



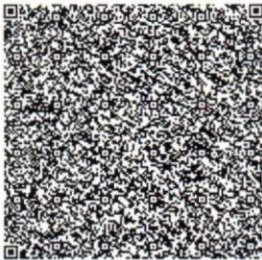
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL98848491671730M
Certificate Issued Date	: 27-Aug-2014 01:16 PM
Account Reference	: IMPACC (IV)/ dl719703/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL71970395012398910728M
Purchased by	: V SHRIVASTAV
Description of Document	: Article 12 Award
Property Description	: Not Applicable
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

ARBITRATION PROCEEDINGS OF DOMAIN NAME

www.crabtree-evelyn.in

between

CRABTREE & EVELYN HOLDINGS LIMITED

...COMPLAINANT

AND

DING RIGUO

...RESPONDENT

AWARD

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 05/07/2014. 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 the Complainants vide their email dated 09/07/2014 raised certain objections which were turned down by this Tribunal.
3. The complainant through Mr. Navarre Roy vide email dated 18/07/2014 complied with the directions and resent a duly paginated softcopy of the complaint both to this Tribunal and



the Respondents and the hard copy later on which was without annexure and the indexing was not proper. Hence this Tribunal vide order dated 22/07/2014 sent the complainant a sample of the index after which the complainant sent a properly indexed and paginated copy of the complete complaint with annexure.

4. On 30/07/2014 vide its order this Tribunal had to remind the complainant that the Regd. Speed Post sent to the Respondent could not be tracked and to find from India Post and give the status report of the consignment to this Tribunal.
5. On 04/08/2014 vide email the complainant stated that the Respondent had refused to take the consignment containing the complaint and it was being returned back to the complainant. The earlier DHL courier No. 3513960295 as well as the Speed Post No. ET176012602IN sent to the Respondent has been refused by the Respondent stating "RECIPIENT REFUSED DELIVERY" and "SHIPMENT ON HOLD".



6. Hence, vide order dated 05/08/2014 this the Tribunal clarified that the complainant vide their email dated 18/07/2014 have sent the complaint along with annexure to the Respondent at their notified email id. Further this Tribunal also noticed that this Tribunal has also sent emails to the Respondents at the notified email id and the emails have not bounced back neither any response has come from Respondent. Thus this Tribunal held the Respondent as served. In view of the above this Tribunal directed the Respondents to send their Statement of Defense together with documentary evidence relied upon by them both by email and courier so as to reach this Tribunal by 13/08/2014 and also directed the complainant to file their Evidence by way of Affidavit so as to reach this Tribunal by 16/08/2014 even if the Respondent did not send his SoD by 13/08/2014.

7. That this Tribunal received the soft copy of the Evidence by way of Affidavit of the complainants on 16/08/2014 but it is worth mentioning that the hard copy of the complainants Evidence



was received only on 26/08/2014 and the award was reserved vide order dated 25/08/ 2014.

CLAIM

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

A. The Complainant claims to be Crabtree & Evelyn Holdings Limited a company existing under the laws of England, with a registered address of 27 Kelso Place, Kensington, London W8 5QG, England.

B. According to the Claimant as per Registry.in WHOIS database, the Respondent in this is Ding RiGuo, and is registrant of the domain name www.crabtree-evelyn.in. Reliance is placed on **Annexure A**.

C. The Complainants submit that :

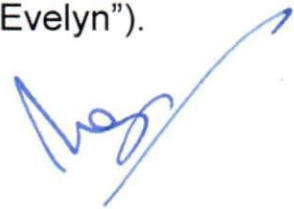


(1) Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant have rights;

(2) The Registrant has no rights or legitimate interests in respect of the domain name; and

(3) The Registrant's domain name has been registered or is being used in bad faith.

D. The complainants claim that the trademark i.e. CRABTREE & EVELYN is owned by them and they manufacture and sell specialty products (original fragrances, body care products, luxurious toiletries, gourmet foods, gifts, etc.) with international retailing services (e.g. ecommerce websites such as www.crabtree-evelyn.com and retail stores that operate under the name "Crabtree & Evelyn").



- E. It is claimed that the Complainant and its predecessor-companies have used the Crabtree & Evelyn Trademark since 1973 as a trading name and this trademark was created by combining the word "Crabtree," which is stated to be a plant known for its beauty and use in home apothecary, and the name "Evelyn," which refers to John Evelyn, a 17th century botanist. The complainants claim that they have registered trademark for the Crabtree & Evelyn Trademark. Reliance is placed on **Annexure C**.
- F. It is alleged that the Respondent has deliberately infringed and diluted Complainant's invaluable rights in the Crabtree & Evelyn Trademark through the unlawful registration of the domain name www.crabtree-evelyn.in.
- G. It is claimed that the Crabtree & Evelyn trademark was registered as early as 1976 in the United States and it has been used exclusively by the Complainant and its subsidiaries and licensees globally since then.

H. It is claimed that products bearing the Crabtree & Evelyn Trademark are distributed to retail stores throughout India and they are also available at retail stores that do business under the name "Crabtree & Evelyn" in New Delhi, Chennai, Bangalore, Mumbai, Pune, and Kolkata. The Complainant claim to have filed the following trademark applications in India for its cosmetics, fragrances and other related services:

Application	Mark	Class	Status
2126420	CRABTREE & EVELYN	3, 4	Pending
2309129	CRABTREE & EVELYN	35	Pending

I. The Complainant, claim that they through their wholly-owned subsidiaries, owns and has registered numerous domain names, as given in **Annexure D.**



J. The complainants state that the Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights. Reliance is placed on **Annexure E**.

K. The Complainants place reliance on following cases:

1. LEGO Juris A/S v. Martin, INDRP/125 (2008)
2. Starbucks Corp. v. Mohanraj, INDRP/118 (2009).
3. Standard & Poor's Financial Services LLC v. Gao Gou, INDRP/576 (2014).

L. The Complainants further allege that the Registrant has no rights or legitimate interests in respect of the domain name.

M. It is also alleged that the Registrant's domain name has been registered and is being used in bad faith.



N. The Complainants claim that their trademark is well-known worldwide for body care products, fragrances, gourmet food, gifts, and retail services online and in stores due to Complainant's expenditure of substantial resources promoting, selling and advertising Complainant's products and services and the Respondents by using the domain name www.crabtree-evelyn.in, has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

O. It is further alleged that the Respondent has registered the domain only to offer it for sale. According to the WHOIS Record, the Respondent has even filled the address line with the following statement: "This-domain-may-be-for-sale" which clearly demonstrates that the Respondent has

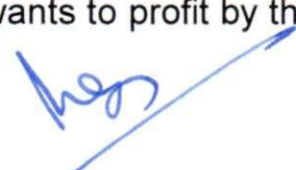


only registered the domain for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant.

FINDING

P. This Tribunal notices that the complainants allegations as given in para N of the award and those in O are contradictory to each other. It cannot be anybody's case that Respondent on one hand is attempting to attract customers on his disputed website and on the other he is putting the website for sale.

Q. Be it that as it may, this Tribunal cannot help noticing that the Respondent has put the domain name for sale which establishes that he has no commercial interest in the domain name in question and he wants to profit by the said registration.



ORDER

9. This Tribunal has considered the allegations of the complainants and has seen that the Respondent despite being aware of the present proceedings and despite being called upon by this Tribunal to send his Reply/ Statement of Defence and take further steps in the present proceedings chose not to give any and hence the allegations of the complainants remain un rebutted/ admitted.

10. In view of the undisputed evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name <crabtree-evelyn.in> hence this Tribunal directs the Registry to transfer the domain name < crabtree-evelyn.in> to the complainants. The Complainants too are free to approach the Registry and get the same transferred in their name. There is no order as to the cost. 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 1st day of September, 2014.

NEW DELHI
01/09/2014



V. SHRIVASTAV
ARBITRATOR