



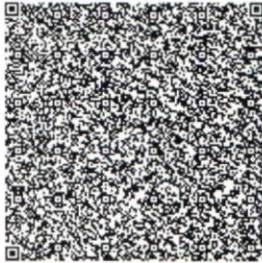
सत्यमेव जयते

# INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

## e-Stamp

Certificate No.	: IN-DL59168888908250K
Certificate Issued Date	: 22-Dec-2012 02:55 PM
Account Reference	: SHCIL (FI)/ dl-shcil/ HIGH COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDL-SHCIL18166502367420K
Purchased by	: NIKILESH RAMACHANDARAN
Description of Document	: Article 12 Award
Property Description	: NA
Consideration Price (Rs.)	: 0
	(Zero)
First Party	: NIKILESH RAMACHANDARAN
Second Party	: NA
Stamp Duty Paid By	: NIKILESH RAMACHANDARAN
Stamp Duty Amount(Rs.)	: 100
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ARBITRATION CASE NO.10 OF 2012

### IN THE ARBITRATION MATTER OF:-

L'OREAL

....COMPLAINANT

VERSUS

MARIA R. DEMPSEY

...RESPONDENT

### AWARD:

The present dispute relates to the registration of the domain

*[Signature]*

name [www.kerastase.in](http://www.kerastase.in) in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the domain name <[www.kerastase.in](http://www.kerastase.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 redressal of its grievances.

The complainant states that it is a French industrial group specialized in the field of cosmetics and beauty and was created in the year 1909 by a French chemist. The complainant further states that today it is the international leader and one of the world's largest groups in the cosmetics business and has its presence in the 130 countries with over Rs. 68,000/- employees. The complainant is also present inter alia in china and in India

The complainant's market include very numerous products and brands including KERASTASE, in all sectors of the beauty business: hair colour, permanents, styling aids, body and science, skin care, cleansers and fragrance, KERASTASE is a brand intended for the hair professionals sold in the prestigious hair salons on a global business.

The complainant states that since its creation, kerastase has developed new hair care products and services. It further states that its advance research has produced, with the most advanced technology in the industry, the innovative Kerastase products dedicated to enhancing the natural beauty of the hair.

The complainant and its affiliates communicates have developed and maintain specific websites such as [www.kerastase.com](http://www.kerastase.com), [www.kerastase.fr](http://www.kerastase.fr), [www.kerastase-usa.com](http://www.kerastase-usa.com) for its brand KERASTASE.





The complainant states that KERASTASE products are widely known in the United States. They are indeed constantly cited by the most prestigious American magazines, such as Vanity Fair, Allure, Lifestyle, Self, Glamour, Luxury etc.

Complainant became aware of the respondent's registration of the domain name <kerastase.in> which entirely reproduces its trademark KERASTASE. The Complainant states that it has already confronted to respondent. It further states that email address of the Maria R. Dempsey also corresponds to the one of Ye Genrong as it is indicated in several Whois databases and that it has already filed an a complaint against Ye Genrong (WIPO Case No. DTV 2012-0001, L'oreal V. Ye Genrong). The complaint has also filed the copy of the complaint. It has been submitted by the complainant that respondent appears to have been using several identities.

The Complainant has stated that it had also sent a cease and desist letter dated 19.06.2012 to respondent based on its trademark rights, asking the latter to transfer the domain name <kerastase.in>. The complainant also stated that respondent replied on 29.06.2012 asking for 4,000 EUR to complainant for the transfer of the domain name.

The complainant has filed various trademark registrations in the name of KERASTASE. It has been contended by the complainant that disputed domain name is identical or at least confusingly similar with complainant's trademark KERASTASE. It has been further averred by the complainant that respondent does not have any prior rights or legitimate interests in the KERASTASE trademark.

The complainant has contended that the respondent has registered domain name and being used in bad faith. As the Complainant is present on a worldwide basis and its trade mark



Kerastase is well-known throughout the world and in USA where Respondent seems to be located. Therefore it is reasonable to infer that Respondent registered disputed domain name with full knowledge of complainant's trademark. It is further inferred that a quick trademark search on google using keyword "kerastase" would have shown the existence of complainant and its trademark rights. Moreover, Respondent proposed to transfer the disputed domain name to complainant at price of 4,000/- Euro, which is far more expensive than the registering fees of the domain name, which clearly shows the bad and malafide intention.

I entered upon reference regarding the instant dispute on 19<sup>th</sup> October 2012 and a notice dated 03<sup>rd</sup> November 2012 was sent to the Respondent calling upon for response to the said complaint. 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. Several grounds have been raised by the Complainant regarding the transfer of the domain name <kerastase.in> in its favour.

Firstly I shall deal with the ground regarding the rights of the Complainant vis-à-vis that of Respondent's over the domain name <kerastase.in>. The mark <kerastase> is a unique and distinct word and has acquired distinctiveness and is known to be a trademark owned by the complainant. 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 shown its various trade mark registration details world over. Although the

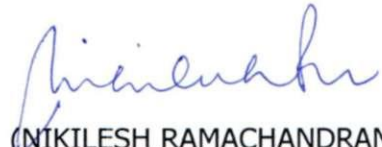


Respondent has not appeared in these proceedings to present their case, but it is borne out from the records that Respondent has no bonafide or legitimate right over the mark "kerastase". Merely by the adding of the name 'in' in the word cannot mean to be a mark different from the registered mark. This itself reflects the fact that the respondent wanted to create confusion the minds of the public. Hence the Respondent's action to register the said domain name is not bonafide as he has no right over the mark "<kerastase.in>."

Secondly as the Respondent's action to register the said domain name is not bonafide, therefore the said registration is done is bad faith. The Respondent is not either as an individual, business or other organization, commonly known by the name "<kerastase>". Therefore the Respondent has no legitimate right over the said domain name.

Considering the facts and circumstances of the present matter and taking view of the precedents in this context, I am of the view that the complainant has proprietary right over the mark "kerastase.in". Under the facts and circumstances and on perusal of the records, 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. <<kerastase.in>> in favour of the complainant.

Parties to bear their costs.

  
(NIKILESH RAMACHANDRAN)  
ARBITRATOR

Dated 31<sup>st</sup> December 2012.