



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL62781174803250S
Certificate Issued Date : 30-Jul-2020 11:57 AM
Account Reference : IMPACC (IV)/ dl717303/ DELHI/ DL-DLH
Unique Doc. Reference : SUBIN-DL71730334057396445820S
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)



IN THE MATTER OF:-

Khadi Village and Industry
Commission

I WEAR KHADI

DISPUTED DOMAIN NAME:

<http://iwearkhadi.in>

COMPLAINANT

VERSUS

RESPONDENT

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.
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AWARD:

The present domain name dispute relates to the registration of the domain name **http://iwearkhadi.in** in favour of the Respondent.

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

I gave my consent on the 06.07.2020, to adjudicate the instant domain name dispute. I was handed over the complaint and accordingly, I issued notice on the 09.07.2020 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. As per the INDRP Rules of Procedure, Rule 2 provides for communication/services of complaint. In accordance with this rule, the respondent was sent a complaint on the email shown in the domain name registration data in .IN Registry's WHOIS database, which has not returned. Since the complainant has been served through one of the modes as specified in Rule 2, I am of the view that the service of the complaint upon the respondent is complied with. And 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 **http://iwearkhadi.in**, which was registered by Respondent. Primarily, the assertion of the complainant in its complaint is that the disputed domain name is identical and similar to the trade mark of Khadi Village and Industry Commission.

The Complainant has stated in its complaint that it is a statutory body formed in April 1957 by the Government of India, under the Act of Parliament, 'Khadi and Village Industry Industry Commission Act of 1956' and is apex organisation established under the Ministry of Micro, Small and Medium Enterprises. The Complainant has been carrying on work related to implementation of programs for the development of khaki and other village industries in the rural areas in coordination with other agencies. Complainant has further stated that it is the proprietor of mark "KHADI", having valid and subsisting Trade-marks registration. The Complainant has produced on record showing the details of ownership of numerous trademark registration for KHADI in various jurisdictions/ regions. The details are part of **Annexure D** of this complaint.

The Complainant contends that they are engaged in then promotion and development of khadi and products under the KHADI trademark through the certified institutions. The complainant KHADI trademarks are prominently featured in all its products and are enclosed as **Annexure H**. The Complainant products under the KHADI trademark have been widely promoted through print and electronic media and are enclosed as

[Handwritten signature]

Annexure M. The Complaint also contends that at the time of registration of the disputed domain name, the Complainant was using the trade mark "KHADI" and the Respondent knew, or atleast should have known, of the existence of the Complainants trademark "KHADI" in its entirety. The Respondent is not a licensee of the complainant, nor has been otherwise authorized by the Complainant to make any use of its KHADI trademark, in a domain name or otherwise.

The Complainant has also stated that it operates to develop a strong presence online by being active on various social media platforms, including Facebook, Twitter and Youtube.

In the complaint, it is also contended that the Complainant owns the trademark '**KHADI**', 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 <<http://iwearkhadi.in>> consists the mark '**KHADI**', which is the registered trademark of the Complainant. '**KHADI**' 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 '**KHADI**'. Therefore, the complainant's claim that it has a right

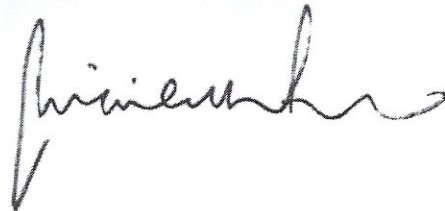
over the disputed name stands proved.



Secondly, as the Respondent's action to register the said domain name is not bonafide, therefore, the said registration is done in bad faith. The disputed domain name wholly incorporates the Complainant Well-known mark 'Khadi' and mentions the same multiple times creating an impression that the respondent in some way is associated with the complainant. The Complainant has specifically stated that it has no relation with Respondent commercially or otherwise. So therefore, the use of trademark Respondent '**KHADI**' 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 '**Khadi**' and the mere presence of the descriptive prefix "i wear" followed by the Complainant's registered trademark, "KHADI" will not distinguish the respondent's 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. <<http://iwearkhadi.in>> in favour of the complainant.



(NIKILESH RAMACHANDRAN)

ARBITRATOR

Dated: 30th July, 2020.