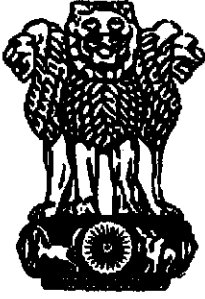


# INDIA NON JUDICIAL

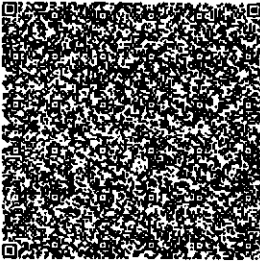
## Government of National Capital Territory of Delhi



सत्यमेव जयते

### e-Stamp

Certificate No. : IN-DL59169284699151K  
Certificate Issued Date : 22-Dec-2012 02:55 PM  
Account Reference : SHCIL (FI)/ dl-shcil/ HIGH COURT/ DL-DLH  
Unique Doc. Reference : SUBIN-DL DL-SHCIL18167015897527K  
Purchased by : NIKILESH RAMACHANDARAN  
Description of Document : Article 12 Award  
Property Description : NA  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : NIKILESH RAMACHANDARAN  
Second Party : NA  
Stamp Duty Paid By : NIKILESH RAMACHANDARAN  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



Please write or type below this line.

ARBITRATION CASE NO.12 OF 2012

### IN THE ARBITRATION MATTER OF:-

HEWLETT- PACKARD DEVELOPMENT  
COMPANY, L.P

COMPLAINANT

VERSUS

RAJESH

RESPONDENT

AWARD:

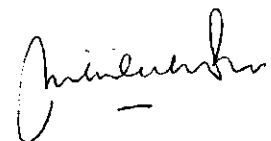
The present dispute relates to the registration of the dispute domain name <hpstore.co.in> in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the disputed domain name <hpstore.co.in> in favour of the Respondent. In pursuance to the In Domain Name Dispute Resolution Policy (INDRP) and the rules framed there-under, the Complainant had preferred this arbitration for raising this dispute for redressal of its grievances.

In its complaint, the Complainant has stated that the brand name and trademark "HP" which is a very popular and well known mark worldwide rules the market as one of the world's largest information technology companies, operating in more than 170 countries around the world. The complainant considers their trade/service name/mark as an extremely valuable asset and thus in order to protect the same the complainant has secured trademark registration for the mark "HP" globally including India. The complainant has stated that its major product lines include personal computing devices, enterprise servers, related storage devices, as well as a diverse range of printers and other imaging products.

That the complainant has further stated that the disputed domain name is identical or confusingly similar to name, trademark or service mark in which the complainant have exclusive rights and the addition of the word 'Store' as suffix to the mark by the respondent is an attempt to deceive the public. Therefore, the respondent has no right or legitimate interest in respect of the domain name.

The Complainant has also stated that it became aware of registration of the domain name <hpstore.co.in> of the respondent which entirely reproduces its trademark HP. The Complainant states that

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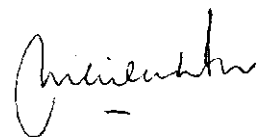
it has already confronted to respondent about the disputed domain name.

The Complainant has stated in its complaint that it served a Cease and Desist notice on the respondent by the Complainant attorneys in India on September 14, 2012 but till date and time of filing this INDRP complaint, the Complainant/ attorneys of the Complainant have not received any response from the respondent.

The complainant has contended that the respondent has registered the disputed domain name and the said domain name is being used by him in bad faith. The complainant has further stated that it has its presence on a worldwide basis and its trade mark HP is well-known throughout the world. The complainant has on the basis of the aforesaid averments contended that it is reasonable to infer that respondent registered disputed domain name with full knowledge of trademark of the Complainant. The complainant has stated that a quick trademark search on Google search engine using keyword "HP" would show the existence of complainant and its trademark rights.

I entered upon reference regarding the instant dispute on 17.12.2012 and a notice dated 26.12.2012 was sent to the respondent calling upon for his response to the said complaint. However, even after granting considerable time to the respondent, there has been no response. Accordingly, the respondent is proceeded ex-parte.

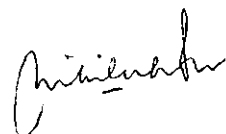
I have perused the records and have gone through the contents of the complaint. Although there has been no reply on behalf of the respondent to the complaint, I shall deal with the complaint on the basis of its merits.

A handwritten signature in black ink, appearing to be 'Chinmoy Chandra', with a horizontal line underneath it.

Firstly I shall deal with the ground regarding the rights of the complainant vis-à-vis that of respondent's over the domain name <HP>. The mark <HP> is a unique and distinct word and has acquired distinctiveness and is known to be a trademark owned by the complainant. The complainant has shown its various trademark registration details world over. Although the respondent has not appeared in these proceedings to present their case, but it is borne out from the records that respondent has no legitimate right over the mark "HP". Merely by the adding of the name 'store.co.in' in the word cannot mean to be a mark different from the registered mark. The aforesaid itself reflects the fact that the respondent wanted to create confusion in the minds of the public. Hence the respondent's action to register the said domain name is not bonafide as he has no right over the mark "<HP>."

Secondly the respondent's action to register the disputed domain name is not bonafide as the said name displays itself as the platform which offers sales and services of goods of the complainant and the therefore it becomes clear that the respondent has knowingly used the trademark of the Complainant at the time of registration of his domain name. The Respondent is not either as an individual, business or other organization, commonly known by the name "<HP>". Therefore the Respondent has no legitimate right over the said domain name.

Thirdly the respondent have acted in bad faith in respect of domain name as the complainant is very well known and has been using his trademark for a long time in his commercial business activities, I am of the view that respondent's action suggests opportunistic bad faith as the use of domain name will cause substantial harm to complainant.

A handwritten signature in black ink, appearing to read "Chinmoy" or similar, located at the bottom right of the page.

Fourthly the respondent has no right or legitimate interest in respect of the domain name since it has been stated that the disputed domain name is identical or confusingly similar to name, trademark or service mark in which the complainant have exclusive rights and the addition of the word 'Store' as suffix to the mark by the respondent is an attempt to deceive the public. Therefore I am of the view that the respondent is using the trademark of Complainant, in order to achieve commercial gain by misleading and diverting the consumers and that such use cannot be considered as a legitimate noncommercial or fair use.

Fifthly the Complainant served a Cease and Desist notice on the respondent by the Complainant attorneys in India on September 14, 2012 but till date and at the time of filing this complaint, the Complainant / attorneys of the Complainant have not received any response from the respondent. Further the respondent has also not reverted back to the notice sent by me. The averments made by the complainant in its complaint are unrebutted.

Considering the facts and circumstances of the present case and in view of the precedents in this context, I am of the view that the complainant has proprietary right over the trademark "HP". Under the facts and circumstances and on perusal of the records, I deem 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. <HP> in favour of the complainant.

Parties to bear their own cost.

  
(NIKILESH RAMACHANDRAN)

DATED:- 13.02.2013

ARBITRATOR