

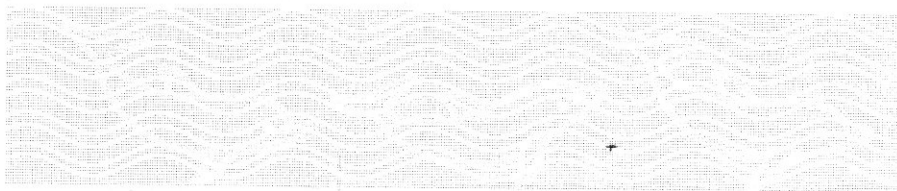
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL31705778672932S
Certificate Issued Date	: 03-Mar-2020 02:27 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ SUPREME COURT/DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1772536379198722S
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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INDRP CASE NO. 1194

IN THE MATTER OF:-

Instagram, LLC

COMPLAINANT

Li, Chenggong.

VERSUS

RESPONDENT

DISPUTED DOMAIN NAME:

[instagram.co.in](https://www.instagram.co.in)

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Signature

Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
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AWARD:

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

The Complainant has filed the instant complaint challenging the registration of the domain name <instagram.co.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 24.01.2020, to adjudicate the instant domain name dispute. I was handed over the complaint and accordingly, I issued notice on the 07.02.2020 calling upon the Respondent to file its reply on the complaint within fifteen days from the date of receipt of the notice and rejoinder within fifteen days thereafter. As per the INDRP Rules of Procedure, Rule 2 provides for communication/services of complaint. In accordance with this rule, the respondent was sent a complaint on the address and email shown in the domain name registration data in .IN Registry's WHOIS database. The respondent has been sent the complaint on his e-mail id, which has not returned/bounced. However, the courier packet sent was returned as undelivered due to wrong phone number at the destination/address shown in WHOIS database. Since the complainant has been served through one of the modes as specified in Rule 2, I am of the view that the service of the complaint upon the respondent is complied with. Since there has been no response from the Respondents to the Complaint, I



accordingly proceed ex-parte the Respondents in adjudicating the instant complaint.

CONTENTIONS:

Since, the respondent has been proceeded ex-parte, I shall deal with the contention of complainant. The Complaint has been filed for transfer of the disputed domain name **instagram.co.in**, which was registered by Respondent. Primarily, the assertion of the complainant in its complaint is that the disputed domain name is identical and similar to the trade mark of INSTAGRAM, LLC.

The Complainant has stated in its Complaint that Instagram, LLC is a world renowned online photo and video sharing social networking application, being launched in 2010, with over 1 billion monthly active users and 400 million daily active users. Complainant has further stated that it is the proprietor of mark "INSTAGRAM", having valid and subsisting Trademarks registration. The Complainant has produced on record showing the details of ownership of numerous trademark registration for INSTAGRAM in many jurisdiction around the world. The details are part of Annexure 9 of this complaint. The Complainant has stated that it is the owner of the domain name **instagram.co.in** consisting of the word "INSTAGRAM".

The Complainant contends that at the time of registration of the disputed domain name, the complainant was using the trade mark "INSTAGRAM" and the respondent knew, or atleast should have known, of the existence of the complainants trademark "INSTAGRAM" in its entirety. The respondent is not a licensee of the complainant, nor has been

otherwise authorized by the Complainant to make any use of its INSTAGRAM trademark, in a domain name or otherwise.

The Complainant has also stated that it has made substantial investments to develop a strong presence online by being active on various social media platforms, including Facebook, Twitter and LinkedIn.

In the complaint, it is also contended that the Complainant owns the trademark **'INSTAGRAM'**, which would create confusion and that the Respondent has no legitimate right or interest in respect of disputed domain name, and that the disputed domain name is being used in bad faith.

ANALYSIS

As the proceedings are set ex-parte the Respondent, I shall deal with the complaint on its prayer for transfer of the disputed domain name. The disputed domain name **<instagram.co.in>** consists the mark **'INSTAGRAM'**, which is the registered trademark of the Complainant. **'INSTAGRAM'** is a mark registered which has been established by the Complainant over a period of time by its use. The Complainant has used it world over, including India, and owns registered trademark. In support of which, the Complainant has placed on record the details of trademark registration. All these support the Complainant's right over the name **'INSTAGRAM'**. Therefore, the complainant's claim that it has a right over the disputed name stands proved.

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 nor has organization with the name



"INSTAGRAM" nor the complainant authorized in anyway the use of trademark **'INSTAGRAM'**. Also, the respondent is an individual, whose details shown in WHOIS does not show any connection to the word INSTAGRAM in any manner. The Complainant has specifically stated that it has no relation with Respondent commercially or otherwise. So therefore, the use of trademark Respondent **'INSTAGRAM'** is not lawful. 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 precedents in this context, I am of the view that the complainant has proprietary right over the mark **'INSTAGRAM'**. 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. <intagram.co.in> in favour of the complainant.


(NIKILESH RAMACHANDRAN)

ARBITRATOR

Dated: 06th March, 2020.