



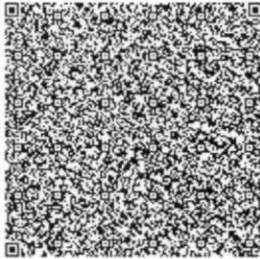
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

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|---------------------------|--|
| Certificate No. | : IN-DL50175430924017L |
| Certificate Issued Date | : 17-Aug-2013 11:21 AM |
| Account Reference | : IMPACC (IV)/ dl884903/ DELHI/ DL-DLH |
| Unique Doc. Reference | : SUBIN-DL88490399001171165403L |
| Purchased by | : V SHRIVASTAV |
| Description of Document | : Article 12 Award |
| Property Description | : NA |
| Consideration Price (Rs.) | : 0 |
| | (Zero) |
| First Party | : V SHRIVASTAV |
| Second Party | : OTHER |
| Stamp Duty Paid By | : V 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
"emiratesindia.in"
between

EMIRATES
MICHAEL CAIN

AND
AWARD

...COMPLAINANT
...RESPONDENT

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 26/07/2013. 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 compliance of the order was done by the Complainants vide their email dated 26/07/2013 showing that they have sent the hard copy by courier on 25/07/2013 which had a courier receipt of M/s DHL Courier waybill No.8706385586. On tracking it showed "Incorrect Address" by the courier company. Hence, this Tribunal vide order dated 03/08/2013 directed the Respondent to send their correct and complete postal address



by 07/08/2013 as they were in receipt of the emails and were aware of the Arbitration proceedings. Vide the same order this Tribunal also directed the Complainants to file their POA by 08/08/2013.

3. That this Tribunal noticed that the Respondents have not sent any email / communication notifying their new address hence on 12/08/2013 vide its order the Tribunal reserved the award.
4. In view of above, this Tribunal holds that the Respondents are fully aware of the present proceedings and are deliberately not joining the same.
5. This Tribunal keeping in mind the peculiar facts and circumstances of the present matter and also in view of INDRP, proceeds in the matter as per the material available before it.

CLAIM

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



A. The Complainant claims that it is a corporation organized and existing under the laws of Dubai, United Arab Emirates, having its principal place of business at Emirates Group Headquarters, P.O. Box 686, Dubai, United Arab Emirates. It is again stated that the Complainant is the world renowned, award winning international airline of United Arab Emirates and the largest airline in the Middle East. It is also claimed that in last two decades, the Complainant has experienced extraordinary growth and has become one of the most trusted transcontinental passenger airlines brand having a fleet of over 201 aircrafts under the brand EMIRATES. It is claimed that the complainant flies to over 134 destinations in 76 countries around the world. It is also stated that apart from aviation, the Complainant has also spread its wings into every aspect of travel, tourism and leisure to become a leading global corporation. The complainants claims that it employs more than 42,000 people around the world. Reliance is placed on **Annexure 3.**

- B. The Complainant claims that it adopted the trade mark EMIRATES as early as the year 1985 with respect to its goods/services and it has become distinctive of the Complainant's goods/services in commerce. Further the Complainant claims that it is the owner of the mark EMIRATES and various other marks containing the word EMIRATES besides the word EMIRATES is also the corporate identity and trading style of the Complainant.
- C. The Complainant by placing reliance on **Annexure 4 & 5** claims that it has expended significant resources in promotion and advertisement worldwide, including in India, and has established significant Internet presence over the years *qua* trade mark/trade name EMIRATES and have also earned various awards.
- D. The Complainant by placing reliance on **Annexure 6** claims to be the registered proprietor of the EMIRATES and various other Emirates-formative marks in numerous jurisdictions of the world including in Algeria, Armenia, Argentina, Australia,

Azerbaijan, Bahrain, Bangladesh, Belarus, Benelux, Canada, Cyprus, OHIM-CTM (European Union), Egypt, Ethiopia, France, Germany, Georgia, Greece, Hank Kong, **India**, Indonesia, Iran, Italy, Japan, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Kuwait, Lebanon, Libya, Malaysia, Mauritius, Mexico, Moldova, Morocco, Morocco-Tangiers Zone, New Zealand, Nigeria, Norway, African Intellectual Property Organization (OAPI), Oman, Pakistan, Philippines, People's Republic of China (PRC), Qatar, Russia, Singapore, Saudi Arabia, South Africa, South Korea, Spain, Sri Lanka, Switzerland, Syria, Tajikistan, Taiwan, Thailand, Tunisia, Turkey, Ukraine, UAE, UK, USA, Uzbekistan, Venezuela, Vietnam, Yemen, Zambia, Zimbabwe and many other nations in various international classes. The Complainant further claims that it has a well-established proprietary claim over the trade mark/trade name EMIRATES and people all over the world associate the same exclusively with the Complainant. Further due to the above the name / mark EMIRATES has



acquired the status of a well-known trade mark under **Section 2(1) (zg) & 11(6) of the Trade Marks Act, 1999.**

E. Besides the complainant claims that it has also registered/acquired a number of domain names containing the word "EMIRATES" such as www.theemiratesgroup.com, www.emiratesholidays.biz, www.emiratesgroupcareers.com, www.emiratesholidays.info, www.emiratesholidays.co.uk, www.emiratesholidays.us, www.emiratesholidays.asia, www.emiratesholidays.com, www.emirates-holidays.info, www.emiratesindia.com, www.emirates-holidays.org, www.emirates-holidays.in, www.emirates-holidays.co.uk, www.emirates-holidays.us, www.emirates-holidays.co.in, www.emiratesaviationcollege.com, www.emirates-airline.com, www.emirates-airline.ru, www.emirate-airlineservices.com, www.emiratesairlines.ae, www.emiratesairline.at, www.emiratesairline.com, www.emiratesliveevents.com, www.emiratesairline.co; www.emiratesairlinefoundation.org, etc., in order to prevent others from using variations of its famous marks and has fought various legal proceedings which are given as:

i. **Emirates Corporation v. 2220 Internet Coordinator**

<emiratescareers.com> (WIPO Case No. D2005-1311).

- ii. **Emirates v. Michael Toth** <emirates.co.uk> (Nominet Dispute Resolution Service Case No. D00008634).
- iii. **Emirates v. Melanie A. Orchard** <emirateairline-groups.com> (WIPO Case No. D2008-1837).
- iv. **Emirates Group Headquarters v. Domain Discreet / Ahmed Bin Subaih** <emiratesholidays.com> (WIPO Case No. D2010-0811).
- v. **Emirates v. Chella Groundappan** <www.emirates.in> (INDRP-372)
- vi. **Emirates Group Headquarters v. Erica Vennum** <emirate-airlineservices.com> (WIPO Case No. D2008-0883).
- vii. **Emirates v. WhoisGuard Protected** <emiratestaff.com> (WIPO Case No. D2006-0433).
- viii. **Emirates v. Domain Admin** <flyemirates.com> (WIPO Case No. D2007-1674).

F. The Complainant claims that it came to know that the Respondent has obtained a domain name registration for



www.emiratesindia.in with malafide & devious intentions knowing fully well

- 1) The domain name is identical to a trade mark or service mark or trade name in which the Complainant has rights.
- 2) The Respondent has no rights or legitimate interests in respect of the domain name.
- 3) The domain name was registered and is being used in bad faith.

ORDER

7. 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 give his correct and complete postal address and take further steps in the present proceedings chose not to give any and hence the allegations of the complainants remain un rebutted/ admitted.



8. In view of the undisputed documentary evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name <emiratesindia.in>, hence this Tribunal directs the Registry to transfer the domain name <emiratesindia.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 proceeding 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 20th day of August, 2013.

NEW DELHI
20/08/2013



V. SHRIVASTAV
ARBITRATOR