



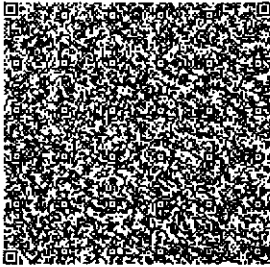
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL43875536336383L
Certificate Issued Date : 30-Jul-2013 02:04 PM
Account Reference : SHCIL (FI)/ dl-shcil/ HIGH COURT/ DL-DLH
Unique Doc. Reference : SUBIN-DL DL-SHCIL86468133685246L
Purchased by : NIKILESH RAMA CHANDARAN SO U K RAMA CHANDARAN
Description of Document : Article 12 Award
Property Description : NA
Consideration Price (Rs.) : 0
(Zero)
First Party : NIKILESH RAMA CHANDARAN SO U K RAMA CHANDARAN
Second Party : NA
Stamp Duty Paid By : NIKILESH RAMA CHANDARAN SO U K RAMA CHANDARAN
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



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ARBITRATION CASE NO. 4 OF 2013

IN THE ARBITRATION MATTER OF:-

PUNEET VATSAYAN

COMPLAINANT

VERSUS

PRAJAKT RAUT

RESPONDENT

Statutory Alert:

* The authenticity of this Stamp Certificate should be verified at www.shcil.com

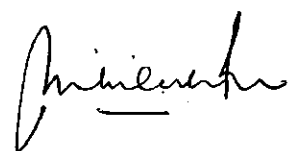
AWARD:

The present dispute relates to the registration of the dispute domain name <www.thehatch.in> in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the disputed domain name <www.thehatch.in> in favour of the Respondent. In pursuance to the In Domain Name Dispute Resolution Policy (INDRP) and the rules framed there-under, the Complainant had preferred this arbitration for raising this dispute for redressal of its grievances.

The Complainant is one of the co-founder and director of 'Hatch Incubator' a Section 25 company registered with the Registrar of Companies under the provisions of Companies Act, 1956. The complainant states that he is also the co-founder and director of "Mobera Systems Private Limited", a private limited company registered under the provisions of Companies Act, 1956. The complainant has stated in its complaint that the trademark "The Hatch: Incubators for startups" is a name to reckon with and has acquired an enormous goodwill not only in India but in certain other countries as well. The complainant considers his trade/service name/mark as an extremely valuable asset and thus in order to protect the same the complainant has secured trademark registration for the mark "The Hatch: Incubators for startups" globally including India. The complainant has stated that the said mark has been in use by the complainant through his companies in the areas of Business Incubators, Business Advisory, Online Databanks and Databases, Consulting, Financial Advisory, Real Estate Related Services, Education and Training.

That the complainant has further stated that the respondent was employed with Hatch Incubators in a fiduciary capacity and in course of his duties had made changes associated with the disputed domain name <www.thehatch.in> and the complainant has not licensed or otherwise permitted the Respondent to use its service mark "The Hatch" or to apply for



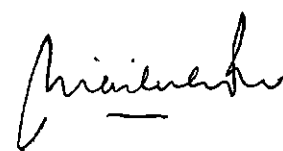
any domain name incorporating this mark. The complainant has also stated that the Respondent has hijacked the domain name by fraudulently obtaining the registration of disputed domain name. Therefore the respondent has no rights or legitimate interest in the disputed domain name.

The complainant has contended that the respondent has registered the disputed domain name and the said domain name is being used by him in bad faith. The complainant has on the basis of the aforesaid averments contended that it is reasonable to infer that respondent had registered disputed domain name with clear motive to extract huge sums of money from the Complainant who has legitimate interest in the said domain name and there has been a change to the registrars and registrants of the Disputed Domain Name and the said change had occurred without the knowledge or consent of the Complainant.

I entered upon reference regarding the instant dispute on 15.06.2013 and a notice dated 29.06.2013 was sent to the respondent calling upon for his response to the said complaint. In his reply the respondent vide e-mail dated 05.07.2013 have sought two weeks time to file his response. However, even after granting considerable time to the respondent, there has been no response. Accordingly, the respondent is proceeded ex-parte.

I have perused the records and have gone through the contents of the complaint. Although there has been no reply on behalf of the respondent to the complaint, I shall deal with the complaint on the basis of its merits.

Firstly I shall deal with the ground regarding the rights of the complainant vis-à-vis that of respondent's over the domain name <thehatch.in>. The mark < The Hatch: Incubators for startups > is a unique and distinct word and has acquired distinctiveness and is known to be a trademark owned by the complainant. The complainant has shown its trademark registration details in India. Although the respondent has not

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appeared in these proceedings to present his case, but it is borne out from the records that respondent has no legitimate right over the mark "The Hatch: Incubators for startups". The Respondent has hijacked the Disputed Domain Name by fraudulently obtaining the registration and the complainant has not licensed or permitted the Respondent to use its service mark. It was held by the WIPO in **Ruby's Diner, Inc. v. Joseph W. Popow, Case No. D2001-0868** that "An employee or former employee is not a licensee, and thus has no authorization to use a company's trademark or a confusingly similar variation thereof without permission". Hence the respondent's action to register the disputed domain name is not bonafide and he has no right or interest in the domain name <www.thehatch.in>.

Secondly the respondent has acted in bad faith in respect of the disputed domain name as the registration of disputed domain name reflects the fact that the respondent wanted to extract huge sum of money from the Complainant and has been using his trademark for a long time in his business activities. Hence I am of the view that respondent's action suggests opportunistic bad faith as the use of the disputed domain name i.e. <www.thehatch.in> will cause substantial harm to complainant.

Considering the facts and circumstances of the present case and in view of the precedents in this context, I am of the view that the complainant has proprietary right over the disputed domain name i.e. <www.thehatch.in>.

I deem 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.thehatch.in> in favour of the complainant.

Parties to bear their own costs.


(NIKILESH RAMACHANDRAN)

ARBITRATOR

DATED:- 03.08.2013