



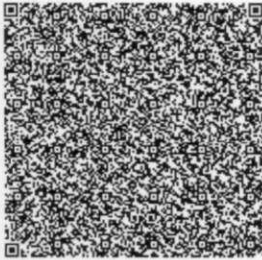
सत्यमेव जयते

# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

Certificate No.	: IN-DL15021683678377M
Certificate Issued Date	: 26-Sep-2014 04:51 PM
Account Reference	: IMPACC (IV)/ dl732103/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL73210327008864919991M
Purchased by	: V SHRIVASTAV
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: V SHRIVASTAV
Second Party	: Not Applicable
Stamp Duty Paid By	: V SHRIVASTAV
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



**VISHESHVAR SHRIVASTAV**

SOLE ARBITRATOR  
IN  
ARBITRATION PROCEEDINGS OF DOMAIN NAME  
[www.amazonfirephone.in](http://www.amazonfirephone.in)  
between

AMAZON.COM, INC; AND  
AMAZON TECHNOLOGIES, INC.

SHILEI

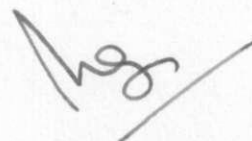
AND

...COMPLAINANT

...RESPONDENTS

**AWARD**

1. This Arbitral Tribunal was constituted by nomination of undersigned as the Arbitrator in the aforesaid proceeding vide communication by NIXI and accordingly this Tribunal issued notice to the parties on 27/08/2014. However, while checking the records of the proceedings, this Tribunal found that there is nothing on record which shows that the copy of the complaint has been supplied to the Respondents. Accordingly vide the aforesaid communication this Tribunal directed the Complainants to either supply proof of dispatch of the hard copy of the complaint to the respondent or send a copy of their complaint to the Respondents vide Courier .
2. That the Complainants vide their email dated 28/08/2014 raised certain objections regarding the address of the Respondent which were addressed by this Tribunal vide his order dated 01/09/2014.
3. The complainant vide their email dated 01/09/2014 had already sent the complaint along with complete annexure. The

A handwritten signature in black ink, consisting of a stylized 'M' followed by a flourish and a long horizontal stroke.

complainant also sent the complaint along with annexure by US Postal Service No. LC802080462US on 02/09/2014.

4. On 12/09/2014 vide email this Tribunal received a communication from NIXI stating that the Courier sent to the Respondent by NIXI through Blue Dart vide consignment Number: 4654673645 has been returned due to incomplete address.
5. Further this Tribunal also noticed that this Tribunal has also sent emails to the Respondents at the notified email id and the emails have not bounced back neither any response has come from Respondent. Thus this Tribunal held the Respondent as served. In view of the above this Tribunal directed the Respondents to send their Statement of Defense both by email and courier so as to reach this Tribunal by 23/09/2014 .
6. That this Tribunal did not receive any communication from the Respondent hence, vide order dated 24/09/2014 this Tribunal reserved the award.



## CLAIM

7. The claim as put forward by the complainant is briefly as under:

A. It is claimed that the Complainants Amazon.com Inc., a Delaware (USA) corporation; and Amazon Technologies, Inc., a Nevada (USA) corporation and are an affiliate of, and an intellectual property holding company for, Complainant Amazon.com, Inc. ("Amazon.com").

B. It is claimed that Amazon.com was incorporated in July 1994 and opened on the World Wide Web in July 1995 further Amazon.com completed its initial public offering in May 1997, and its common stock is listed on the Nasdaq Global Select Market under the symbol "AMZN."

C. It is claimed that Amazon.com serves consumer customers through numerous retail websites, which include [www.amazon.com](http://www.amazon.com) and [www.amazon.in](http://www.amazon.in) and it caters to more than two million third-party sellers offer millions of unique,

new, refurbished and used items and that its net sales amounted to US\$19.74 billion, and the company employs 124,600 full-time and part-time employees. Reliance is placed on Annex 2.

D. It is further claimed that Amazon.com ranks as number 49 on the "Fortune 500" list of America's largest corporations and as number 19 on Interbrand's list of "Best Global Brands 2013." Reliance is placed on Annex 3 & Annex 4.

E. It is claimed that on September 28, 2011, Complainant's founder and CEO, Jeff Bezos, announced the "Kindle Fire" e-reader and computing tablet and as on date the "Fire" line of e-readers and computing devices includes the following: **Kindle Fire HDX** (which Gizmodo has called "the best small tablet you can buy"), the **Kindle Fire HDX 8.9"**, the **Kindle Fire HD 8.9"** and the **Kindle Fire HD**. It is stated that the details about the aforesaid devices are available on Complainant's website at, respectively,

<http://www.amazon.com/gp/product/B00BWYQ9YE/>,

<http://www.amazon.com/gp/product/B00BHJRYYS/>,

<http://www.amazon.com/gp/product/B008GFREAU/>

<http://www.amazon.com/gp/product/B00CU0NSCU/>. Reliance is placed on Annex 5 & Annex 6.

F. It is further claimed that on April 2, 2014, Complainant announced the launch of its **Amazon Fire TV** products providing access to recommendations, ASAP (Advanced Streaming and Prediction), IMDb, Netflix, Prime Instant Video, Hulu Plus, low-cost instant video rentals, games, photos and more details of which are available on Complainant's website at <http://www.amazon.com/dp/B00CX5P8FC>. Reliance is placed on Annex 7 and Annex 8.

G. It is also claimed that on numerous occasions prior to Respondent's registration of the Disputed Domain Names containing the FIRE Trademark many blogs reported that



Complainant is launching a smartphone. Reliance is placed on Annex 9 .

H. It is claimed that Complainant offers for sale on its websites at www.amazon.com and www.amazon.in a tremendous number of phones and phone-related products. Reliance is placed on Annex 10.

I. It is alleged that the Respondent registered the Disputed Domain Name on April 2, 2014. Reliance is placed on Annex 1. It is further alleged that the Respondent is engaged in passive holding of the Disputed Domain Name. Reliance is placed on Annex 11.

J. It is also alleged that Respondent is also the registrant of many other domain names that are confusingly similar to Complainant's trademarks, including those which are the subject of a UDRP complaint at the World Intellectual Property Organization ("WIPO") (WIPO Case No. D2014-1093, filed

June 23, 2014). They are <aamzonpayments.com>, <amaoznpayments.com>, <amazoncolections.com>, <amazonfirephone.info>, <amazonfirephone.org>, <amazonfirephone.co>, <amazonfirephone2.com>, <amazonfirewatch.com>, <amazonfirewear.com>, <amazonsmile.co>, <amazonsuppply.com>, <amazontv.co>, <kindlepay.com> and <goldreads.com>. Reliance is placed on Annex 12.

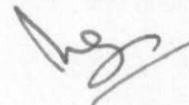
- K. It is claimed that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights on the same as the Complainant is the owner of at least 1,429 trademark registrations worldwide for marks that consist of or contain "AMAZON" (the "AMAZON Trademark"). Further, four previous panels under the INDRP have found that Complainant has rights in and to the AMAZON Trademark and is citing the following cases :

*Amazon Technologies Inc. v. Mr. Zhou Xiangsheng*, Case No. INDRP/347 (transfer of <amazon.in>); *Amazon Technologies*

*Inc. v. Hari Kishore*, Case No. INDRP/348 (transfer of <amazonn.co.in>); *Amazon Technologies Inc. v. Mr. Harikishore*, Case No. INDRP/349 (transfer of <amazn.co.in>); and *Amazon Technologies Inc. v. Mr. Kislay Chaudhary*, Case No. INDRP/361 (transfer of <amazonstore.in>) *Amazon.com, Inc. v. Steven Newman a/k/a Jill Wasserstein a/k/a Pluto Newman*, WIPO Case No. D2006-0517. See also, e.g., *Amazon.com, Inc. v Netsolutions proxy services*, NAF Claim No. 0350255 (referring to “the very famous nature of Complainant’s [AMAZON] marks”); and *Amazon.com, Inc. v. Digital Systems c/o John Daniels*, NAF Claim No. 0871120.

L. It is alleged that the complainants have registered many Trade Mark by placing reliance on Annex 13.

M. The complainants also state that they are the registrant of the domain names <amazon.com>, which was created on October 31, 1994; <amazon.co.in>, which was created on December

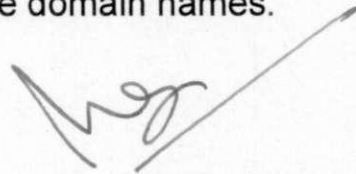


31, 2003; and <amazon.in>, which was created on February 11, 2005. Reliance is placed on Annex 14.

N. It is also stated that Complainant is the owner of at least 66 trademark registrations worldwide for marks that consist of or contain "FIRE" (the "FIRE Trademark"). Reliance is placed on Annex 15 & Annex 16.

O. It is alleged that the Disputed Domain Name contains two of Complainant's trademarks (i.e., the AMAZON Trademark and the FIRE Trademark) in their entirety plus the generic word "phone".

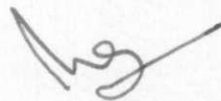
P. It is also alleged that the Respondent has no rights or legitimate interests in respect of the domain names.

A handwritten signature in black ink, consisting of a stylized 'W' followed by a large, sweeping diagonal stroke.

Q. It is also alleged that the domain name was registered and is being used in bad faith as the Respondent is not using the Disputed Domain Name in connection with an active website. Reliance is placed on Annex 11.

### ORDER

8. This Tribunal has considered the allegations of the complainants and has seen that the Respondent despite being aware of the present proceedings and despite being called upon by this Tribunal to send his Reply/ Statement of Defence and take further steps in the present proceedings chose not to give any and hence the allegations of the complainants remain un rebutted/ admitted.
9. In view of the undisputed evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name <amazonfirephone.in> hence this Tribunal directs the Registry to transfer the domain name <



amazonfirephone in> to the complainants. The Complainants too are free to approach the Registry and get the same transferred in their name. There is no order as to the cost. The original copy of the Award is being sent along with the records of this proceedings 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 4<sup>th</sup> day of October, 2014.

NEW DELHI  
04/10/2014



V. SHRIVASTAV  
ARBITRATOR