



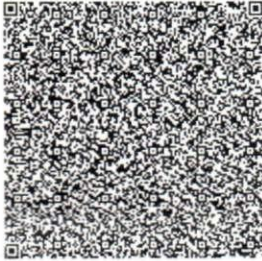
सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No. : IN-DL27005159563903K  
 Certificate Issued Date : 27-Sep-2012 03:59 PM  
 Account Reference : SHCIL (FI)/ dl-shcil/ HIGH COURT/ DL-DLH  
 Unique Doc. Reference : SUBIN-DLDL-SHCIL54084586175557K  
 Purchased by : NIKILESH RAMACHANDARAN  
 Description of Document : Article 12 Award  
 Property Description : NA  
 Consideration Price (Rs.) : 0  
 (Zero)  
 First Party : NIKILESH RAMACHANDARAN  
 Second Party : NA  
 Stamp Duty Paid By : NIKILESH RAMACHANDARAN  
 Stamp Duty Amount(Rs.) : 100  
 (One Hundred only)



ARBITRATION CASE NO. 09 OF 2012

#### IN THE ARBITRATION MATTER OF:-

ETRO S.P.A

...COMPLAINANT

VERSUS

YAN SONG

...RESPONDENT

#### AWARD

The present dispute relates to the registration of the domain name [www.etro.org.in](http://www.etro.org.in) in favour of the Respondent.

*(Signature)*

The Complainant has filed the instant complaint challenging the registration of the domain name <[www.etro.org.in](http://www.etro.org.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 redressal of its grievances.

The complainant has stated that it is internationally renowned Italian fashion house and manufacturer of fabrics, furnishing and fragrances. The complainant has stated that it was founded in the year 1968 by Gerolamo Etro and has spread its business in Milan, Tokyo, Rome, New York, London and a host of different countries including India.

The Complainant has further stated that its products and collection have been sold through its stand alone boutiques and high end department stores around the globe under the mark ETRO for instance Harrods, Selfridges and various other brands.

The complainant has also filed documents to show that reputation and goodwill in the ETRO mark/ name is a well earned and a result of continuous effort.

The complainant has stated that it is the owner of number of domain names which support the complainant's several dedicated and official websites for its consumers and other visitors from different countries and jurisdictions. The domain names include Etro.com, Etro.net, Etro.info, Etro.biz, Etro.eu, Etro.us, Etro.ru. The complainant has further stated that it is the owner of several registrations. The complainant has filed a list of trademarks registrations in order to support its claim.

The complainant has stated that it has also obtained several registration of the trademark "ETRO". The complainant has also





submitted a list of trademark registrations along-with registration number, registration date, class and validity.

The complainant has stated that its mark has been synonymous with luxury products has resulted extensive goodwill and reputation of the complainant and its mark "ETRO" across the world.

The complainant has contended that the respondent has registered an identical domain name [www.etro.org.in](http://www.etro.org.in) which incorporates the mark 'ETRO'. The respondent has further contended that the respondents' domain name/ website does not have any active content and has been merely blocked / registered with an intention to attract internet traffic and benefit from the sale of a famous domain name.

The complainant has also contended that respondent no legitimate interest in the disputed domain name and that the sole purpose of registering the domain name is to derive illegal profits by offering the domain name for sale. The complainant has stated that the bad faith of the respondent is evident from the fact that the respondent's website clearly states that the domain name may be available for sale by the owner.

The complainant has also contended that the sole purpose of of registering an identical domain name by the respondent is to make profit from sale of the domain name. It has been further contended that disputed domain name is identical with the complainant's corporate name and trademark and there is likelihood that a web browser looking for 'ETRO' products in India would mistake the offending website, [www.etro.org.in](http://www.etro.org.in) for the complainant's India specific website.

I entered upon reference regarding the instant dispute on 18<sup>th</sup> October 2012 and sent a notice dated 28<sup>th</sup> September 2012



was sent to the Respondent calling upon for response to the said complaint. However, even after granting considerable time to the Respondent, there has been no response. Accordingly, the Respondent is proceeded ex-parte.

I have perused the records and have gone through the contents of the complaint. Although there has been no reply on behalf of the Respondent to the complaint, I shall deal with the complaint on the basis of its merits. Several grounds have been raised by the Complainant regarding the transfer of the domain name www.etro.org.in in its favour.

Firstly I shall deal with the ground regarding the rights of the Complainant vis-à-vis that of Respondent's over the domain name www.etro.org.in. The mark <ETRO> is a unique and distinct word and has acquired distinctiveness and is known to be a trademark owned by the complainant. 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 also shown its various trademark registration details world over. Although the Respondent has not appeared in these proceedings to present their case, but it is borne out from the records that Respondent has no bonafide or legitimate right over the mark "ETRO". Merely by the adding of the name 'org.in' in the word cannot mean to be a mark different from the registered mark. This 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 "www.etro.org.in".

Secondly the website has been displayed for sale by its owner on the website www.etro.org.in. The Respondent's action to register



the said domain name is not bonafide, therefore the said registration is done in bad faith. The Respondent is not either an individual, business or other organization, commonly known by the name "ETRO". Therefore the Respondent has no legitimate right over the said domain name.

Considering the facts and circumstances of the present matter and taking view of the precedents in this context, I am of the view that the complainant has proprietary right over the mark "www.etro.org.in". Under the facts and circumstances and on perusal of the 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. www.etro.org.in in favour of the complainant.

Parties to bear their costs.



(NIKILESH RAMACHANDRAN)

ARBITRATOR

Dated: 09<sup>th</sup> January 2013.