance with IN Dispute Resolution Policy (INDRP) and rules framed there under.
2. The complainant submitted his complaint in the registry of NIXI against the respondent in respect to the respondent's Domain name "**cashpassport.in**"
3. I was appointed as Sole Arbitrator in the matter by NIXI.
4. The complainant submitted the said complaint under In Domain Name Dispute Resolution Policy (INDRP).
5. A copy of complaint was sent to me by the NIXI for arbitration in accordance with Dispute Resolution Policy (INDRP). The copy of the complaint along with annexures/exhibits was forwarded to me and to the respondent by .In Registry of NIXI.
6. The complainant as such has prayed for an award in the above matter for transfer of the domain name "**cashpassport.in**" in favour of the complainant.
8. On 28-11-2012 I issued notice to the respondent and informed the respective parties to the complaint, about my appointment as an arbitrator. Accordingly, I called up on the parties to file their counter/ reply and rejoinder with the supportive document/evidence within seven days of receipt of notice.
9. On 08-12-2012 I again issued notice to the respondent and further directed the respective parties to the complaint, to file their counter/ reply and rejoinder with the supportive document/evidence.
10. The complainant has stated in the instant complaint that it is part of the internationally renowned Master CARD group of companies and

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was incorporated on 20 April 2005. The company is the largest distributor of prepaid travel cards and focuses its business activities on management and delivery of consumer and corporate prepaid travel cards through multiple products including **"CASH PASSPORT"** to business partners around the world, including financial institutions, retailers, travel agents and foreign exchange bureaux. The complainant has an expertise across 24 countries and 6 continents with 24/7 call centre support in over 12 languages and has more than 20,000 sales locations globally. The complainant has submitted copies of certificate of incorporation of the complainant as *Annexure- A-1/3 to 3/3*.

11. The complainant has stated in the complaint that it acquired **"CASH PASSPORT"** business from Travelex Group in April 2011, wherein Travelex is world's largest retail foreign exchange specialist trading in over 80 currencies and in more than 100 countries and 20,000 locations. CASH PASSPORT is used in connection with a prepaid currency travel money card.
12. The complainant has stated in the complaint that it is the owner of a large portfolio of trademark registrations for the mark registrations for the mark CASH PASSPORT in various countries worldwide. The complainant has openly, extensively and continuously used the trademark CASH PASSPORT globally and said trademark is registered in India, European Union and other countries of the world. By virtue of extensive publicity and registrations in a number of countries, the trade name and trademarks CASH PASSPORT and cashpassport.com command much valuable goodwill and are identified worldwide exclusively with the Complainant and its business and enjoy reputation, support and trust amongst the trade and public. The complainant has submitted the details of Registration/applications for registration of the mark CASH PASSPORT as *Annexure B-2*.
13. The complainant has stated in the complaint that the Trade Mark

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CASH PASSPORT is registered in OHIM, India and various countries of the world. In India and Europe, the following trade mark registrations are of particular relevance:

Country	Mark	Classes	Number	Date
India	CASH PASSPORT	16,35,36	1362077	7 June 2005
European Community	CASH PASSPORT	9,36	2249928	17/05/2001

The community trade mark registration extends to all the 27 countries of the European Union. The aforementioned registrations are relevant in establishing Complainant's right as proprietor of the trade mark CASH PASSPORT. The complainant has submitted the Copies of the certified copies of registrations and printouts of the online registrations from different jurisdictions as available from the website of the respective Trademark Offices as *Annexure: C and D*.

14. The complainant has stated in the complaint that in addition to registrations mentioned in Paragraph 5 of the Complaint, the Complainant also holds an international Trade Mark registration under Madrid System vide Registration No. 949165 which covers Antigua and Barbuda, Albania, Armenia, Australia, Azerbaijan, Bosnia and Herzegovina, Bahrain, Bhutan, Botswana, Belarus, Switzerland, China, Cuba, Egypt, European Community, Georgia, Ghana, Croatia, Israel, Islamic Republic of Iran, Iceland, Japan, Kenya, Kyrgyzstan, Democratic People's Republic of Korea, Republic of Korea, Liechtenstein, Liberia, Lesotho, Morocco, Republic of Moldova, Montenegro, Madagascar, The former Yugoslav Republic of Macedonia, Mongolia, Mozambique, The Republic of Namibia, Norway, Serbia, Russian Federation, Sudan, Singapore, Sierra Leone, San Marino, Sao Tome and Principe, Syria, Swaziland, Turkmenistan, Turkey, Ukraine, USA, Uzbekistan, Vietnam, and Zambia. The complainant has submitted the

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international registration certificate as displayed on WIPO as *Annexure E*.

15. The complainant has stated in the complaint that the Trade Mark "CASH PASSPORT" was assigned by original Registrants of the mark *M/s Travellers Exchange Corporation Ltd.* to the Complainant vide a deed of assignment, wherein the deed of assignment executed on 15th April 2011 by virtue of which the Complainant acquired proprietorship of the mark. The complainant has submitted the copy of assignment deed as *Annexure- F*.
16. The complainant has stated in the complaint that the recordal of proprietorship of the mark CASH PASSPORT has been affected in OHIM, and the same is pending with Indian TM Registry after filing of Application for assignment of the mark in Complainant's name. The complainant has submitted the copy of Form TM 24 as filed requesting for recordal of change of name of proprietor on records of the TM Registry as *Annexure- G*
17. The complainant has stated in the complaint that the domain name www.cashpassport.com was created on April 12, 2002. The Complainant has an interactive website <http://www.cashpassport.com>. and in addition, has many other country specific websites, which are accessible to people from any part of the world through internet. The complainant has submitted the Copies of whois results of complainant's aforesaid domain names as *Annexure- H*. The complainant also holds other allied web sites such as cashpassportcardlogin.com. Moreover a mere search on the internet of the search engine www.google.co.in generates hundreds of hits that relate the mark CASH PASSPORT only to the Complainant and none else. Further a random search on other popular search engines <http://search.yahoo.com/search> and <http://search.google.com/search> reveals a number of links to the websites hosted and maintained by third parties showcasing the products of the Complainant bearing the mark CASHPASSPORT.

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18. The complainant has stated in the complaint that it has gained popularity with a vast number of individuals and corporate and business users who use Cash Passport during overseas casual and business trips. CASH PASSPORT is safer than carrying cash, more convenient than travellers cheques and allow consumers greater financial control. The consumers love Cash Passport for helping them to pre-load their travel budget for safe and convenient use at millions of ATMs, as well as shops and restaurants, worldwide. Being a part of the world's most renowned Master card group, CASH PASSPORT **to** withdraw money from 1.9 million MasterCard@ ATMs worldwide. The Complainant also has a number of authorized agents in India and considers India is one of the most crucial markets for its growth. Complainant's website www.cashpassport.com lists a number of countries where the complainant is doing business and each link of the country opens a new portal such as <http://www.cashpassport.com/1/en/za> and <http://www.cashpassport.com/1/en/jp> for the consumers of such country. The link for India can be seen at <http://www.cashpassport.com/1/en/India/About-cash-passport/> These countries include but are not limited to:

Australia
Brazil
Canada
China
France
Ghana
Hong Kong
India
Japan
Malawi
Mexico
Netherlands
New Zealand
Nigeria
South Africa
South Korea
United Arab Emirates
United Kingdom

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United States
Zimbabwe

19. The complainant has stated in the complaint that respondent's domain name **"cashpassport.in"** incorporating the complainant's trademark is bound to cause confusion and deception.
20. The complainant has stated in the complaint that respondent is not even making a legitimate or fair use of the said domain name for offering goods and services and has also not been commonly known by the name or mark CASH PASSPORT in any manner whatsoever in any stretch of imagination.
21. The complainant has further stated in the complaint that it has never authorized, licensed or otherwise permitted the respondent to use the name, trademark or domain name consisting of CASH PASSPORT or to use cashpassport.in as a domain name.
22. The complainant has stated in the complaint that the respondent's domain name has been registered in bad faith and further respondent registered it with intent to disrupt the complainant's business or to attract internet users to its website by creating likelihood of confusion.
23. The complainant has prayed for an award in the above matter for transfer of the domain name **"cashpassport.in"** in favour of the complainant.
24. I have perused the records and have gone through the contents of the complaint. Since respondent has not filed any reply hence the complaint is being decided ex-parte on the merits of the complaint and as per law of the land.
25. The complainant has made positive assertions that respondent has no legitimate right in domain name and the respondent has no

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trademark on the domain name. The complainant has made positive assertions regarding the fact that respondent has got registered the disputed domain name in the .IN Registry for which the respondent has no right or trademark. As such in above circumstance it is clear that the complainant has prima facie discharged the initial onus cast upon him. The respondent has not come forward in spite of repeated notices to file any reply / counter or to provide any positive, cogent and specific evidence that it is known or recognized by domain name. The respondent has neither put forth and has nor provided such evidence. Thus the conclusion is that respondent has no right or legitimate interest in the domain name.

26. It has been held in Indian decision **M/s Satyam Infoway Ltd. Vs. M/s Sifynet Solution (P) Ltd. JT. 2004 (5) SC 541**, that Domain name has all characteristics of trademark. As such principles applicable to trademark are applicable to domain names also. In the said case the words, "Sify" & "Sify" were held to be phonetically similar and addition of word 'net' in one of them would not make them dissimilar. It is held in above case that in modern times domain name is accessible by all internet users and thus there is need to maintain it as an exclusive symbol. It is also held that it can lead to confusion of source or it may lead a user to a service, which he is not searching. Thus conclusion is that domain name and trademark, which may be used in different manner and different business or field, or sphere, can still be confusingly similar or identical.
27. Thus the conclusion is that the domain name **"cashpassport.in"** is identical and confusingly similar to the trademark of complainant **"CASH PASSPORT"** and the complainant has established that he has right in the trademark and further the respondent has got registered his domain name **"cashpassport.in"** in bad faith.

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RELIEF:

The domain name of the respondent is identical and confusingly similar to trademark of complainant. The respondent also does not have right or legitimate interest in the domain name. He has got it registered in bad faith, as such he is not entitled to retain the domain name. The complainant is entitled for transfer of domain name "**cashpassport.in**" to him, as it has established its bonafide rights in trademark in facts and circumstances and as per law discussed herein above. Hence I direct that the Domain name be transferred to the complainant by registry on payment of requisite fee to the registry.

No order as to costs.

Delhi

Date: 23-12-2012.


(Sanjay Kumar Singh)
Arbitrator