



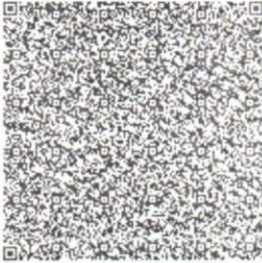
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL65227292439433M
Certificate Issued Date	: 09-Jun-2014 01:50 PM
Account Reference	: IMPACC (IV)/ dl729603/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL72960327310532342135M
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)



ARBITRATION CASE NO. 3 OF 2014

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IN THE ARBITRATION MATTER OF:-

CONVERGYS CMG UTAH INC.,

COMPLAINANT

VERSUS

GAO GOU

RESPONDENT

Signature

AWARD

The present dispute relates to the registration of the domain name www.convergys.co.in in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the domain name <www.convergys.co.in> in favour of the Respondent. In pursuance to Rule 3 of 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 states that it is a corporation incorporated under the law of the State of Utah, United States and that it is engaged in the business of providing computer related technology and employee administration support services to businesses worldwide under the Convergys mark. Complainant also states that it launched its website "www.convergys.com" in 1998, which offers informational and business services that range from information on customer solution to information on the particular industries Convergys is involved with, such as automotive businesses, retail and technology.

Complainant further states that it has used "CONVERGYS" as a trademark continuously and exclusively in connection with its online information and business directory services since as early as 1998.

The complainant has shown various registrations with regard to said trademark "CONVERGYS" in various classes and more specifically, in classes 9, 16, 35, 36, 41, 42, 45, etc. in USA, Canada and also in India. It has placed on record copies of the trademark registration alongwith this complaint. The complainant has contended that the use of disputed domain name is neither legitimate nor in good faith. Furthermore, Complainant has contended that on a demand made by its counsel to Respondent to cease use of the disputed domain name, the Respondent replied "\$1700 for this domain". No document or explanation was provided for supporting this demand.



On the basis of the aforesaid averments and contentions on behalf of the complainant, the complainant has sought remedy that the domain name <convergys.co.in> may be transferred to the Complainant.

I entered upon reference regarding the instant dispute and a notice dated 03.04.2014 was sent by me to the respondent calling upon for its response to the complaint filed by the complainant. The aforesaid notice was sent to the respondent on the address i.e. chromebooks@hotmail.com provided by the complainant on the basis of a search conducted on Whois.com database. The registry i.e NIXI as per the guidelines sent the hard copy of the aforesaid complaint to the address of the Respondent. However, it was informed by the courier agency that the consignment consisting the complaint could not be delivered due to incomplete address. Thereafter, the complainant sent a copy of the complaint through e-mail.

WHOIS database has the only known address of the Respondent. Under the clause 2 of the INDRP Rules of Procedure, service of the papers at chromebooks@hotmail.com can be deemed proper service. Hence I am of the view that the service to the respondent is deemed to be proper service. Accordingly, respondent is proceeded ex-parte.

I have perused the records and have gone through the contents of the complaint, Eventhough 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.

I shall deal with the ground regarding rights complainant vis-a-vis that of respondents over the disputed domain name chromebooks@hotmail.com. The trademark CONVERGYS is a reputed trademark and is used worldwide by the complainant. The complainant has shown its various trademark registration details in USA Canada as well as India. The complainant has filed various documents regarding registration of the trademark CONVERGYS and the trademark registered by it under various classes.




Since the respondent has failed to file any response to the complaint or appear in the proceedings before me to present his case. Hence the averments made by the complainant and the documents filed as evidence are left un-rebutted.

I have carefully considered the averments and perused the records filed by the complainant. I am of the view that the respondent has no legitimate right over the mark "CONVERGYS". From the averments of the complaint, it is amply clear that the trademark adopted by the complainant is in its entirety. Respondent has taken the word "CONVERGYS" in its entirety. And to incorporate suffix "co.in" does not in any manner, in my view, makes it unique or distinct. It only creates confusion and makes it deceptively similar to the mark of the complainant entirely. Thus, during the registration of the said word "CONVERGYS", in accordance with provisions of Para 3 of the Policy, the Respondent had onerous responsibility to find out before registration, whether the said domain name, which it plans to register, infringes or violates someone's right.

Therefore, I am of the view that the respondent is using the trademark of complainant which is liable to confuse the consumers and will also lead to losses to the complainant. Hence the use of the disputed domain name by the respondent cannot be treated as a fair one.

Considering the facts and circumstances of the present case, I hold that the complainant has proprietary right over the trademark "CONVERGYS". Accordingly, I deem it fit and proper to allow the prayer of the complainant and direct the registry to transfer the said domain name i.e. <www.convergys.co.in> in favour of the complainant.

Parties to bear their costs.


(NIKILESH RAMACHANDRAN)

ARBITRATOR

Dated 09.06 2014.