

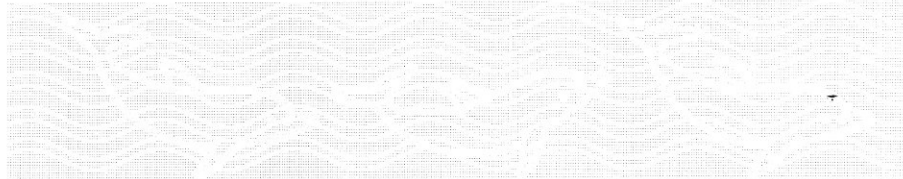
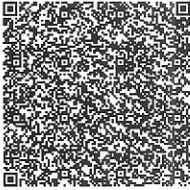
सत्यमेव जयते

# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

Certificate No. : IN-DL09455347658560S  
Certificate Issued Date : 13-Jan-2020 04:03 PM  
Account Reference : IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH  
Unique Doc. Reference : SUBIN-DLDSLHIMP1727437906788111S  
Purchased by : NIKILESH RAMACHANDRAN  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : NIKILESH RAMACHANDRAN  
Second Party : Not Applicable  
Stamp Duty Paid By : NIKILESH RAMACHANDRAN  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



Please write or type below this line  
INDRP CASE NO. 1178

### IN THE MATTER OF:-

Fosroc International Limited.

COMPLAINANT

VERSUS

Mr. Mark Overseas.

RESPONDENT

DISPUTED DOMAIN NAME: [www.fosroc.in](http://www.fosroc.in)

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#### Statutory Alert:

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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 **www.fosroc.in** in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the domain name **<www.fosroc.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> November, 2019, to adjudicate the instant domain name dispute. I was handed over the complaint and accordingly, I issued notice on the 29<sup>th</sup> November, 2019 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. Since there has been no response from the Respondents to the Complaint, I accordingly proceed ex-parte the Respondents 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 **www.fosroc.in**, which was registered by Respondent. Primarily, the assertion of the complainant in its complaint is that the disputed domain name is identical to the trade mark of FOSROC.



The Complainant has stated in its Complaint that it carries on the business of providing solutions for all types of construction project. It has contended that it specializes in sealants, water proofing, concrete repair, grouts and anchors, concrete admixtures and pipeline coatings. Complainant has further stated that it is the proprietor of mark "FOSROC", having valid and subsisting Trademarks registration. The Complainant has produced Annexure 5 showing details of its trademark registration in Class 1. The Complainant has stated that it is the owner of the domain name [www.fosroc.in](http://www.fosroc.in) consisting of the word "**FOSROC**".

The Complainant further states that to build upon the enviable and continuously growing reputation of the **FORSOC** Marks, the Complainant adopted the said mark over eighty years ago and the business thereunder is conducted across several regions/continents and that its marks are extensively used internationally as part of the complainant's corporate name, trade name, trading style, brand name and domain name in addition to the same being used as a product/service identification mark.

The Complainant has also stated that it has actively engaged in advertising/ promoting its business under the Complainant's mark internationally and in India too and has generated substantial reputation and goodwill in relation its mark and that the Complainant products/services under its brand are sold/provided in the Indian market and extensively promoted/advertised in India through its India subsidiary,



whose corporate name also includes the complaint's mark i.e Fosroc Chemicals India Pvt. Ltd.

In the complaint, it is also contended that the Complainant owns the trademark '**FOSROC**', which would 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 <**www.fosroc.in**> consists the mark '**FOSROC**', which is the registered trademark of the Complainant. '**FOSROC**' 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 details of trademark registration. All these support the Complainant's right over the name '**FOSROC**'. Therefore, the complainant's claim that it has a right over the disputed name stands proved.

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 has organization with the name "**FOSROC**" nor the complainant authorized in anyway the use of trademark '**FOSROC**'. The Complainant has specifically stated that it has no relation with Respondent commercially or otherwise. So therefore, the use of trademark Respondent



'FOSROC' is not lawful. Therefore, the Respondent has no legitimate right over the said domain 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 'FOSROC'. 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. <www.fosroc.in> in favour of the complainant.



(NIKILESH RAMACHANDRAN)

ARBITRATOR

Dated: 21<sup>st</sup> January, 2020.