



தமிழ்நாடு தமில்நாடு TAMILNADU

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5/15/15

Harini Narayanswamy
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AZ 675054
M SADIQ BASHA
STAMP VENDOR
L No 12144/B1/96
71, EAST JONES ROAD
CHENNAI-600 015

BEFORE THE NATIONAL INTERNET EXCHANGE OF
INDIA

ARBITRATION AWARD

In The Matter of

SUN-MAID GROWERS OF CALIFORNIA
13525 S Bethel Ave.,
Kingsburg
California 93631
U.S.A

Complainant

Versus.

WEISHENG ZHENG
Longgangbuji Longzhu
C 7-25B Shenzhen
Guangdong 518000
CHINA

Respondent

Harini Narayanswamy

1. The Parties

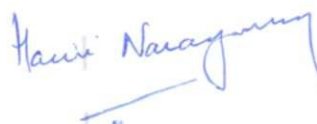
The Complainant is, Sun-Maid Growers of California, United States of America represented in these proceedings by P.S Davar & Co. of India. The Respondent is Weisheng Zheng of China, self represented.

2. The Domain name, Registrar and Policy

The present Arbitration proceeding pertains to a dispute regarding the domain name <sunmaid.in> (hereinafter referred to as disputed domain name). The registrar for the disputed domain name is Dynadot LLC. The disputed domain name was registered on June 4, 2016. The Arbitration proceedings are conducted in accordance with the Arbitration and Conciliation Act of 1996 (India), the .IN Domain Name Dispute Resolution Policy (the "INDRP Policy" or "Policy"), and the INDRP Rules of Procedure (the "Rules").

3. Procedural History

The sole arbitrator appointed in the case is Mrs. Harini Narayanswamy. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, in compliance with the Rules. The Arbitrator received the Complaint from the .IN registry on December 19, 2016. The Respondent sent an email on December 22, 2016, confirming having received the documents and willingness to transfer the disputed domain name to the Complainant. The Arbitrator replied the said email on December 22, 2016 that the Respondent's email was duly noted and an award shall accordingly be passed.


Harini Narayanswamy

4. Discussion

The Complainant is the registered proprietor of the SUN-MAID trademark. The Complainant has filed evidence of its trademark registrations in numerous countries including India. The Complainant states it is the largest raisin and dried fruit processor in the world and was founded in the year 1912. The Complainant further submits that it is a privately owned American Corporation of raisin growers made up of approximately 850 family farmers and its products are sold in around sixty countries around the world. The Complainant states that it adopted the trademark SUN-MAID in 1915 and the mark was first used in India in 1922. The Complainant states that it has distributed recipe booklets since 1920.

The Complainant states that it has used the SUN-MAID mark continuously in commerce and has over the past century diversified its products. It sells a vast array of products and gift hampers under the said mark, online and through stores around the world including India. The Complainant states that due to continuous use of the trademark on a world wide basis, its mark is a well known mark as understood under the Paris Convention and under section 2(1) (z) (b) of the Indian Trademark Act 1999.

The Complainant has requested for the remedy of transfer of the disputed domain name on the grounds that: (i) that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name and (ii) The disputed domain name has been registered or used in bad faith by the Respondent.

Havin Narayanan

The Respondent, on December 22, 2016, sent an email stating willingness to transfer the disputed domain name to the Complainant. In view of the Respondent clearly stating that he has no intention of contesting or challenging the Complaint, but has agreed to transfer the disputed domain name to the Complainant, there is no dispute between the parties concerning the transfer of the disputed domain name to the Complainant.

The Arbitrator notes there are previous policy decisions, INDRP Case 769, February 2, 2016, *Dell Inc. v. NagedranKathirvel*, (<dellaptopadapterprice.in>) and INDRP Case 766, February 15, 2016, *Dell Inc. v. NagedranKathirvel*, (<dellexclusivestore.in>), where the transfer of the domain name disputed was awarded on the basis of the Respondent's unilateral statement of agreeing to transfer the disputed domain name to the Complainant and without going into the merits of the case. Accordingly, the Arbitrator issues the Award based on the parties' representations and without going into the merits of case, as the Respondent has agreed to comply with the relief sought for by the Complainant.

Decision

It is ordered that the disputed domain name <sunmaid.in> be transferred to the Complainant.



Harini Narayanswamy

(Arbitrator)

Date: January 23, 2017