

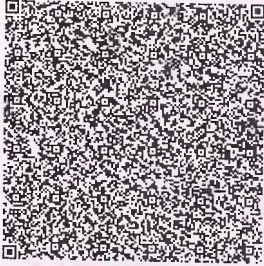


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INDIA NON JUDICIAL Chandigarh Administration

e-Stamp

Certificate No.	: IN-CH10554180780388Q
Certificate Issued Date	: 01-Jan-2018 11:39 AM
Certificate Issued By	: chvandani
Account Reference	: IMPACC (GV)/ chimpsp07/ E-SMP MANIMAJRA/ CH-CH
Unique Doc. Reference	: SUBIN-CHCHIMPSP0721058721477044Q
Purchased by	: ASHWINIE KUMAR BANSAL
Description of Document	: Article 4 Affidavit
Property Description	: # 6 SHIVALIK ENCLAVE MANIMAJRA CHANDIGARH
Consideration Price (Rs.)	: 0 (Zero)
First Party	: ASHWINIE KUMAR BANSAL
Second Party	: Not Applicable
Stamp Duty Paid By	: ASHWINIE KUMAR BANSAL
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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ARBITRATION AWARD

(On Stamp Paper)

Ashwinie Bansal

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UP 0004277444

Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at www.shrestamp.com. Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
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INDRP ARBITRATION
THE NATIONAL INTERNET EXCHANGE OF INDIA
[NIXI]

ARBITRAL TRIBUNAL CONSISTING OF

SOLE ARBITRATOR:

DR. ASHWINIE KUMAR BANSAL, L.L.B; Ph.D.

**Advocate, Punjab & Haryana High Court,
Chandigarh**

In the matter of:

Crown Worldwide Holdings Limited, Suite 2001, Mass Mutual
Tower, 38 Gloucester Road, Wanchai, Hong Kong.

...Complainant

VERSUS

Surendra, Powai, Mumbai – 400076, India.

...Respondent/Registrant

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REGARDING: DISPUTED DOMAIN NAME: CROWNPACKERS.IN

1. The Parties:

Complainant:

Crown Worldwide Holdings Limited, Suite 2001, Mass Mutual Tower, 38 Gloucester Road, Wanchai, Hong Kong, through its attorneys Remfry & Sagar, Remfry House at Millennium Plaza, Sector - 27, Gurgaon - 122009, Email: remfry-sagar@remfry.com.

Respondent:

Surendra, Powai, Mumbai - 400076, India, Ph: +919015405454, email: sharmacmp@gmail.com

2. The Domain Name and the Registrar:

The disputed domain name <crownpackers.in> is registered with Endurance Domains Technology Pvt. Ltd. (R173-AFIN), Unit No. 501, 5th Floor, IT Building 3, Nesco IT Park Nesco Complex, Western Express Highway, Goregaon (E) Mumbai, Mumbai City MH 400063 IN, email: compliance@publicdomainregistry.com; compliance.manager@publicdomainregistry.com. (the "Registrar").

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3. Procedural History [Arbitration Proceedings]

A Complaint has been filed with the National Internet Exchange of India (NIXI). The Complainant has made the Registrar verification in connection with the disputed domain name <crownpackers.in>. It is confirmed that at present the Respondent is listed as the Registrant and provided the administrative details for administrative, billing and technical contact. NIXI appointed Dr. Ashwinie Kumar Bansal, Advocate, as the sole arbitrator in this matter. The Arbitrator has submitted his Statement of Acceptance and Declaration of Impartiality and Independence, as required by NIXI.

NIXI had sent copy of the Complaint and Annexures to the Respondent.

In accordance with the INDRP Rules of Procedure (the Rules), Arbitrator directed the Respondent on 24.11.2017, with copy to The Complainant and NIXI, through the email, to give his Reply within 10 days. One more opportunity was given to the Respondent to file his response within three days vide email dated 21.12.2017 in the interest of justice.

The Respondent has failed to give any response to the Complaint inspite of expiry of stipulated period given to him.

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As per section 25 of the Arbitration and Conciliation Act, 1996, the arbitrator is competent to make the award if Respondent fails to file the reply before him.

In view of above arbitrator proceeds to make the award in accordance with provisions of the Rules read with section 25 of the Arbitration and Conciliation Act, 1996.

4. Factual Background

The Complainant is a global company established in the year 1978, which is organized and existing under the laws of the Hong Kong. It is the registered proprietor of the Trademarks CROWN, CROWN RELOCATIONS and "CROWN WOLRDWIDE" inter-alia in relation to the goods and services included in Classes 39 and 16 in India and abroad. The aforesaid marks are valid and subsisting. It had adopted the Trademark CROWN in India for packaging materials. It has been using its Trademarks CROWN and CROWN RELOCATION in India in respect of goods and services.

The Respondent has registered the disputed domain name <crownpackers.in> incorporating Trademark CROWN of the Complainant on 06.03.2014. Hence, present Complaint has been filed by the Complainant against the Respondent.

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5. Parties Contentions

A. Complainant

The Complainant is one of the largest privately owned companies in the field of international removals. It was established in or about the year 1978 under the name "Crown Pacific Holdings Limited". In the year 1994, its name was changed to "Crown Worldwide Holdings Limited". It is an integral part of Crown Worldwide Group of Companies. The group was established in the year 1965. It's business constitutes six major divisions known as the 'Crown Relocations', 'Crown World Mobility', 'Crown Records Management', 'Crown Logistics', 'Crown Fine Art' and 'Crown Wine Cellars'.

The Complainant carries a reputable and long standing business as a service provider of comprehensive services supporting relocating individuals, families, corporate and employees all over the world, including multinational companies and government organizations as well. Its services include provision of domestic and international transportation of household goods, transit protection, storage services, home and school search, intercultural training and partner support, as well as program administration and other relocation services. Additionally, whilst

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providing the said services, the Complainant manufactures and/or uses packaging material.

The Complainant currently operates more than 265 offices globally and employs people in more than 60 countries providing expert services. It owns and operates over 200 warehouses in such locations.

The Complainant has been present in India for about 20 years through its subsidiary "Crown Worldwide Movers Private Limited", a company incorporated in the year 1996 and having its registered office at Navi Mumbai. In 1998, the subsidiary opened its first office in Mumbai and since then has expanded its business in various locations in India. It operates out of 11 locations within India, including Mumbai, Delhi, Chennai, Bengaluru, Hyderabad, Kolkata, Pune, Ahmedabad and Coimbatore.

The Complainant provides services through its online portal/website, which is accessible in India and can be location specific on clicking/choosing appropriate options on the site. As a result, many business professionals who have moved in and out of India depend upon it for consistent and superior mobility services. Its website hosts testimonials and customer reviews, from persons utilizing its services to relocate from/to India. The website provides options to users to register, to choose

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destinations for relocation through destination guides, assists with making checklists for relocation and also provides services related to Boarder Control & Immigration.

The Crown Worldwide Group of Companies, in or around the year 1975, adopted the name and mark "CROWN" in relation to its goods and services. Thereinafter, the said name and/or mark has been consistently and widely used globally on a large scale for goods and services provided under the said mark. The mark has been used in relation to a variety of services including mobility, records management, logistics, fine art, wine cellars and relocation provisions. In the year 2012, the revenue generated by the Complainant group was around US \$ 766 million and the assets owned by it worth US \$ 656 million. As testimony to its excellent reputation and the goodwill garnered by it, the Complainant has been the recipient of various coveted awards over a period of time, including but not limited to the prestigious Hong Kong Award for services in Export Marketing, the DHL/South China Morning Post International Award as Hong Kong's best international company, amongst others.

The marks have also been promoted through various sports, cultural and social events. Resultantly, the marks have come to be exclusively associated with the Complainant. Indication of the

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marks' ever-rising popularity is evident from the sales/revenue earned by the Complainant for products/services under the mark/name "CROWN", "CROWN RELOCATIONS" and "CROWN WORLDWIDE" (hereinafter collectively referred to as CROWN Trademarks) which clearly establish the reputation and goodwill of the Complainant and CROWN Trademarks.

CROWN Trademarks form an integral part of the corporate name of the Complainant and serves as its principal trade/service mark and domain name. It is identified by use of mark "CROWN". Accordingly, it has applied for/secured registration for the mark "CROWN" and/or "CROWN" formative marks in numerous jurisdiction of the world including the USA, Hong Kong, etc.

The Complainant/its affiliates/subsidiaries have registered more than 100 top level domain names as well as country code top-level (ccTLD) domain names comprising the Trademark "CROWN". As established, the Complainant is the registered proprietor of several domain names containing the "crown", including 'crownrelo.com', and 'crownworldwide.com'. It is pertinent to note that its websites are very popular amongst the internet users and disseminate valuable information and are a source of knowledge of its products/business under the "CROWN"/CROWN formative Trademarks. The said websites

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garner a significant number of hits every month and are accessible from India as well.

The goodwill and reputation of the Complainant as regards the CROWN Trademarks, pervades both the real world as well as the cyber space. Considering the wide outreach of the Complainant, by virtue of being engaged in providing a broad range of goods & services, global presence, reputation and goodwill gathered over the many years of its operations and existence, its marks have acquired well-known status.

It has invested years of time, capital, efforts and resources and attained immense goodwill and reputation in the CROWN Trademarks. The said marks have acquired a secondary meaning and are exclusively identified with it. Needless to say, it regards CROWN Trademarks as its most significant intellectual property and its CROWN Trademarks are extremely well-known throughout the world.

The Complainant recently became aware of a domain name viz. crownpackers.in registered in the name of Mr. Surendra (hereinafter referred to as the "**Registrant**"). The email address of the Registrant was mentioned as sharmacmp@gmail.com and telephone no. as +91.901540554. It is pertinent to note here that the Registrant has not provided a complete address as per records on WHOIS and the only indication of its address is



'Powai, Mumbai 400076'. This bogus address indicates the fact that these meager details were provided with an evasive and dishonest intent. The Registrant of the domain name <crownpackers.in> has no affiliation with the Complainant. The said domain name <crownpackers.in> was registered on March 6, 2014, much after the Complainant's adoption/use/Trademark registration/and domain name registration both made in India and abroad. As per WHOIS records, the registrant has provided no details for the 'Registrant's Organization'.

It is pertinent to mention herein that in respect of similar cases, the Complainant, had initiated actions to cybersquatter and infringer from using its registered Trademarks. For instance, the Complainant previously resorted to filing a Complaint before the .INRegistry against improper registration of a domain name that violated its rights. The Complaint seeking transfer of the domain name 'crownrelocation.in' to the Complainant was successfully arbitrated. In March 2015, nothing bad faith and misuse by the respective registrant, an award was passed transferring the disputed domain name to the Complainant.

Further, the Complainant initiated proceedings in the Hon'ble High Court of Bombay against Crown Relocations Movers and Packers. In the said Suit no. 206 of 2015, the Hon'ble High Court of Bombay in Notice of Motion no. 312 of 2015 was pleased to

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make the interim injunction restraining the defendant from using the impugned domain name 'crownrelocations.co.in' absolute. The said suit is pending adjudication before the High Court of Bombay.

It is evident that the Registrant is using the disputed domain name illegally and dishonestly to derive unjust pecuniary gains. There is no iota of doubt that the impugned domain name is identical to the Complainant's CROWN Trademarks.

B. Respondent

The Respondent has not filed the Response to the Complaint.

6. Discussion and Findings

As per Paragraph 11 of the INDRP Rules of Procedure where a Respondent does not submit a response, in the absence of exceptional circumstances, the arbitrator may decide the Complaint in accordance with law. The Arbitrator does not find any exceptional circumstances in this case preventing him from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a response.

It remains incumbent on the Complainant to make out its case in all respects under Paragraph 4 of the Policy, which sets out the three elements that must be present for the proceeding to be brought

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against the Respondent, which the Complainant must prove to obtain a requested remedy. It provides as follows:

"4. Types of Disputes

Any Person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

(i) the Registrant's domain name is identical or confusingly similar to a name, Trademark or service mark in which the Complainant has rights;

(ii) the Registrant has no rights or legitimate interests in respect of the domain name; and

(iii) the Registrant's domain name has been registered or is being used in bad faith.

The Registrant is required to submit to a mandatory Arbitration proceeding in the event that a Complainant files a Complaint to the .IN Registry, in compliance with this Policy and Rules thereunder."

The Arbitrator will address the three aspects of the Policy listed above.

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A. Identical or Confusingly Similar

The Respondent had adopted the disputed domain name <crownpackers.in> on 06.03.2014.

The Complainant has registered the Trademarks CROWN, CROWN RELOCATIONS and "CROWN WOLRDWIDE" inter-alia in relation to the goods and services included in Classes 39 and 16 in India and abroad. The aforesaid marks are valide and subsisting. The Complainant has produced copies of certified extracts/online records pertaining to the Trademark registrations of the Complainant. The Crown Worldwide Group of Companies, in or around the year 1975, adopted the name and mark "CROWN" in relation to its goods and services. In March 1995, the Complainant adopted the Trademark "CROWN" in India for packaging materials. Since the year 1998, it has continuously and extensively used the marks "CROWN" and "CROWN RELOCATIONS" in India in respect of its goods and services. The mark "CROWN WORLDWIDE" has been used in India. Further, a great amount of expenditure is incurred by it to actively promote its goods and services in India.

The Complainant not only thus possesses statutory rights by virtue of its registrations for the mark, but also common law rights due to the lengthy user period. The said marks are representative of the Complainant/its goods and services, brand

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identity, business reputation and public identification throughout the globe including India. CROWN Trademarks have, on account of extensive and continuous use and the Trademark registration throughout the world, including India, become exclusively identified with the Complainant and its business.

The Complainant's adoption of the Trademark/domain name CROWN is much prior to the Respondent's registration of the disputed domain name <crownpackers.in>. In view of the same, it is crystal clear that the Complainant has prior rights in the Trademark/domain CROWN *vis-à-vis* the Respondent. The Complainant along with its affiliates and subsidiaries have registered more than 100 top level domain names as well as country code top-level (ccTLD) domain names comprising the Trademark "CROWN". The Complainant has several websites incorporating its Trademark.

The Trademark CROWN has become associated by the general public exclusively with the Complainant.

A trademark registered with the Registrar of trademarks is *prima facie* evidence of trademark rights for the purposes of the Policy.¹ Internet users may be confused about the association or affiliation of the disputed domain name with the Complainant.

¹ See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0"), paragraph 1.1.

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The Respondent has registered the disputed domain name <crownpackers.in> wholly incorporating the Trademark CROWN of the Complainant, which the Arbitrator finds is sufficient to establish confusing similarity for the purpose of the Policy.

The Arbitrator finds that the registration of the Trademark CROWN is *prima facie* evidence of the Complainant's Trademark rights for the purposes of the Policy². Internet users who enter the disputed domain name <crownpackers.in> being aware of the reputation of the Complainant may be confused about its association or affiliation with the Complainant.

The Arbitrator finds that the disputed domain name <crownpackers.in> is confusingly similar to the Trademark CROWN of the Complainant.

B. Rights or Legitimate Interests

The Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in the disputed

² See *State Farm Mutual Automobile Insurance Company v. Periasami Malain*, NAF Claim No. 0705262 ("Complainant's registrations with the United States Patent and Trademark Office of the trademark STATE FARM establishes its rights in the STATE FARM mark pursuant to Policy, paragraph 4(a)(i)."); see also *Mothers Against Drunk Driving v. phix*, NAF Claim No. 0174052 (finding that the Complainant's registration of the MADD mark with the United States Patent and Trademark Office establishes the Complainant's rights in the mark for purposes of Policy, paragraph 4(a)(i)).

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domain name. Nevertheless, it is well settled that the Complainant needs only to make out a *prima facie* case, after which the burden of proof shifts to the Respondent to rebut such *prima facie* case by demonstrating rights or legitimate interests in the domain name³. The Respondent has registered the disputed domain name consisting of the Trademark CROWN owned by the Complainant. The Complainant has been using the Trademark for many years. The Complainant has not authorized or permitted the Respondent to use the Trademark CROWN.

The Respondent has not filed a Response to rebut the Complainant's *prima facie* case and the Respondent has thus failed to demonstrate any rights or legitimate interests in the disputed domain name <crownpackers.in> as per Paragraph 7 of the Policy.

In view of above, the Arbitrator finds that the Complainant has made out a *prima facie* case.

Based on the facts as stated above, the Arbitrator finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name <crownpackers.in>.

C. Registered and Used in Bad Faith

³ See *Hanna-Barbera Productions, Inc. v. Entertainment Commentaries*, NAF Claim No. 0741828; *AOL LLC v. Jordan Gerberg*, NAF Claim No. 0780200.



Paragraph 6 of the Policy identifies, in particular but without limitation, three circumstances which, if found by the Arbitrator to be present, shall be evidence of the registration and use of the Domain Name in bad faith. Paragraph 6 of the Policy is reproduced below:

"6. Evidence of Registration and use of Domain Name in Bad Faith

For the purposes of Paragraph 4(iii), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the Trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or

(ii) the Registrant has registered the domain name in order to prevent the owner of the Trademark or service

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mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or

(iii) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location."

Each of the three circumstances in Paragraph 6 of the Policy (which are non-exclusive), if found, is evidence of "registration and use of a domain name in bad faith". Circumstances (i) and (ii) are concerned with the intention or purpose of the registration of the domain name, and circumstance (iii) is concerned with an act of use of the domain name. The Complainant is required to prove that the registration was undertaken in bad faith and that the circumstances of the case are such that the Respondent is continuing to act in bad faith.

The Respondent has registered the disputed domain name <crownpackers.in> incorporating Trademark of the Respondent.

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Upon visiting the website of the Registrant, the home page displays the text 'CROWN RELOCATIONS' in bold bright text with a large font on the top. There is misuse of the Complainant's Trademark in as much as the impugned website displays entirety of the Complainant's registered Trademark "CROWN RELOCATIONS". The details of the company on the impugned website show that the proprietors of the services have addressed themselves as 'Crown Packers & Movers Pvt. Ltd'.

The Complainant has not granted the Respondent permission, or, a license of any kind to use its Trademark CROWN and register the disputed domain name <crownpackers.in>. Such unauthorized registration of the Trademark by the Respondent suggests opportunistic bad faith. The Respondent's true intention and purpose of the registration of the disputed domain name <crownpackers.in> which incorporates the Trademark of the Complainant is, in this Arbitrator's view, to capitalize on the reputation of the Trademark CROWN.

The Arbitrator therefore finds that the disputed domain name <crownpackers.in> has been registered by the Respondent in bad faith.

The domain disputed name <crownpackers.in> is confusingly similar to the Complainant's Trademark CROWN, and the

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Respondent has no rights or legitimate interests in respect of the domain name, and he has registered and used the domain name <crownpackers.in> in bad faith. These facts entitle the Complainant to an award transferring the domain name <crownpackers.in> from the Respondent.

The Arbitrator allows the Complaint and directs that the Respondent's domain name <crownpackers.in> be transferred in favour of the Complainant.

7. **Decision**

Keeping in view all the facts and circumstances of the matter this Complaint is allowed. The disputed domain name <crownpackers.in> is similar to the Trademark CROWN in which the Complainant has rights. The Arbitrator orders in accordance with the Policy and the Rules, that the domain name <www.crownpackers.in> be transferred to the Complainant.

The award has been made and signed at Chandigarh on the date given below.

Place: Chandigarh
Dated: 03.01.2018



Dr. Ashwinie Kumar Bansal
Sole Arbitrator

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