

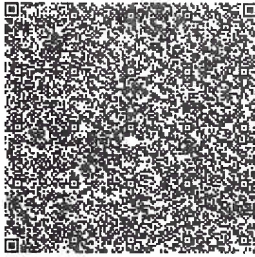
सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No. : IN-DL04218871675650Q  
Certificate Issued Date : 23-Mar-2018 03:01 PM  
Account Reference : IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH  
Unique Doc. Reference : SUBIN-DLDLSHIMP1711942919304668Q  
Purchased by : NIKILESH RAMACHNADRAN  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : NIKILESH RAMACHNADRAN  
Second Party : Not Applicable  
Stamp Duty Paid By : NIKILESH RAMACHNADRAN  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



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ARBITRATION CASE NO. 2 OF 2018

#### **IN THE MATTER OF:-**

GOOGLE LLC

COMPLAINANT

VERSUS

NISHANT KAUNDAL  
LPU

RESPONDENT

DISPUTED DOMAIN NAME: **googletezupiapp.in**

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#### **Statutory Alert:**

1. The authenticity of this Stamp Certificate should be verified at "www.shoiesstamp.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.

**AWARD:**

The present domain name dispute relates to the registration of the domain name **googletezuppiapp.in** in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the domain name < **googletezuppiapp.in** > in favour of the Respondent. Pursuant to the “.in” Domain Name Dispute Resolution Policy (INDRP) and the rules framed there-under, the Complainant has preferred this arbitration for raising this dispute for reprisal of its grievances.

I gave my consent on the 19<sup>th</sup> of February, 2018, to adjudicate the instant domain name dispute. I was handed over the complaint and accordingly, I issued notice on the 23<sup>rd</sup> February, 2018 calling upon the Respondent to file its reply on the complaint within fifteen days from the date of receipt of the notice and rejoinder within fifteen days thereafter. The respondent was served with the aforesaid complaint on 26.02.2018. Despite serving of the complaint and the notice dated 23.02.2018, on the addresses and e-mail respectively, there has been no response from the respondent. Accordingly, I proceed ex-parte the Respondent in adjudicating the instant complaint.

**CONTENTIONS:**

Since, the respondent has been proceeded ex-parte, I shall deal with the contention of complainant. The Complaint has been filed for transfer of the disputed domain name **googletezuppiapp.in**, which was registered by Respondent. The complainant states that it is one of the top five most valuable Global Brands since 2001, with Forbes ranking Google's mark as the world's second most valuable brand in 2016,



valued at \$82.5 billion and BrandZ ranking Google as the most valuable global technology brand on 2016. The Complainant company was created in 1997 by Stanford Ph.D. candidates Larry Page and Sergey Brin, and is one of the world's highly recognized internet search services and that since its beginning, the Complainant has diversified and expanded its internet-related products and services which presently include but are not limited to cloud services, a social networking platform, translation services, mapping services, internet browser software and online advertising services.

Primarily, the contention of the Complainant is that, after the media reported that the Complainant intended to launch the Tez application for mobile payments on September 14, 2017, the respondent registered the Domain name on the same day. Notwithstanding Respondent's use of Google mark and TEZ word mark, Respondent is not authorized by Complainant to use or register any of the Google marks as a trademark, service mark and/or in a domain name. The respondent also hosts a number of sponsored links and advertisements on his website, some of which promote products and services that are unrelated to Google's products and services. The Complainant contends that the Respondent's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights.

In the Complainant, it is also contended that complainant owns both registered and common law trademark rights in the GOOGLE mark and common law rights in the TEZ marks that predate Respondent's registration of the Domain Name on September 14, 2017. Complainant has used the GOOGLE mark since well before the Respondent registered the Domain Name on September 14, 2017. Complainant



owns registrations for the GOOGLE mark in India and in other jurisdictions around the world.

The Complainant also contends that the Respondent seeks to attract traffic to its website and earn revenue through the opportunistic use of Complainant GOOGLE mark and TEZ word mark. It is further contended by the Complainant that the use of Complainant's marks in the Domain Name to attract users to Respondent's website for profit does not amount to a bonafide offering of goods and services or a legitimate non-commercial or fair use of the Domain Name.

The Complainant further contends that the Respondent is using the Domain Name opportunistically and in bad faith. The Complainant also contends that the Respondent had actual knowledge about TEZ application when it registered the Domain Name.

In the Complaint, it also contended that the Complainant owns multiple domain names comprising the trade mark GOOGLE and word TEZ, which could create confusion and that the Respondent has no legitimate right or interest in respect of disputed domain name, and that the disputed domain name is being used in bad faith.

### **ANALYSIS**

As the proceedings are set ex-parte the Respondent, I shall deal with the complaint on its prayer for transfer of the disputed domain name. The disputed domain name < **googletezupiapp.in** > consists the mark TEZ, which is the registered trademark of the Complainant. TEZ is a mark registered which has been established by the Complainant over a period of time by its use. The Complainant has used it world over, including India, and owns registered trademark. In



support of which, the Complainant has placed on record the registration certificates, in India as well as world over. Also the Complainant has placed on record the domain name, which has been registered with the mark TEZ. All these support the Complainant's right over the name TEZ. Therefore, the complainant's claim that it has a right over the disputed name stands proved. Apart from the above, the domain name also has the word "GOOGLE", which the Complainant has its proprietary right.

Secondly, as the Respondent's action to register the said domain name is not bonafide, therefore, the said registration is done in bad faith. Neither the Respondent is associated as an individual, business nor organization with the name "GOOGLE OR TEZ" nor the complainant has authorized in anyway the use of trademark "TEZ". The Complainant has specifically stated that it has no relation with Respondent commercially or otherwise. So therefore, the use of trademark Respondent "TEZ" is not legal. Therefore, the Respondent has no legitimate right over the said domain name.

Also the Complainant has registered website consisting the word "TEZ", for which it has ownership, in various ccTLD. And this in itself becomes a good ground for the Complainant to claim transfer of the disputed domain name in its favour. The Complainant has relied upon several decisions of its own to show that it has been diligent in protecting its right against unscrupulous infringers and users. Apart from that, it has relied upon several decisions which is in its favour for enforcing the claim in transfer of ownership in the disputed name.

**CONCLUSION:**



Considering the facts and circumstances of the present matter and taking view of the precedents in this context, I am of the view that the complainant has proprietary right over the mark "**GOOGLE**" and "**TEZ**", which is part of the disputed domain name. Under the facts and circumstances and on perusal of the records, I deem it fit and proper to allow the prayer of the Complainant in its favour and direct the Registry to transfer the said domain name i.e. **<googletezupiapp.in >** in favour of the complainant.



(NIKILESH RAMACHANDRAN)  
ARBITRATOR

Dated: 21<sup>st</sup> April 2018.