



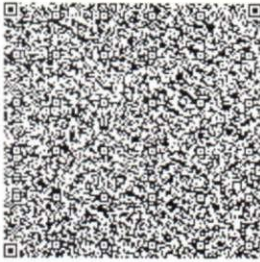
सत्यमेव जयते

INDIA NON JUDICIAL

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Certificate Issued Date	: 11-Feb-2016 12:34 PM
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Unique Doc. Reference	: SUBIN-DL921303273273561911580
Purchased by	: ADVOCATE V SHRIVASTAV
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: ADVOCATE V SHRIVASTAV
Second Party	: Not Applicable
Stamp Duty Paid By	: ADVOCATE V SHRIVASTAV
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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VISHESHWAR SHRIVASTAV

SOLE ARBITRATOR

IN

ARBITRATION PROCEEDINGS OF DOMAIN NAME

www.hexaware.in

between

HEXAWARE TECHNOLOGIES LIMITED

AND

LIHENG

...COMPLAINANT

...RESPONDENT

AWARD

1

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.
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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 28/01/2016.
2. From the information received from NIXI it was seen that one Dr. Bodhisatva Acharya had earlier been appointed as an Arbitrator and the said person had on 21/1/2015 issued a notice to the Respondents to file their reply which apparently was not filed.
3. This Tribunal also noticed that a copy of the complaint was also sent by NIXI to the respondent however, the same has been received back with the note *"The courier agency (blue dart) has today (15.01.2015) returned the courier package to NIXI stating that the courier could not be sent due to incorrect postal code in the respondent address."*
4. Hence this Tribunal directed the Respondent to send their correct postal address by the return email within next three

days as the emails sent by this Tribunal have been received by him as the same have not bounced back. Hence this Tribunal noticed that it is not the case that the Respondent is not aware of the present proceedings and it was apparent that the Respondent was evading service.

5. This Tribunal vide its order dated 02/02/2016 directed the Complainants to file their Evidence by way of Affidavit within 7 days which was complied to by the Complainants. Hence this Tribunal vide order dated 11/02/2016 reserved its award clarifying that incase the respondents send their response /evidence in support thereof the same will be taken into consideration by this Tribunal at the time of making the award.

CLAIM

6. The claim as put forward by the complainant is briefly as under:
 - A. That the Complainant, Hexaware Technologies Limited is a Company providing IT, BPO and consulting services and it

purportedly employs over 8850 + employees across the globe. It is claimed that the complainants have offices and operations in 17 countries including India. Reliance is placed on **Exhibit-2.**

B. By relying on **Exhibit – 3 (Colly)** the Complainant claim that they had adopted the trade mark Hexaware Technologies in the year 1990 and since then the Complainant has been providing solutions service to small, large and fortune 500 companies across the globe across various industries such as banking, financial services, insurance, travel, transportation, logistics, life sciences, healthcare and manufacturing. It is further claimed that the Complainant has used the trade mark and trade name **HEXAWARE/HEXAWARE TECHNOLOGIES** extensively, exclusively and continuously all over the world, and by virtue of such extensive sales and publicity, **HEXAWARE/HEXAWARE TECHNOLOGIES** has acquired reputation and goodwill amongst consumers and members of the trade. It is claimed that the Trade mark has achieved the

status of a well-known trade mark as per the provisions of the Trade Marks Act, 1999 as well as Article 6 *bis* of the Paris Convention, to which India is a signatory.


C. It is claimed that the Complainant has registered and used its **HEXAWARE/HEXAWARE TECHNOLOGIES** Trademarks and variants thereof over several countries around the world, including India. Thus the Complainant also is the rightful owner of the mark **HEXAWARE** in various jurisdictions of the world. Reliance is placed on Exhibit-4(Colly) & Exhibit-5(Colly).

D. It is further claimed that the Complainant is also the registered owner of domain name www.hexaware.com since the year 1996 which is exclusively associated with the Complainant and has been in extensive use.

E. It is claimed that the Complainant has prosecuted unauthorized adopters and users of the trade mark


HEXAWARE/HEXAWARE TECHNOLOGIES, both in India and abroad.

F. It is alleged that on 1st May, 2014 the Respondent registered the impugned domain name www.hexaware.in with M/s Webiq Domains Solutions Pvt. Ltd. and by relying on **Exhibit – 6** the Complainants allege that the webpage of the Respondent is a job portal which lists a number of other job websites thereby causing diversions of the internet traffic to the websites which are listed and its use shall cause confusion and deception among the public at large and will cause irreparable loss and injury to the Complainant which cannot be compensated in monetary terms. It is also alleged that the impugned domain name the Respondent is also infringing the well known trade mark of the Complainant and is identical to the trade mark in which the Complainant has statutory rights. It is alleged that the Respondent has no rights or legitimate interest in respect of the impugned domain name and has been registered in bad faith all in violation of the INDRP.



G. It is also alleged that the Complainant has not licensed or otherwise permitted the Respondent to use the trademark/domain name **HEXAWARE** or **HEXAWARE TECHNOLOGIES** and that there is no relationship between the Complainant and the Respondent.

ORDER

7. This Tribunal has perused the complaint and the documents relied upon by the complainants who have affirmed their claims by filing their affidavit by way of Evidence and the same have not been rebutted by the Respondents despite opportunity being given to them by this Tribunal. Hence, in view of the undisputed evidence of the Complainants this Tribunal holds that the respondents do not have any claim on the domain name www.hexaware.in, hence this Tribunal directs the Registry to transfer the domain name www.hexaware.in to the complainants.
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8. The Complainants too are free to approach the Registry and get the same transferred in their name.
9. There is no order as to the cost as no details of the cost / damages have been specified / detailed in the complaint.
10. 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 16th day of February, 2016.



NEW DELHI
16/02/2016

V. SHRIVASTAV
ARBITRATOR