



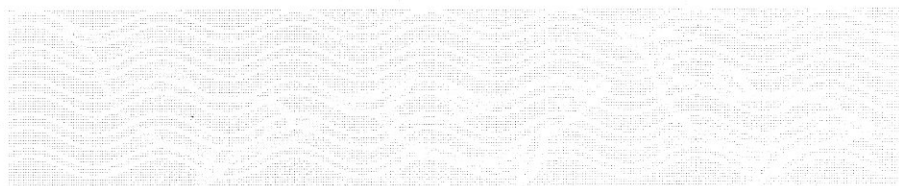
सत्यमेव जयते

INDIA NON JUDICIAL

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Unique Doc. Reference : SUBIN-DLDSLHIMP1724686161823460S
Purchased by : VISHESHWAR SHRIVASTAV
Description of Document : Article 12 Award
Property Description : Not Applicable
Consideration Price (Rs.) : 0
(Zero)
First Party : VISHESHWAR SHRIVASTAV
Second Party : Not Applicable
Stamp Duty Paid By : VISHESHWAR SHRIVASTAV
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



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VISHESHWAR SHRIVASTAV

SOLE ARBITRATOR

IN

ARBITRATION PROCEEDINGS OF DOMAIN NAME

www.vrbo.co.in

between

HOMEAWAY.COM, INC

...COMPLAINANT

AJAY GUPTA

AND

...RESPONDENT

AWARD

1

Statutory Alert:

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1. This Tribunal vide its award dated 28th of January, 2019 had rejected the present complaint of M/s Home Away.com Inc. against Mr. Ajay Gupta primarily on the ground that the complainants not been able to show by documentary evidence their locus with respect to domain name www.vrbo.co.in


2. The complainants challenged the award before the Hon'ble Delhi High vide OMP (COMM) 131/2019 and the Hon'ble High Court vide its order dated 24.10.2019 directed as under:

"10. I agree with the submission made by the learned counsel for the petitioner, in as much as the learned Arbitrator should have put both the issues to the petitioner to enable the petitioner clarify the position on the basis of such documentary evidence as available. Having not put both the issues to the petitioner, there was no occasion for the petitioner to clarify this position. I accordingly set aside the impugned award and relegate the petitioner back to the learned Arbitrator before whom the petitioner shall file an additional affidavit along with the documents in support of his contention on both the issues.

11. Learned Arbitrator shall re-examine the issues and if the learned Arbitrator is of the view that the petitioner has rightly filed the complaint with regard to the domain name www.vrbo.in then it shall proceed to decide the complaint on merit and pass order. While deciding the issue on the basis of additional affidavit to be filed by the petitioner, an oral hearing shall be given to the representative of the petitioner by the learned Arbitrator before passing the order. The said issue shall be decided within a period of eight weeks from the date of receipt of the copy of the order."

3. Accordingly an order was served on the present Tribunal vide letter No. 16768/I DHC/Original dated 22.11.19. In the mean

while, this Tribunal vide its Order dated 19/11/2019 directed the complainants to file the entire record of the complaint as this Tribunal post the Award had submitted the entire record to NIXI and the same was weeded. Accordingly, the complainants were directed to send the complete record in their possession so that the Arbitral Tribunal's records could be reconstructed.

4. That post filing of the record with supporting affidavit by the Complainants parties were notified vide order dated 18/12/2019 to come for the hearing fixed for 26/12/2019.
5. In terms of the order passed by the Hon'ble High Court the complainants filed additional documents along with their additional affidavit.
6. At the hearing dated 07/01/2020 this Tribunal's attention was invited to **Exhibit T** which is a document relating to a Trademark Assignment wherein the conveying party has been described as VRBO.com, Inc. and the receiving party is Home Away.com Inc. 

7. Same way it is seen that **Exhibit U** shows merger of VRBO.com Inc. with Home Away.com. This is followed by **Exhibit V** which shows that Certificate of Incorporation of "WVR.INC". At page no. 46 the amendment of certificate of incorporation of "WVR.INC" has been filed by which the company's name "WVR.INC" had been changed to "Home Away.com Inc." Thereafter one Exhibit W has been filed which is the Annual Franchise Tax reports of Home Away.com. Thereafter there is **Exhibit X** which is the Annual Report of Expedia Group.Inc which at page 58 show that they have acquired Home Away.
8. In view of the above documentary evidence it can be safely concluded that the complainants have not only the locus but the interest in Trademark "VRBO" which apparently clashes with the disputed domain name.
9. It is also seen that the Respondent despite being aware of the present proceedings and also being privy to the additional affidavit and the documents filed post delivery of the Award

dated 28/01/2019 [set aside by Delhi High vide OMP (COMM) 131/2019] and the direction of the Hon'ble High Court dated 24.10.2019, has chosen to remain silent on all the stages. It is seen that the Respondent remained silent prior to the award dated 28/01/2019 nor has he participated in petition No. OMP (COMM) 131/2019 file before the Hon'ble High Court nor has he filed any rebuttal to the additional documents.

ORDER

10. This Tribunal has perused the Additional Affidavit and the documents relied upon by the complainants and notices that the same have not been rebutted or challenged by the Respondents despite opportunity being given to them by this Tribunal. Hence, in view of the un-rebutted evidence / affidavit of the Complainants this Tribunal holds that the respondents do not have any claim on the domain name www.vrbo.co.in, and this Tribunal directs the Registry to transfer the domain name www.vrbo.co.in to the complainants.

11. The Complainants too are free to approach the Registry and get the same transferred in their name.
12. There is no order as to the cost as no details of the cost / damages have been specified / detailed in the complaint.
13. The original copy of the Award is being sent along with the records of this proceeding to National Internet Exchange of India (NIXI) for their record and a copy of the Award is being sent to both the parties for their records.

Signed this 14th day of January, 2020.

NEW DELHI
14/01/2020



V. SHRIVASTAV
ARBITRATOR