



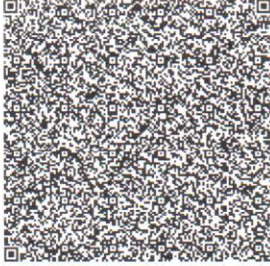
सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No.	: IN-DL20162763964957N
Certificate Issued Date	: 25-Jun-2015 04:24 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1737410899715686N
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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ARBITRATION CASE NO. 1 OF 2015

#### **IN THE ARBITRATION MATTER OF:-**

EMIRATES

COMPLAINANT

VERSUS

XU XIANTAO

RESPONDENT

DISPUTED DOMAIN NAME:

**emiratesgroup.co.in**

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#### **Statutory Alert:**

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**AWARD:**

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

The Complainant has filed the instant complaint challenging the registration of the domain name < **emiratesgroup.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 was asked to give my consent on the 27<sup>th</sup> April 2015 to adjudicate the instant domain name dispute, to which I gave my consent on 28<sup>th</sup> April 2015. I was handed over the complaint on the 29<sup>th</sup> April 2015. Accordingly, I issued notice on the 30<sup>th</sup> April 2015 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. However, the respondent has chosen not to file any reply and has not also entered its appearance even after it being served the notice on its address supplied by the Complainant, obtained from WHOIS. I, therefore, proceed to adjudicate this complaint ex-parte.

In its complaint, the complainant has stated that it is a world renowned international airline of the United Arab Emirates and is Dubai Corporation established by a Decree No.2 of 1985 b the Government of Dubai. It was founded on 25<sup>th</sup> October 1985. Complainant states that it has a fleet of over 224 aircrafts and has flying route of over 144 destinations in 81 countries around the world. In addition to the services of carrying passenger, it also has freight services, aircraft engineering and maintenance and ground logistics and tourism. It contends that it employs 42,000 persons around the world.





### **ANALYSIS:**

The Complainant also states that it has adopted the trademark "**EMIRATES**" as early as in the year 1985. It has placed in record the details of the registration of the said trademark in various countries. Complainant has contended that it has also got Community trade mark registration of its trademark "**EMIRATES**" covering 28 countries in Class 39, which includes airlines services and other incidental and ancillary services as mentioned in the said Class. The Complainant has contended that it has been conferred with over 500 prestigious awards for the acknowledgment of its services provided world over. For which it has placed news articles published in various website/journals/news papers alongwith this complaint.

Furthermore, the Complainant has contended that it has been sponsoring several events especially in the field of sports and entertainment, which displays its trademark conspicuously, for which it has produced several photographs of the events sponsored by it.

Apart from this, the Complainant has stated that in order to protect its trademark in the arena of internet activity, it has registered several websites, which carries the trademark "**EMIRATES**". It has enclosed the various websites webshots alongwith WHOIS results.

In its complaint, the grievance of the complainant is that the Respondent has registered the disputed domain name < **emiratesgroup.co.in** > which is identical to its registered trademark. And therefore such registration has been done in "opportunistic" bad faith.

Before I proceed to deciding the case at hand, I must decide the issue that the Respondent has chosen not to controvert the contentions raised in complaint and the consequence of such action on the part of the Respondent is that it leads to



an adverse inference and the statements and records placed in support stands proved.

I now proceed to decide the claim on merits. Firstly I shall deal with the ground regarding the rights of the Complainant vis-à-vis that of Respondent's over the domain name < **emiratesgroup.co.in** >. The domain has the mark **EMIRATES**, which according to the complainant is the owner. "**EMIRATES**" is a unique and distinct word and has acquired distinctiveness both in India and throughout the world. It has been shown by the complainant that the use of the said mark has been for quite some time and that too for world over. The Complainant has registered domain names incorporating the **EMIRATES** trademark in numerous countries across the world. From the records submitted before me, it is seen that it has registered its trademark in various countries, the earliest being in the year 1996. The complainant has shown the various trade mark registration details world over. Although the Respondent has not appeared in these proceeding to present their case, but it is borne out from the records that Respondent has no bonafide or legitimate right over the mark "**EMIRATES**".

Furthermore, the complainant has shown usage of its trademark for considerable period of time. It has shown that it has used its trademark world over in events, which has been in the nature of sponsorships of such events especially in field of sports. Therefore, considerable time and money has been spent by the Complainant in establishing its trademark.

The addition of a hyphen followed by a suffix "group" does not obviate the possible confusion in the mind users. This in itself reflects the fact that the respondent wanted to create confusion the minds of the public. Hence the Respondent's action to register the said domain name is not bonafide as he has no right over the mark < **emiratesgroup.co.in** >.

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 or organization with the name "**EMIRATES**".





nor the complainant has authorized in any way the use of the trademark "**EMIRATES**". The Complainant has specifically stated that it has no relation with Respondent, commercially or otherwise. So therefore the use of trade mark Respondent "**EMIRATES**" is not legal. Therefore the Respondent has no legitimate right over the said domain name.

Also the Complainant has registered websites consisting the word "**EMIRATES**", for which it has ownership, in various CCTLD. And this in itself becomes a good ground for the Complainant to claim transfer of the disputed domain name in its favour. The Complainant has relied upon several decisions of its own to show that it has been diligent in protecting its rights against unscrupulous infringers and users. Apart from that, it has relied upon several decisions which is in its favour for enforcing the claim in transfer of ownership in the disputed domain name.

**CONCLUSION:**

Considering the facts and circumstances of the present matter and taking view of the law and the precedents in this context, I am of the view that the complainant has proprietary right over the mark "**EMIRATES**". Therefore, under the facts and circumstances and on the basis of 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. < **emiratesgroup.co.in** > in favour of the complainant.

Parties to bear their respective costs of this litigation.

  
(NIKILESH RAMACHANDRAN)  
ARBITRATOR

Dated 27<sup>th</sup> JUNE 2015.