



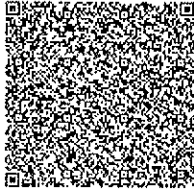
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL14353472918874R
Certificate Issued Date : 03-Jul-2019 03:48 PM
Account Reference : IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference : SUBIN-DLDSLHIMP1734767693454851R
Purchased by : SUDARSHAN KUMAR BANSAL
Description of Document : Article 12 Award
Property Description : Not Applicable
Consideration Price (Rs.) : 0
(Zero)
First Party : SUDARSHAN KUMAR BANSAL
Second Party : Not Applicable
Stamp Duty Paid By : SUDARSHAN KUMAR BANSAL
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



Please write or type below this line.

IN Registry
(NATIONAL INTERNET EXCHANGE OF INDIA)
ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: SUDARSHAN KUMAR BANSAL
INDRP Case No. 1086

COMPLAINANT
Juul Labs, Inc.

VERSUS

RESPONDENT
Saad Shariff,

ARBITRATION AWARD

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.

S.K. Bansal

IN Registry
(NATIONAL INTERNET EXCHANGE OF INDIA)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: SUDARSHAN KUMAR BANSAL

INDRP Case No. 1086

COMPLAINANT

Juul Labs, Inc.
560 20th Street, Building 104
San Francisco California 94107
U.S.A.

Through Authorized Representative:

- (a) Shwetasree Majumder
- (b) Vasundhara Majithia
Fidus Law Chambers
F-12, Ground Floor
Sector 8, Noida – 201 301
shwetasree@fiduslawchambers.com
vasundhara@fiduslawchambers.com

VERSUS

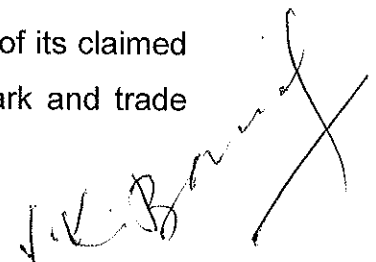
RESPONDENT

Saad Shariff,
1663 N Warbler PL,
Orange California, US 92867
E-mail : sshariff23@gmail.com

ARBITRATION AWARD

1. The Complainant is aggrieved by the domain juul.co.in registered with the sponsoring Registrar GoDaddy.com, LLC (R101-AFIN) in the name of the Respondent and has accordingly made this Complaint seeking the relief that this disputed domain be transferred to the Complainant with costs.

2. The Complainant has preferred this complaint on the basis of its claimed proprietary rights both statutory and common law in its trade mark and trade



name bearing the word/mark juul which the Complainant claims to have adopted and coined in the year 2013 and to be using since the year 2015 in relation to its wide range of goods and business of manufacture and trade of vaporizers design for adult smokers, e-cigarette products and services. The Complainant claims to enjoy a worldwide and global presence under its said trade mark and trade name and to have built up a colossal reputation goodwill and valuable trade of estimated global sales of over USD 1 (One) billion in 2018 thereunder. The Complainant claims its said trade mark/trade name and the goods and business thereunder to enjoy noticeable commercial visibility and presence in the international and Indian markets and to have been well written and commented upon in accredited media. According to the Complaint its said trade mark/trade name juul has been well used, well advertised, well showcased on a continuous basis and its trade mark juul and jull formative /variants to be registered in various countries of the world including in India. According to the Complainant its said trade mark/trade name juul is a source and quality indicator of its said goods and business. In addition the Complainant claims to be carrying on its said business over the internet under its various proprietary domains which bear the word/mark juul as its dominant feature. In support of its rights and claims the Complainant has filed numerous documents which would be considered in so far as relevant in the course of this award.

3. The Complainant claims the rival and disputed domain with the Respondent to be in violation of its trade mark/trade name and domain name rights bearing the word/mark juul being identical with and deceptively similar thereto and of the Respondent to have no rights or interest in the impugned domain and which impugned domain with the Respondent is in bad faith. Accordingly the Complainant has preferred this Complaint.

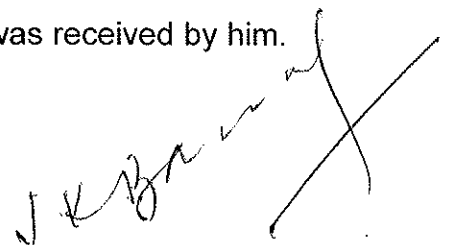
4. The .IN Registry appointed me as a Sole Arbitrator to adjudicate this Complaint in accordance with the Arbitration and Conciliation Act, 1996; .IN Domain Name Dispute Resolution Policy; Rules of Procedure and/or bye-laws; rules and guidelines made therein and notified the factum thereof to the

JR. Banerjee

Complainant through its authorized representatives as well as to the Respondent. The .IN Registry appointed me as the sole Arbitrator of this case on 14th May, 2019 and served upon me (the sole Arbitrator) the physical set of the entire Complaint paper book which was received by me on 16.05.2019.

6. Thereafter I (Arbitral Tribunal) issued a notice through E-mail dated 23rd May, 2019 upon the Respondent, with copy to the Complainant, informing it of my appointment as an Arbitrator and serving upon the Respondent therewith the complete set of the Complaint alongwith Annexures A to K. Vide this notice an opportunity was given to the Respondent to file its reply and defences with documents supporting its position within a period of ten (10) days. In this Notice it was also stated that in the event of default by the Respondent the Complaint would be decided in accordance with law. The Respondent did not respond to this notice whereafter another notice dated 6th June, 2019 was issued upon the Respondent whereunder the Respondent was given a further period of 10 days to respond to the Complaint with its reply or defence with documents if any and it was made clear therein that no further extension would be granted and in case of default this Arbitral Tribunal would proceed and decide the complaint in accordance with law.

6. The Respondent duly responded to this notice vide its reply dated 11.06.2019. In its reply the Respondent has stated that he acknowledges the registration of the trade mark juul under Indian laws with the Complainant and expressed his willingness to transfer and assign the domain to the Complainant without any further dispute on this matter. The Respondent in his said reply also claimed to have good intentions in the use of the impugned domain and to have conducted his business thereunder in a fair and ethical manner and to be selling original and genuine products of the Complainant on its e-commerce portal. The Respondent in his said reply offered to be a distributor of the Complainant and claims to have brought down its website with effect from 21st May, 2019 when the notice issued by this Arbitral Tribunal was received by him.



7. In its rejoinder vide E-mail dated 17th June, 2019 to the said reply of the Respondent the Complainant has alleged the Respondents said reply to be an acknowledgement and admission of the rights of the Complaint and its impugned use respectively and of the Respondent to have no basis to seek a mutually beneficial solution and reiterated its prayers sought in the Complaint.

8. In the aforesaid facts and circumstances and in light of the pleadings and material on record I (the Arbitral Tribunal) now proceed to adjudicate this Complaint.

9. The Respondent in its afore noticed reply dated 11th June, 2019 has clearly stated his acknowledgement of the Complainants trade mark registration for the trade mark JUUL in India under the Indian laws and of his willingness to transfer and assign the disputed domain to the Complainant without any further dispute in this matter. The Respondents said statement in acknowledgement is clear, unambiguous, certain, definite, is not vague or uncertain and admits of no two interpretations. The said statement made in his reply is a relevant fact being against the Respondents own pecuniary or proprietary interest in the disputed domain name and as such can be taken against the Respondent [Section 32 (3) The Indian Evidence Act, 1872]. The said statement has been made by the Respondent consciously and with full knowledge of its import and consequences in as much as the Respondents in its very said reply has even stated to have brought down its website under the impugned domain. The Respondent as such according to his own say has even acted upon his own statement in acknowledgement. Thus the Respondent had intended that its said statement to be duly accepted as true and to be acted upon.

9. Even independently thereto, the Complainant has placed on record its trade mark registrations in India granted under the Trade Marks Act, 1999 for the trade mark juul and juul variants/formative under registration Nos.IRDI-3157820 in class 34 ; under Nos.3890098, 3890099, 3890100, 3796576, 3796572, 3796573, 3796575 all in classes 9, 11, 34, 35, 37 & 42 and under

N.K. Banerjee

No.3796578 in classes 9, 11 & 34. The copies of the corresponding registration certificates have also been placed on record as **Annexure E** to the Complaint. The Complainants trade mark registration/grant of protection in India under IRDI – 3157820 is dated 30th June, 2015 which is much prior to the date of 4th June, 2017 being the creation date of the impugned domain with the sponsoring Registrar as per the search of the WHOIS database placed on record as **Annexure-I** to the Complaint.

10. The Complainant has placed on record documents as **Annexures-B, C, D, F, G** which consist of extracts of the press coverage in the prominent International journals and media like Business News, Business Wire, CNBC, Fortune, The Wall Street Journal, TIME, The Washington Post etc., reporting on the Complainant's valuation and sales and show casing the Complainants trade mark juul and business thereunder ; extracts from third party magazines, newspapers, blogs in India like The BUSINESS INSIDER, Forbes India, ET Prime showcasing the trade mark juul ; particulars of trade mark registrations/filings including those in India ; extracts from Complainant global website under the domain juul.co.in. All these reports and journals have wide distribution visibility and circulation in India as well as in overseas countries. These documents clearly establish the Complainant and its said trade mark and the goods and business thereunder to have noticeable and visible commercial presence in the international markets including in India.

11. The Respondent's knowledge of the Complainants said rights and use in the Complainants said JUUL trade mark/trade name is apparent from the Respondents afore noticed reply dated 11th June, 2019 itself wherein the Respondents itself claims to be selling original and genuine products of the Complainant under the Trade Mark JUUL on his (Respondents) e-commerce portal and which products according to the Respondents have been legally sourced by him.

V.K. Bannin

12. There can be no doubt that the impugned domain bears the word/mark juul as its essential feature and which is identical with and deceptively similar to the Complainant juul trade mark/trade name in each and every manner. By the impugned domain and usage public and consumer deception is likely to be caused in as much as the consumers, market and trade would take the impugned domain to be that of the Complainant or to be related sponsored or associated with the Complainant and the Complainants said goods and business and more so as the Respondent on his website under the impugned domain itself is selling the products of the Complainant under the juul trade mark. This is apparent from the screen shots from the Respondent's website accessible under the impugned domain filed as Annexure-J to the Complaint as well as from the Respondents own reply. The consumers, market and trade might well do business with the Respondent under the belief that they are dealing with the Complainant which would invariably cause loss and injury to the Complainant by the diversion of its business and customers to the Respondent. The Complainant would have no hold or control on the Respondent or to the nature of goods and business being offered by the Respondent and would suffer by any inferior quality of goods and business being offered by the Respondent which could be related by the consumer market and trade with the Complainant. The Complainants goodwill and trade marks and their strength and value would be at the mercy of the Respondent over whom the Complainant has no hold or control.

13. As such this Tribunal has no hesitation in holding that the Complainant has been able to establish its rights and interest in its said juul trade mark/trade name and of the Respondent to have no such rights or legitimate interests in the impugned domain and which impugned domain itself is otherwise in bad faith in as much as the Respondent did have knowledge of the Complainants prior and senior said juul trade mark/trade name and of its goodwill and reputation at the time of his (Respondent) impugned adoption and use of the impugned domain and which impugned domain the Respondent adopted and is using to derive pecuniary benefits to itself or why else would the Respondent so

J.K. Brown

adopt and use. Besides the Complainants juul trade mark/trade name is extremely arbitrary and fancy trade mark in relation to the goods and business involved and no plausible explanation or justification can be offered on the Respondents impugned adoption and use of the impugned domain.

14. Accordingly it is decided that the disputed domain juul.co.in be transferred to the Complainant.

Signed at New Delhi, India on this 3rd July, 2019.


Sudarshan Kumar Bansal
Sole Arbitrator