



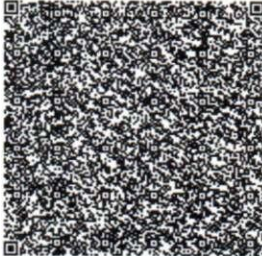
सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No.	: IN-DL560967962888860
Certificate Issued Date	: 03-Jun-2016 04:00 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP17115382535697930
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)



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ARBITRATION CASE NO. 3 OF 2016

#### **IN THE ARBITRATION MATTER OF:-**

GOOGLE INC.

COMPLAINANT

VERSUS

DING RIGUO

RESPONDENT

DISPUTED DOMAIN NAME: **adwords.in**

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*(Signature)*

#### Statutory Alert:

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2. The onus of checking the legitimacy is on the users of the certificate.
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**AWARD:**

The present dispute relates to the registration of the domain name **adwords.in** in favour of the Respondent.

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

I gave my consent on the 26<sup>th</sup> April 2016 to adjudicate the instant domain name dispute. I was handed over the complaint on the 27<sup>th</sup> April 2016. Accordingly, I issued notice on the 28<sup>th</sup> April 2016 calling upon the Respondent to file his reply on the complaint within fifteen days from the date of receipt of the notice; and thereafter rejoinder by complainant within fifteen days. However, the notice alongwith the complaint was sent on his address supplied by the Complainant, obtained from WHOIS. According to the report of the courier agency, the respondent refused to accept the notice and/or the complaint and was returned back. In view of the refusal by the respondent, I, therefore, proceed to adjudicate this complaint ex-parte.

**CONTENTIONS IN THE COMPLAINT:**

In its complaint, the complainant has stated that the present complaint is based on the trade mark "ADWORDS" registered in favour of the complainant. The Complainant is the founder of Google search engine and is a well known brand across the world. The Complainant states that the mark "ADWORDS" has been conceived, adapted and used by it, and is its online advertising platform since its launch in 2000. The platform allows the advertisers to choose keywords and this is displayed when such advertiser enters the keyword into the complainant's search engine "GOOGLE". The complainant states that it has been continuously using the





mark ADWORDS since time of its launch. It states that this platform is accessible through [www.adwords.com](http://www.adwords.com). The Complainant is order to support its claim that the trademark has been registered in its favour, has placed on record the registration certificates.

The Complainant has alleged that it came know the existence of the domain name <http://adwords.in/>. It has alleged that the said domain name has parked that advertises the domain name for sale to the general public, therefore the intent of respondent was to monetise the disputed domain name to generate revenue from unauthorised use of the trademark ADWORDS.

### **ANALYSIS:**

The Complainant states that "ADWORDS" was launched in 2000. The Complainant filed application for registration of the trademark ADWORDS in the year 2002 and it has been registered in various other countries. In India, the trademark ADWORDS has been registered in Class 35 and has application pending registration in other classes.

As evident from the complaint, the platform under trademark ADWORDS is located at <http://www.google.com/adwords/> is accessible around the world including India.

In its complaint, the grievance of the complainant is that the Respondent has registered the disputed domain name < **adwords.in** > in its entirety and is confusingly similar. The complainant urges that the disputed domain name merely adds the country code top level domain (ccTLD) ".in", which according it is insufficient.

Before I proceed to deciding the case at hand, I must decide the issue that the Respondent has chosen not to controvert the contentions raised in complaint and the consequence of such action on the part of the Respondent is that it leads to



an adverse inference and the statements and records placed in support stands proved.

I now proceed to decide the claim on 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 **<adwords.in >**. The domain has the mark **ADWORDS**, which according to the complainant is the owner. "**ADWORDS**" is a unique and distinct word and has acquired distinctiveness both in India and various other countries. It has been shown by the complainant that the use of the said mark has been for quite some time and that too for world over. The Complainant has registered domain names incorporating the **ADWORDS** trademark in numerous countries across the world. From the records submitted before me, it is seen that it has registered its trademark in various countries, the earliest being in the year 2007. The complainant has shown the various trade mark registration details world over. Although the Respondent has not appeared in these proceeding to present his case, but it is borne out from the records that Respondent has no bonafide or legitimate right over the mark "ADWORDS".

The ADWORDS trademark, in respect of online classified services provided by the Complainant, has the status of a well- known trademark with a substantial and widespread reputation throughout the whole community where it operates. The Complainant's website [www.google.in](http://www.google.in) is the most visited website worldwide and the platform under trademark ADWORDS is located at <http://www.google.com/adwords/> and the domain name having the word ADWORDS is accessible through it.

Also it is well settled that the addition of a ccTLD is irrelevant to the analysis of Policy under 4(a)(i) and that even after the addition of a ccTLD the disputed domain name is still identical to Complainant's mark.

The Complainant has not authorized or licensed the Respondent to use any of its trademarks in any way. Such identified and unauthorized use of domain






incorporating the complainant's trademark is strong evidence that Respondent has no rights or legitimate interest in the disputed domain name.

Secondly as the Respondent's action to register the said domain name is not bonafide, therefore the said registration is done in bad faith. Neither the Respondent is associated as an individual, business or organization with the name "**ADWORDS**" nor the complainant has authorized in any way the use of the trademark "**ADWORDS**". The Complainant has specifically stated that it has no relation with Respondent, commercially or otherwise. So therefore the use of trade mark Respondent "**ADWORDS**" is not legal. 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 law and the precedents in this context, I am of the view that the complainant has proprietary right over the mark "**ADWORDS**". Therefore, 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. < **adwords.in** > in favour of the complainant.

No costs.

  
(NIKILESH RAMACHANDRAN)  
ARBITRATOR

Dated: 04<sup>TH</sup> JUNE 2016