



सत्यमेव जयते

INDIA NON JUDICIAL Government of Rajasthan

e-Stamp

Certificate No.	: IN-RJ38203184106591S
Certificate Issued Date	: 22-Sep-2020 01:44 PM
Account Reference	: NONACC (SV)/ rj3093404/ BHIWARI/ RJ-AL
Unique Doc. Reference	: SUBIN-RJRJ309340467490277977533S
Purchased by	: Jayant Kumar Son Of S B Singh
Description of Document	: Article 13(ii) Award any other case
Property Description	: Sec 10, Dwarka Delhi
Consideration Price (Rs.)	: 0 (Zero)
First Party	: Jayant Kumar Son Of S B Singh
Second Party	: NA
Stamp Duty Paid By	: Jayant Kumar Son Of S B Singh
Stamp Duty Payable (Rs.)	: 100 (One Hundred only)
Surcharge for Infrastructure	: 10 (Ten only)
Development (Rs.)	: 20 (Twenty only)
Stamp Duty Amount(Rs.)	: 130 (One Hundred And Thirty only)

BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA

IN THE MATTER BETWEEN

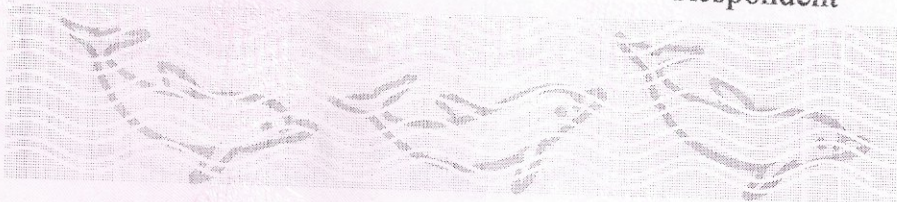
Kent RO Systems Limited &Anr.

Complainant

v.

Kent RO System

Respondent



LB 0007425575

Statutory Alert:

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ARBITRATION AWARD

1. The Complainant No. 1 in the present proceedings is KENT RO Systems Limited, having its address at E-6,7 &8 Sector 59, Noida-201309, Uttar Pradesh, India. The Complainant No. 2 is Mr. Mahesh Gupta - the founder of Kent RO Systems Limited. The Respondent is M/s Kent RO System having its address in Gurgaon, Haryana – 122001.
2. This Arbitration pertains to the disputed domain name <kent-ro-customer-care.in> registered by the Respondent. The registrar for the disputed domain name is GoDaddy.com LLC.
3. The Sole Arbitrator appointed in this complaint by NIXI is Jayant Kumar. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence to NIXI.
4. The Complaint was handed over to the Arbitrator by NIXI on July 24, 2020. The Respondent was served with a copy of the complaint along with annexures electronically. The Respondent was granted two weeks time to file its Reply viz. by August 13, 2020. A last and final opportunity was granted to the Respondent to file its Reply by August 20, 2020 but no Reply was filed by the Respondent.

Complainants' Submissions

5. The Complainants submit that Complainant No. 1 owns its flagship, reputed, well-known, fanciful and arbitrary mark KENT. The Complainant No. 2 is an inventor and is the Chairman & Managing Director of Complainant No. 1.



6. The Complainants submit that the Complainant No. 1 commenced working on manufacturing and marketing of Hi-Tech Oil Conservation and measuring equipment on latest and modern technologies. The said products were sold through M/s S.S. Appliances, a partnership firm of which the Complainant No. 2 was one of the partners. The said products were sold under the mark KENT since 1988. The Complainant No. 2 thereafter formed and incorporated a Company named "M/s S.S. Appliances (P) Ltd" which was incorporated on 09-02-1988 to carry on these activities and the company took over the partnership firm.
7. The Complainants submit that the Complainant No. 2 adopted "KENT" as trade mark for his products and the mark was registered as "KENT OIL METERS" vide registration No. 632891 dated July 4, 1994 and continues to be valid till date. M/s S.S. Applicants (P) Ltd. is still subsisting and using the mark KENT for its products.
8. The Complainants further submit that the Complainant No. 2 formed a Partnership firm under the name and style M/s KENT RO SYSTEMS in and around 1999 and pursued his business activities of manufacture and sale of purifiers under mark KENT. The partners of the firm were Mr. Mahesh Gupta (Complainant No. 2), Mrs. Sunita Gupta and the above mentioned company M/s S.S. Appliances (P) Ltd. Thereafter, Complainant No. 2 incorporated Complainant No. 1-"Kent RO Systems Ltd." in 2007 and Complainant No. 1 took over the partnership firm M/s Kent RO Systems. Accordingly, the rights in the mark KENT were assigned from KENT RO SYSTEMS to Complainants.
9. The Complainants submit that they are one of the largest manufacturers of water purifiers in India, and they have been carrying on their business activities exclusively under the well-known trademark/name KENT at



least since the year 1988. The Complainants have also provided a list of awards/accolades received by the brand KENT.

10. The Complainants state that the mark KENT and its variants are registered trademarks of Complainant No. 2 and forms a prominent part of the corporate name of the Complainant No. 1 company i.e. "Kent RO Systems Limited". The mark KENT is being used by the Complainant No. 1 by virtue of a licensee agreement with Complainant No. 2 dated 27.06.2007 and the terms of said License agreement has been amended/modified from time to time.
11. The Complainants have also registered the domain names <kent.co.in> and <kentrosystems.com>.
12. The Complainants spend considerable amount of money every year to promote and advertise the Mark KENT around the world. For example, the mark KENT and its products are endorsed and have brand ambassadors such as Shahrukh Khan, Hema Malini, AhanaDeol, Esha Deol, and Boman Irani. Hema Malini has been the ambassador for KENT since 2005 and continues to be ambassador.
13. The Complainants own a number of trademark registrations in India as well as abroad. A list of the same has been given in the Complaint. Particularly, in India, the Complainants own trademark Registration No. 883459 for the mark KENT R-O WATER MAKER, Registration No. 1442714, 1442715, 1442716, 1442717 and 1442718 for the mark KENT and many other trademark registrations.



14. The Complainants have successfully enforced the mark KENT before WIPO Administrative Panel in WIPO Case No. D2020-0350 and through various suits before the Hon'ble Delhi High Court.

Discussion and Finding

15. Under the .IN Policy, the registrant of the domain name is required to submit to a mandatory arbitration proceeding in the event that a complaint is filed in the .IN Registry, in compliance with the .IN Policy and the INDRP Rules. The .IN Policy, Paragraph 4 requires the Complainant, to establish the following three elements:

- a. The domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
- b. The Respondent has no rights or legitimate interests in respect of the domain name; and
- c. The Respondent's domain name has been registered and is being used in bad faith.

16. The Arbitrator finds that the Complainants have registered the mark KENT and various other KENT formative marks in India and in many countries. The Complainants have provided sufficient evidence to show their ownership and use of the mark KENT and KENT formative marks. The WIPO Panel in *Kent Ro Systems Limited and Mahesh Gupta v. Aditya Kumar, Kent* (WIPO, D2020-0350) held that:

"The Complainants have provided detailed evidence of their rights in KENT, KENT RO and KENT formative trademarks in various classes before the Trade Mark Registry, India, the earliest registrations for which



date back to 1994 (Registration No. 632891 dated July, 4, 1994, in class 9) and 1999 (Registration No. 883459 dated October, 26, 1999, in class 7) well before the Respondent registered the disputed domain name on March 19, 2016. The Panel observes that the Complainants have also placed on record trademark registrations and applications for KENT and KENT formative trademarks in various countries across the globe. Valid and subsisting trademark registrations constitute prima facie evidence of ownership, validity and the exclusive right of use of said trademark in connection with the stated goods and services."

17. The Complainants also have a successful track record of enforcing the mark KENT, KENT CUSTOMER CARE, KENT SERVICE/ KENT SERVICE CENTER/ KENT RO SERVICE CENTER/ KENT RO SERVICE before the Hon'ble Delhi High Court through various suits including CS(Comm) 137/2019.
18. The Respondent has chosen to register the domain name <kent-ro-customer-care.in> which features the mark KENT and the additional word RO and CUSTOMER CARE are only descriptive. The addition of these descriptive words is not sufficient to distinguish the disputed domain name from Complainant's dominant trademark KENT.
19. The disputed domain name is therefore held to be confusingly similar with the Complainants' mark KENT.
20. Paragraph 7 of the Policy states a Respondent's or a registrant's rights can be found from the material on record, if (i) before notice of the dispute, the registrant had used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services



or (ii) the registrant (as an individual, business organization) has been commonly known by the domain name, or (iii) The registrant is making legitimate, non-commercial or fair use of the domain name without intent for commercial gain.

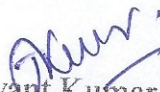
21. The Arbitrator further agrees with the Complainants' submissions that the Respondent is neither affiliated with the Complainants nor has it obtained any authorization or license to register or use any domain name incorporating the mark KENT. The Respondent does not have any right or legitimate interest in the mark KENT and has wrongfully registered the disputed domain for the purpose of encroaching upon the goodwill and reputation of the Complainants.
22. The Complainants have already filed sufficient evidence to establish that they are the owners of the mark KENT as well as various KENT formative marks. The Complainants have made out a *prima facie* case that the Respondent possesses no rights or legitimate interests in the disputed domain name and thus the onus shifts on the Respondent to file any evidence demonstrating rights or legitimate interests in the disputed domain name. The Respondent has failed to produce any countervailing evidence of any rights or legitimate interests in the disputed domain name and hence, the Complainants are deemed to have satisfied the second element.
23. The Complainants' submit that the disputed domain provides all contact details and information of the Complainants such as various services customer care numbers, email address and the office address to show that there is some nexus between the Complainants and the Respondent, where there is no connection or nexus. The Arbitrator agrees with the

contention of the Complainants that the contact details on the Respondent's website can be anytime changed to that of the Respondent.

24. It is further inconceivable that the Respondent was unaware of the Complainants' trademark and its commercial success. The bad faith use and registration is therefore evident from the aforesaid facts and circumstances. The Arbitrator accordingly finds bad faith use and registration of the disputed domain name by the Respondent.

Decision

25. In light of the aforesaid discussion and findings, the Arbitrator directs that the disputed domain name <kent-ro-customer-care.in> be transferred to the Complainant.


Jayant Kumar
(Sole Arbitrator)

Dated: September 22, 2020