

ARBITRATION PROCEEDINGS OF DOMAIN NAME

www.axa-im.co.in

between

AXA SA, FRANCE

...COMPLAINANT

AND

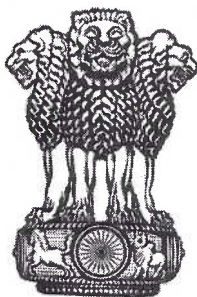
ALAN GROGAN

...RESPONDENT

AWARD



**VISHESHWAR SHRIVASTAV
SOLE ARBITRATOR
NEW DELHI**



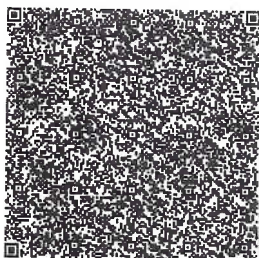
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL26686557027218Q
Certificate Issued Date	: 16-May-2018 10:52 AM
Account Reference	: IMPACC (SH)/ dlshimp17/ SAKET/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1757202217866767Q
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)



.....Please write or type below this line.....

VISHESHWAR SHRIVASTAV

SOLE ARBITRATOR

IN

ARBITRATION PROCEEDINGS OF DOMAIN NAME

www.axa-im.co.in

between

AXA SA, FRANCE

...COMPLAINANT

ALAN GROGAN

AND

...RESPONDENT

AWARD

1

Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcliestamp.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.
3. In case of any discrepancy please inform the Competent Authority.

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 16/04/2018. 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 . In this duration the Respondent emailed their reply. They too were directed to send the hard copy of their reply so as to reach this Tribunal by 24/04/18.
2. That NIXI vide their email dated 17/04/2018 stated that they have already sent the complaint by courier but no dispatch receipts of the same were sent to this Tribunal. Hence, vide order dated 24/04/2018 this Tribunal called upon NIXI to expedite the process, to which NIXI stated that the address supplied to the courier agency was incomplete. This Tribunal sent the correct address of the Respondent as given in the documents supplied with complaint and which the Respondents



also said was correct, and the complaint was delivered to the Respondent.

3. That this Tribunal received a bunch of documents purportedly as Respondent's response to the Complaint. On perusal it was seen that the same did not contain signatures of the Respondent, hence the Respondent was directed to send a signed copy of the same ASAP by 1st May, 2018 to this Tribunal with a copy of the same to the complainant.
4. Meanwhile, the Respondent on 25/04/2018 sent an email that he has decided not to continue defending his case due to the effort and cost involved. This Tribunal directed the Respondent to send his decision by way of an affidavit, of which the soft copy was received on 27/04/2018 and hard copy of the same on 04/05/2018.
5. This Tribunal vide its order dated 05/05/2018 directed the Complainants to file their Evidence by way of Affidavit in

support of their complaint. Again on 08/05/2018 this Tribunal had to direct the Ld. Counsel for the Complainant to file their Evidence by sending a sample of the same in the interest of justice as the Complainants were not located in an English speaking Country and apparently were having some difficulty in comprehending the terms used in India. The extra time sought by the Complainant for filing their Evidence was also granted by this Tribunal upto 20/05/2018 only.

6. The Complainants on 15/05/2018 sent the soft copy of their Evidence by way of Affidavit.
7. The award was reserved vide order dated 15/05/ 2018.
8. In view of the above this Arbitral Tribunal proceeds to examine the claim statement of the Complainant and the Evidence including documentary evidence filed in the present proceeding together with the response and affidavit sent by the Respondent.

CLAIM

9. The claim as put forward by the complainant is briefly as under:
- A. It is claimed that the Complainant AXA SA is the registered proprietor of trademarks AXA and domain names in various countries and has been using it in connection with its on-going business. The Complainants rely upon **Annexure D, E & F** in support of their content.
- B. As per **Annexure G** in October 2017, it is alleged that the Complainant became aware of the Respondent's registration to disputed domain <axa-im.co.in>, which led to a parking website containing links conducting to competing sites of the Complainant. Thereafter the Complainant sent several e-mails from October 2017 to January 2018 to the Respondent requesting him to refrain from using the disputed domain name which is confusingly similar to the Complainant's prior registered trademarks and domain names. (Reliance is placed on **Annexure H**). It is alleged that the Respondent

finally answered that he wanted to sell the Domain Name and that the Complainant could make an offer.

- C. It is claimed that the Domain Name <axa-im.co.in> is confusingly similar to trade marks in which the Complainant has rights. Besides this it is claimed that by relying on **Annexure I** that the AXA Group has a strong, long-standing history and its roots go back to the 18th century and they have been continuously and extensively using the mark AXA and that they are listed in Paris Stock Exchange and New York Stock Exchange.
- D. It is claimed that AXA Group is famous for its numerous activities in three major lines of business: property and casualty insurance, life insurance and savings, and asset management, proposed both to individuals and to business companies. Reliance is placed on **Annexures J& K**.
- E. It is claimed that AXA Group employs 1,66,000 people worldwide, and is serving 103 million customers and has

presence in 64 countries across Europe, North America and Asia-Pacific besides India.

- F. It is claimed that in 1995 the Complainant established an Indian subsidiary, AXA BUSINESS SERVICES PRIVATE LIMITED having its registered office at Bangalore, India.
- G. It is also claimed that AXA General Insurance Company Ltd is a joint venture between Bharti Enterprises and AXA.
- H. It is further claimed that on May 7, 2012, Bank of India (BOI) acquired a 51% stake in the then Bharti AXA Investment Managers Private Limited (BAIM) and Bharti AXA Trustee Services Private Limited (BATS). Reliance is placed on **Annexure L.**
- I. In support of this contention the Complainant rely upon some decisions which are as under:

WIPO Case D2014-0863 regarding the domain name <axacorporatetrust.com>, **2006 BACARRAT SA V DOREEN JUNGnickel / DARIUS HERMAN**

DOMCREATE ARBITRATION AWARD, as per **Annexure M** relied upon by the complainant.

- J. It is claimed that the Respondent has no rights or legitimate interest in respect of the disputed domain name as the Complainant has never licensed or otherwise permitted the Respondent to use its trade marks or to register any domain name containing the above mentioned trade marks. Therefore there is no relationship whatsoever between the Complainant and the Respondent. It is further contended that the Domain Name is not being used by the Respondent in connection with a bona fide offering of goods and services. In support thereof the Complainants also refers to the case **ACCOR vTang Wei INDRP/127**
- K. It is alleged that the Respondent has registered the disputed domain name in bad faith.



- L. The Respondent on the other hand had submitted his response to the aforesaid complaint, later on he has affirmed on oath as under:

" I would be willing to either let the domain expire under my ownership or transfer the domain to a party nominated to me."

"The domain name expires on 18th May, 2018."

ORDER


10. This Tribunal has perused the complaint / Evidence and the documents relied upon by the complainants and also to the affidavit of the Respondents indicating that he has decided not to defend the case. Hence, in view of the un-rebutted evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name www.axa-in.co.in . Hence, this Tribunal directs the Registry to transfer the domain name www.axa-im.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 nor have the complainants disclosed their revenue figures.
13. The original copy of the Award is being sent along with the records of these 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 16th day of May, 2018.

NEW DELHI
16/05/2018



V. SHRIVASTAV
ARBITRATOR