



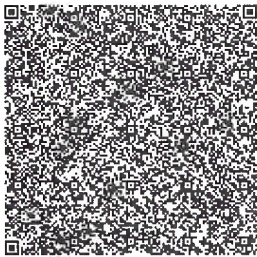
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL82968183357460Q
Certificate Issued Date	: 26-Sep-2018 02:08 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1770472745391192Q
Purchased by	: DIVYA BALASUNDARAM
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: DIVYA BALASUNDARAM
Second Party	: Not Applicable
Stamp Duty Paid By	: DIVYA BALASUNDARAM
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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Before the Sole Arbitrator, Divya Balasundaram

C/O National Internet Exchange Of India

In the matter of:

BAE Systems PLC -vs- Andrea Dini

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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ARBITRAL AWARD

.IN REGISTRY

C/O NIXI (NATIONAL INTERNET EXCHANGE OF INDIA)

Before The Sole Arbitrator, Divya Balasundaram

Disputed domain name - <baesystems.co.in>

IN THE MATTER OF:

BAE Systems PLC

6 Carlton Gardens

London, UK

(COMPLAINANT)

-vs-

Andrea Dini

13F, 112 Chockalingam RD

Ballymoney

BT53, GB

(RESPONDENT)

1. THE PARTIES

1.1 The Complainant in these proceedings is BAE SYSTEMS PLC, a company organised under the laws of England with its registered address at 6 Carlton Gardens, London, UK represented by Mr. Joel Vertes of CMS Cameron McKenna Nabarro Olswang LLP. The Respondent in these proceedings is Andrea Dini of the address 13F, 112 Chockalingam RD, Ballymoney, BT53, GB.

2. DISPUTED DOMAIN NAME AND REGISTRAR



2.1 This dispute concerns the domain name www.baesystems.co.in which was registered on 22 May 2018 (the 'disputed domain name'). The Registrar with which the disputed domain name is registered is Dynadot LLC, 210 Ellsworth Avenue, No. 345 San Mateo, California, 94401, US.

3. PROCEDURAL HISTORY

3.1 The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (.INDRP), adopted by the National Internet Exchange of India (NIXI).

3.2 NIXI vide its email dated August 7, 2018 requested availability of Ms. Divya Balasundaram to act as the Sole Arbitrator in the matter. The Arbitrator indicated her availability and submitted the Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the .INDRP Rules of Procedure on August 8, 2018.

3.3 Arbitrator was appointed vide NIXI's email of August 8, 2018.

3.4 Arbitrator sent email on August 9, 2018 serving formal notice of the Complaint upon the Respondents and calling for a response within 21 days. No response has been received by the Respondents in the given time. Hence, Arbitrator sent email of September 19, 2018 informing the Respondents of absence of response from them and the decision to proceed with an ex-parte order.

3.5 The language of these proceedings is English.

4. BACKGROUND

4.1 In and around May 2018, the Complainant became aware of the Respondent's disputed domain name www.baesystems.co.in.

4.2 The Complainant has conducted investigations which shows that Respondent's physical address as provided at the time of domain name registration are false (this address location does not exist).

5. TRADEMARK OWNERSHIP OF COMPLAINANT

5.1 The Complainant is the owner of a global portfolio of trademarks including BAE, BAE Systems and various logo marks and label marks incorporating the above elements including in India; in respect to various goods and services. These marks pre-date the registration of the disputed domain name.



6. DOMAIN NAME OWNERSHIP OF THE COMPLAINANT

6.1 The Complainant is the owner of the domain name www.baesystems.com since 14 September 1999.

7. INFORMATION ABOUT THE COMPLAINANT

7.1 Complainant is a globally-famous defence, aerospace and security company offering a wide range of products and services covering the air, land and naval forces, as well as advanced electronics, security, information technology, and support services. Its products include best-in class radio frequency communications and control systems for next-generation military and commercial aircraft, and specialist communications and intelligence solutions for national security and law enforcement agencies.

7.2 The Complainant has adopted the trademark 'BAE SYSTEMS' since at least 1996. The products and services offered by the Complainant have been marketed under the trademarks BAE and BAE SYSTEMS globally for many years. The marks also form the core element of the Complainant's company name. In 2017, the Complainant employed 83,200 staff globally, with employment centres in UK, Australia, Saudi Arabia, Sweden and US. Furthermore, Complainant was the first mover amongst international companies to make a direct investment in local manufacturing in partnership with Indian Industry.

7.3 The Complainant is the sole owner of several websites which are accessible world over and are available for use by users globally including those in India. The said websites contain extensive information about the Complainant, its products and services, marketed and sold under the trademarks "BAE" and "BAE Systems".

7.4 The Complainant has painstakingly built up a good reputation worldwide and has invested substantial resources in advertising its products under the trademarks "BAE" and "BAE Systems" in various international magazines, brochures, and catalogues, and through internet, other print and visual media and also through fairs, exhibitions and events.

7.5 The Complainant's trademark registrations and use confer upon them the exclusive right to ensure that third parties do not use identical or confusingly similar marks in relation to goods and services covered by the registration or commercial areas that may overlap with the Complainant's core interests.

8. LEGAL GROUNDS

8.1 Under Rule 3(b)(vi)(1) of the INDRP Rules of Procedure, the Domain Name in question is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.



8.2 The disputed domain name contains the Complainant's complete trademark registered in India and other countries. The disputed domain name is visually and phonetically identical and/or confusingly similar to the trademark and trade name of the Complainant. Such domain name registration by the Respondent amounts to violation of Para 3 of the INDRP which states that a Registrant is solely responsible to ensure before the registration of the disputed domain name that such domain name registration does not violate the rights of any proprietor/brand owner.

8.3 The use of the disputed domain name identically comprising of the Complainant's distinctive trademark with the extension .IN would undoubtedly cause consumers to conclude the disputed domain name is owned by or associated with the Complainant. As such, the disputed domain name is confusingly similar to the Complainant's prior rights.

8.4 Under Rule 3(b)(vi)(2) of the INDRP Rules of Procedure read with Paragraph 7 of the INDRP Policy, the Respondent should be considered as having no rights or legitimate interests in respect of the domain name that is subject of this Complaint.

8.5 The Complainant has not consented to the Respondent's use of the marks BAE or BAE SYSTEMS; particularly the Respondent is not related in any way to the Complainant.

8.6 Furthermore, as far as the Complainant is aware, the Respondent has not been commonly known by the Domain Name neither does the Respondent own any trade mark rights in the mark 'BAE/BAE SYSTEMS'.

8.7 The Respondent has not made a legitimate non-commercial or fair use of the disputed domain name. The Respondent is not using the same in connection with a bona fide offering of goods or services, which indicates a lack of legitimate rights.

8.8. Under Rule 3(b)(vi)(3) of the INDRP Rules of Procedure, the Domain Name in question should be considered as having been registered and being used in bad faith.

8.9 The disputed domain name was previously owned and used by the Complainant but had inadvertently been allowed to expire. The Respondent opportunistically purchased the same. It is highly unlikely that the Respondent was not aware of the Complainant when they registered the disputed domain name; indeed the fame of the Complainant must be the only reason they sought to register such a name.

8.10 Furthermore, the disputed domain name redirects to a 'parked' page stating it is for sale. Thus, the Respondent intentionally acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring it to the Complainant who bears the name or is the owner of the

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trade mark or service mark for valuable consideration in excess of the Respondent ' s documented out of pocket costs.

8.11 Given the distinctive character of the Complainant ' s trademarks, it is highly unlikely that the Respondent was targeting the resale of the disputed domain name to anyone else other than the Complainant.

8.12 The Complainant submits that the disputed domain name was intentionally created by the Respondent to misleadingly divert the consumers or traders of the Complainant to the disputed domain name thereby causing irreparable loss, harm and damage to the goodwill and business of the Complainant.

8.13 The Complainant has discovered that the Respondent has a history of registering domain names of well-known companies. In view of this, the Complainant submits that it is not possible to conceive a plausible circumstance in which the Respondent could legitimately use the Domain name.

9. DISCUSSION AND FINDINGS

9.1 The Arbitrator has reviewed the Complaint and all the Annexures filed by the Complainant.

9.2 The Arbitrator finds that the Arbitral Tribunal has been properly constituted.

9.3 The Arbitrator finds that the Complainant has been able to establish its prior rights and interests in the trademark BAESYSTEMS. The Complainant has provided extensive details of the use and registrations of its BAESYSTEMS mark in India.

9.4 The Arbitrator finds that the Complainant has established all the 3 elements essential to maintain its complaint, being that the disputed domain name is identical to Complainant ' s trademark; the Respondent has no rights claims, or legitimate interests in respect of the disputed domain name; and the registration and use of the disputed domain name is in bad faith.

9.5 Specifically, the conduct of the Respondent in registering the disputed domain name which is identical with the Complainant ' s company name, main trademark and domain name when registration by Complainant had lapsed; use by the Respondent without authorisation or consent; offering the same for sale; history of registering domain names of well known companies; providing a false address etc. all go to show bad faith on its part.



9.6 This is a fit case where the Complainant has satisfactorily established all the elements necessary to maintain its complaint.

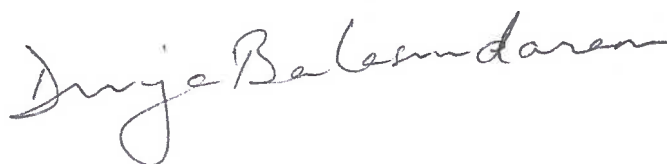
9.7 The Respondent was given sufficient time to reply to the Complaint, however, he has chosen not to respond.

10. DECISION

10.1 For all the foregoing reasons, the Complaint is allowed.

10.2 It is hereby ordered in accordance with paragraph 10 of the INDRP that the disputed domain name <baesystems.co.in> be transferred to the Complainant.

10.3 No order as to costs.



Divya Balasundaram

Sole Arbitrator

Date: September 27, 2018

Place: New Delhi.