



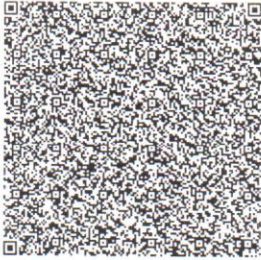
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## INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

### e-Stamp

Certificate No.	: IN-DL62261258268090N
Certificate Issued Date	: 28-Jan-2015 11:19 AM
Account Reference	: IMPACC (IV)/ dl766703/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL76670321374631670982N
Purchased by	: MRS LUCY RANA
Description of Document	: Article Others
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: MRS LUCY RANA
Second Party	: Not Applicable
Stamp Duty Paid By	: MRS LUCY RANA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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**BEFORE THE SOLE ARBITRATOR UNDER THE  
IN DISPUTE RESOLUTION POLICY, (c/o NIXI)  
ARBITRATION AWARD**

Disputed Domain Name: <easytobook.in>

**IN THE MATTER OF:**  
**EasytoBook Holding B.V.**  
Weteringschans 109  
1017 SB Amsterdam, The Netherlands

**Complainant**

**Versus**

**Gyorgy Vajda**  
210 Clonliffe Rd  
Dublin, 00003, IE,  
gy@elvisdublin

**Respondent**

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**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.

*[Handwritten signature]*

1. **The Parties:**

**The Complainant** in this arbitration proceeding is EasytoBook Holding B.V. Weteringschans of the address 109, 1017 SB Amsterdam, The Netherlands.

**The Respondent** in this arbitration proceeding is Gyorgy Vajda of the address 210 Clonliffe Rd, Dublin, 00003, IE, Tel: +353.833051956, gy@elvisdublin.

2. **The Domain Name, Registrar and Registrant:**

The present arbitration proceeding pertains to a dispute concerning the registration of the domain name <easytobook.in> in the name of the Respondent, with the .IN Registry.

3. **Procedural History:**

The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDPR), adopted by the National Internet Exchange of India (NIXI). NIXI vide its email dated November 17, 2014 appointed Mrs. Lucy Rana as the Sole Arbitrator in the matter. The Arbitrator submitted the statement of acceptance and declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure.

The Arbitrator received the Complaint from NIXI on November 18, 2014.

In accordance with Rules 2(a) and 4(a), NIXI vide email dated November 18, 2014, notified the Respondent of the filing of the Complaint and the appointment of the Arbitrator for adjudicating upon the disputed domain name <easytobook.in>.

Thereafter the Arbitrator sent a notice to the Respondent vide email dated November 20, 2014, granting the Respondent a period of 14 days (Fourteen Days) from the receipt of the notice to file its response to the Complaint in both hard as well as soft copy.

NIXI vide email dated December 01, 2014 intimated the Arbitrator that the email sent by NIXI to the Respondent intimating the Respondent regarding the handing over of the domain Complaint to the Arbitrator has been undelivered.



Therefore, the Arbitrator vide email dated December 02, 2014, requested the Complainant to serve a hard copy of the Complaint on the Respondent immediately along with a copy of the email, directing the Respondent to reply to the Complaint within ten days of receipt of the email or delivery of the hard copy of the Complaint. The Complainant vide email dated December 4, 2014, intimated the Arbitrator that they had sent the hard copy of the Complaint along with the Annexures vide DHL Courier AWB No. 4198834522 on December 4, 2014, to the available address of the Respondent.

On December 12, 2014, the Arbitrator requested the Complainant to inform the delivery status of the hard copy of the Complaint with Annexures sent to the Respondent. The Complainant vide email dated December 13, 2014, intimated the Arbitrator that the shipment was not yet delivered and as per the DHL Courier tracking details the delivery status was '**Shipment on Hold**'.

The Arbitrator sent an email to the Complainant on January 05, 2015, followed by a reminder email on January 09, 2015, seeking confirmation as to the delivery of the Complaint along with Annexures sent by courier to the Respondent. In reply thereto, the Complainant sent an email dated January 09, 2015, informing that as per the DHL Courier tracking details the delivery of the said courier had remained unsuccessful till then.

In the interest of justice and equity, the Arbitrator gave one last and final opportunity to the Respondent vide email dated January 19, 2015, to file its reply till **January 23, 2015**. However the said email sent by the Arbitrator was undelivered and remain undelivered till January 23, 2015 and no reply has been filed by the Respondent till date.

The Arbitrator finds that the Complainant had duly complied with the directions of the Arbitrator. It is apparent that both NIXI and the Complainant have tried to serve the Complaint along with the Annexures upon the Respondent, but all attempts to contact the Respondent on the contact details provided by the Respondent in the WHOIS records for the domain <easytobook.in>, have remained unsuccessful.

As adequate steps have been taken to notify the Respondent on the contact details provided by it in the WHOIS records for the impugned domain, it is deemed to be an effective service within the meaning of Rule 2(e) of the INDRP Rules of Procedure. Further Section 3 (1) (b) of the arbitration and Conciliation Act, 1996, reads that "If none of the places referred to in clause (a) can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last known place of business, habitual residence or mailing address by registered letter or by any other means which provides a record of the attempt to deliver it."

In light of the above it is evident that the Registrant cannot be contacted on any of the communication details as provided by them in the WHOIS records for the domain <easytobook.in>. Therefore, it prima facie appears that the Registrant has provided incorrect contact details in the WHOIS records for the impugned domain and not updated the same as per the Registry Advisory No. LA 02 dated February 18, 2005, regarding Accurate WHOIS Information in Domain

Hence, the service of notice is deemed to have been completed on the Respondent. Accordingly in view of the peculiar facts and circumstances in the matter, the Arbitrator has proceeded with the arbitration proceedings on the basis of the material submitted and put on record by the Complainant.

4. **Factual Background:**

- (a) The Complainant states that it is a group company of MakeMyTrip (India) Private Limited, one of the leading online travel companies with instant booking and comprehensive choices. The Complainant further states that it claims to offer a range of best-value products and services along with cutting-edge technology and dedicated round-the-clock customer support.
- (b) The Complainant believes that its brand “EASYTOBOOK” is well-recognized worldwide. The Complainant states that it has invested in developing and promoting its brand since inception, using a combination of traditional marketing channels such as print and mass media campaigns, as well as search engines marketing and other innovative digital marketing tools. It further states that its reputation and market position have also provided the Complainant with better leverage when contracting with hotels and other suppliers.
- (c) The Complainant claims to have designed its websites to be user-friendly, providing its customers with extensive accommodation/hotel options, at cost effective rates. Its websites also enables the customers to find their right destinations easily by using colloquial names or major landmarks.
- (d) The Complainant states that its web-based booking engine has been designed to link to their suppliers systems either through “direct connects”, “channel manager” or its own proprietary extranet, and is capable of delivering real time availability and pricing information for multiple options simultaneously and its technology platform is able to handle more than 40 million website requests per day and can be handled to upgrade increased traffic and complexity of products with limited additional investment.



- (e) The Complainant states that by using its websites, customers can easily and quickly review the pricing and availability of nearly all its services and products, evaluate and compare options, and book and purchase such services and products online within minutes. Customers can select from a range of over 186,000 hotels worldwide.
- (f) The Complainant has attached the registration certificate for the Community Trade Mark Registration (CTM) number 006956452 dated June 03, 2008 for the trade mark **"EASYTOBOOK"** granted by OHIM as Annexure C.
- (g) The Complainant claims that its trade mark **"EASYTOBOOK"** is an invented word that forms a predominant feature of its corporate name. The Complainant states that its sales turnover runs into several million US Dollars and its promotional expenses also run upto several millions and in view thereof, it claims that its trade mark **"EASYTOBOOK"** is an internationally well-reputed mark. It further states that it has also registered the following top level country specific domain names:

S. No	Domain Name
1	easytobook.ie
2	easytobook.ca
3	easytobok.com
4	easytobook.ac
5	easytobook.be
6	easytobook.ch
7	easytobook.cn
8	easytobook.com
9	easytobook.cz
10	easytobook.dk
11	easytobook.it
12	easytobook.lc
13	easytobook.mobi
14	easytobook.nl
15	easytobook.se
16	easytobook.tk

S. No	Domain Name
17	easytobook.tw
18	easy2book.nl
19	easy2bok.nl
20	easytobook.at
21	easytobook.biz
22	easytobook.cm
23	easytobook.co.uk
24	easytobook.com.br
25	easytobook.de
26	easytobook.me
27	easytobook.us
28	easytobook.eu
29	easytobook.jp
30	easytobook.me
31	easytobook.pt
32	easytobook.so

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- (h) The Complainant states that it was listed in Deloitte Technology Fast 500 EMEA for the years 2009, 2010 and 2011; 5<sup>th</sup> place in prestigious Deloitte Technology Fast 50 Benelux in 2009; nominee in Deloitte Technology Fast 50 Benelux 2010; Bronza Email Marketing Award 2011 etc.

**5. Parties Contentions:**

**(a) Contentions on behalf of the Complainant:**

- (i) **The disputed Domain Name is identical or confusingly similar to the marks of the Complainant (Policy paragraph 6; Rules, para. 3 (1),(2) (3))**

The Complainant has submitted that “EASYTOBOOK”, which is its corporate name, trade mark and domain name, is an invented word.

The Complainant further submits that the domain name easytobook.in, capitalizes on the invented word “EASYTOBOOK”, which is the root cause of the confusing similarity. The Complainant also states that since it is globally recognized and is a global player, use of such a misleading domain name by the Respondent only adds to the confusion in the minds of an internet user that it is associated with the Complainant.

- (ii) **Respondent has no rights or legitimate interests in the domain names (Policy paragraph 6; Rules, para. 3 (1),(2) & (3))**

The Complainant further states that “EASYTOBOOK” is the trade name and the main part of the trade mark of the Complainant, and is an invented word. It is further stated that the trade mark has attained widespread fame and recognition not only in India but also in several countries including the United States, Europe, and Asia. The Complainant further states that in the disputed domain name, the Respondent has registered the domain name <easytobook.in> to falsely indicate that he has a trade nexus with the Complainant, whereas in fact, the Respondent has no such relationship with the Complainant.

The Complainant further states that there is no element on the website of Respondent that would in some way justify the use of the word “EASYTOBOOK”, within the disputed domain name registered by the Respondent. Further it has been stated that the Respondent’s website hosts some content, which is in any event irrelevant, to promote itself as a travel website, and



has been hosted with the intent of squatting upon the Complainant's valuable and varied intellectual property rights.

The Complainant states that the Respondent has no legitimate right to use the word "**EASYTOBOOK**", and has neither permitted the Respondent to use the same. The Complainant also states that its trade mark is unique to itself, and the Complainant has neither authorized nor licensed its use to the Respondent. The Complainant further states that the Respondent's manner of usage as seemingly a travel services site, which potentially could add features and content in the future giving the Complainant's growing popularity, could cause considerable commercial loss to the Complainant and irreparable dilution to its brand across the globe.

The Complainant further relies on the WIPO decision in the matter of *Telstra Corporation Limited vs. Nuclear Marshmallows D 2000-0003* and INDRP decision in the matter of *Rediff.Com India Ltd. Vs Abhishek Verma and Anr INDRP/001*, and states that the Respondent's use of the domain name cannot be said to be legitimate, and was seeking to create an impression of an association with the Complainant.

The Complainant further relies on the WIPO decision in the matter of *ACCOR v. Tigertail Partners, D2002-0625* and INDRP decision in the matter of *Microsoft Corporation vs. Yan Wei INDRP/145*, that provides adequate grounds for such registration made with intention to illegally capture on the Complainant's hard earned reputation and goodwill, to be treated as done in bad faith and without any legitimate interest.

**(iii)The domain names have been registered and are being used in bad faith**

The Complainant states that the Respondent's website purports to offer services identical to that of the Complainant, with an intention to capitalize its well-known mark and to mislead internet users searching for the same. The Complainant further states that the Respondent intends to benefit by providing services identical to that of the Complainant, thereby creating an impression that it is in some manner related to the Complainant.

The Complainant further states that this clearly indicates that the Respondent is to merely cyber squat and later sell the disputed domain to the Complainant, the Complainant's competitor any other interested party for profit.

The Complainant also states that the Respondent's website is the preferred format of cyber squatters globally consisting merely of irrelevant and inactive links, with

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no independent content, made with an intention to presently cash in on the Complainant's well-known mark by misleading internet users.

The Complainant further states that the Respondent is seeking to take undue advantage of the fame and goodwill of the Complainant by diverting the potential customers of the Complainant, through various channels of trade including through search engines such as Google. It has further been stated that diversion of traffic would result in financial gain to the Respondent and would cause monetary loss to the Complainant's in the form of missed revenues and further cause unwarranted dilution of their internationally reputed brand.

The Complainant further states that the use of its trade mark "EASYTOBOOK" by the Respondent as its domain name, prevents the Complainant, who is the rightful owner of the trade mark from reflecting the same in a corresponding domain name.

The Complainant further states that as the Respondent does not have any lawful relation with it, the Respondent intended to transfer the disputed domain name to the Complainant, or any competitor at any appropriate time, with a view to make profit.

**(b) Contentions on behalf of the Respondent:**

As adequate steps have been taken to notify the Respondent on the contact details provided by it in the WHOIS records for the impugned domain, it is deemed to be an effective service within the meaning of Rule 2(e) of the INDRP Rules of Procedure. Further Section 3 (1) (b) of the arbitration and Conciliation Act, 1996, reads that "If none of the places referred to in clause (a) can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last known place of business, habitual residence or mailing address by registered letter or by any other means which provides a record of the attempt to deliver it."

The Respondent has not filed any response and submissions to the Complaint despite adequate notification and opportunity being given by the Arbitrator. Therefore, the Arbitrator has proceeded with the arbitration proceedings on the basis of the material submitted and put on record by the Complainant.

**6. Discussion and Findings:**

Adequate steps have been taken to notify the Respondent on the contact details provided by it, it is deemed to be an effective service within the meaning of Rule 2(e)

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of the INDRP Rules of Procedure. The Respondent has not filed any response and submissions to the Complaint despite adequate notification and opportunity being given by the Arbitrator. Therefore, the Arbitrator has proceeded with the arbitration proceedings on the basis of the material submitted and put on record by the Complainant.

Having gone through the material submitted, the Arbitrator is of the view that the Complainant has satisfied all three conditions outlined in Paragraph 4 of the .IN Domain Name Dispute Resolution Policy, i.e.:-

- i. The Registrant's domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights;
- ii. The Registrant has no rights and legitimate interests in respect of the domain name;
- iii. The Registrant's domain name has been registered or is being used in bad faith.

The Complainant had filed the present Complaint stating that registration of domain name <easytobook.in> be cancelled and the domain be transferred to the Complainant.

- i. **The Domain Name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights – (paragraph 4 (i) of .IN Domain Name Dispute Resolution Policy and para. 3 (b) (vi) (1) ) of the INDRP Rules of Procedure)**

The Complainant has placed on record as *Annexure C* a copy of its Community Trade Mark Registration Certificate granted by the OHIM under registration no. 006956452 for the mark “EASYTOBOOK” in its favour. The said mark was registered on June 03, 2008 and is valid till June 03, 2018.

The Complainant has also provided a Whois record search conducted on August 21, 2014, for the domain name <easytobook.in> which shows that the said domain was created on October 07, 2010 by the Respondent. The Complainant further states that it is evident that the disputed domain name <easytobook.in> registered by the Respondent/Registrant, is deceptively, phonetically, visually and confusingly similar to the name and trade mark of the Complainant “EASYTOBOOK”, in which the Complainant has rights and is also identical to the domain name <easytobook.com>.



Further the Complainant's domain name <easytobook.com> was registered on December 14, 1999. Therefore, the Complainant has succeeded in establishing that it is the prior adopter and user of the trade mark "EASYTOBOOK".

As held in the matter of Lazard Startegic Corrdination Company LLC & Lazard India Private Limited vs. Jack Sun (INDRP/167), the Arbitrator in the present matters is satisfied that the Complainant has provided adequate evidence to prove that it is the proprietor of the trade mark "EASYTOBOOK", and that the Respondent's domain name <easytobook.in> consists entirely of the Complainant's trade mark except the ccTLD extension.

Therefore, based on the materials and facts submitted by the Complainant, the Arbitrator concludes that the disputed domain name registered by the Respondent is identical/confusingly similar to the corporate name, trade mark or service mark in which the Complainant has rights, and the Complainant has been able to satisfy paragraph 4(i) of the .IN Domain Name Dispute Resolution Policy and paragraph. 3 (b) (vi) (1) of the INDRP Rules of Procedure.

**ii. The Registrant has no rights and legitimate interests in respect of the domain name – (paragraph 4 (ii); paragraph 7 of .IN Domain Name Dispute Resolution Policy and paragraph 3 b. (vi) (2) of the INDRP Rules of Procedure)**

Respondent has no right or legitimate interest in the impugned domain name. No Response has been filed by the Respondent to establish any circumstances that could assist in demonstrating any rights or legitimate interests, in the disputed domain name. The Respondent has failed to prove that it has legitimate interests in respect of the domain name.

The Respondent has further failed to submit any response, evidence or material to substantiate that it has been permitted/authorized/licensed by the Complainant to the use the trade mark "EASYTOBOOK" and therefore, the use of the domain name <easytobook.in> by the Respondent cannot be said to be legitimate.

The Respondent has failed to provide any evidence to prove that before any notice of the dispute to the Respondent, or its current use is an example of a bonafide offering of goods and services, as required under paragraph 7 (i) of .IN Dispute Resolution Policy.

The Respondent has further failed to provide any evidence as required under paragraph 7 (ii) of .IN Dispute Resolution Policy, to prove that it is commonly



known as “EASYTOBOOK” as an individual, business or other organization, even though it has not acquired any trade mark or service mark rights.

The Respondent has also failed to provide any evidence to substantiate that it is making any legitimate, non-commercial or fair use of the domain name without intent for commercial gain, to mis-leadingly divert consumers or tarnish the trade mark or service mark at issue and has failed to satisfy conditions as required under paragraph 7 (iii) of .IN Dispute Resolution Policy.

Further, the Complainant has relied on various INDRP and WIPO decisions to support its claims, as mentioned below:

- a. Telstra Corporation Limited v. Nuclear Marshmallows D2000-0003 (WIPO Decision)
- b. Rediff.com India limited v. Abhishek Verma and Anr (INDRP/001)
- c. ACCOR v. Tigertail Partners D2002-0625 (WIPO Decision)
- d. Microsoft Corporation v. Yan Wei (INDRP/145)

In view of the facts submitted, the Arbitrator accepts the Complainant’s claim that the Respondent is not authorized, licensed or permitted to use its trade mark “EASYTOBOOK” and therefore, the Respondent has no rights or legitimate interests in the domain name <easytobook.in>.

The Arbitrator comes to the conclusion that the Respondent has no rights or legitimate interests in the disputed domain name <easytobook.in>, and the conditions under **paragraph 4 (ii) and paragraph 7 of the .IN Domain Name Dispute Resolution Policy**, have been satisfied.

- iii. **The Registrant’s domain name has been registered or is being used in bad faith – (paragraph 4 (iii); paragraph 6 of the .IN Dispute Resolution Policy and paragraph 3 b. (vi) (3) of the INDRP Rules of Procedure)**

Paragraph 6 of the .IN Dispute Resolution Policy, provides the circumstances which prove if registration and use of the Domain Name is in Bad Faith.

As per paragraph 6, bad faith is established if

- (i) the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trade mark or service mark, or to a competitor of that Complainant, for

valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or

- (ii) the Registrant has registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or
- (iii) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.

The Arbitrator is of the view that the Respondent's website contains irrelevant claims and inactive links, with no independent content, made with the intention to derive benefit and mislead internet users worldwide, which is prima facie preferred format of cyber squatters, in order to sell or otherwise transfer the domain name registration to the Complainant, (for valuable consideration) who is the owner and proprietor of the trade mark and domain name **"EASYTOBOOK"** and **<easytobook.com>**.

The Arbitrator finds that the Respondent has registered the domain name and made a website to mislead the internet users, by creating a likelihood of confusion with the Complainant's trade mark and domain name. The Respondent, by diverting the potential customers of the Complainant, seeks to take undue advantage of the reputation and goodwill of the Complainant. Such diversion of traffic would result in financial gains to the Respondent and would cause monetary loss to the Complainant and also cause unwarranted dilution of their varied intellectual property rights.

The Arbitrator takes note that the registration of the domain name **<easytobook.in>** by the Respondent is preventing the Complainant from registering the same, despite having prior rights and registration of the trade mark **"EASYTOBOOK"**, and the domain name **<easytobook.com>**.

Since the Respondent has not provided any reply to the Complaint, it prima facie appears that it is taking advantage of the worldwide goodwill and reputation of the Complainant for monetary gains.

In view of the facts and circumstances, the Arbitrator comes to the conclusion that the Registrant's domain name has been registered and is being used in bad faith and the conditions under Paragraph 4 (iii); paragraph 6 of the .IN Dispute



Resolution Policy and paragraph 3 b.(vi)(3) of the INDRP Rules of Procedure, have been satisfied.

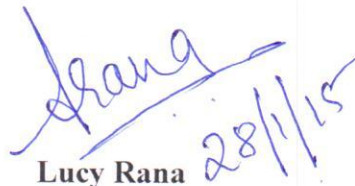
The Arbitrator is of the view that the Complainant has satisfied all three conditions outlined in Paragraph 4 of .IN Dispute Resolution Policy, i.e.:-

- (i) The Registrant's domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights;
- (ii) The Registrant has no rights and legitimate interests in respect of the domain name;
- (iii) The Registrant's domain name has been registered or is being used in bad faith.

7. **Decision:**

Considering the above facts and circumstances of the present case, the Arbitrator concludes that the Complainant has proprietary rights over the trade mark **EASYTOBOOK**. The disputed domain name <easytobook.in> is identical and confusingly similar to the trade mark of the Complainant, the Respondent has no right to use the aforesaid domain name and the said domain name has been registered and used in bad faith.

The Arbitrator therefore allows the prayer of the Complainant in its favour, and direct the .IN Registry to transfer the domain <easytobook.in> to the Complainant. The Award is accordingly passed and the parties are directed to bear their own costs.

  
Lucy Rana  
Sole Arbitrator

**Date: January 28, 2015**

**Place: New Delhi, India**