



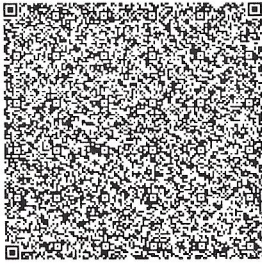
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL46710977209600N
Certificate Issued Date : 22-Aug-2015 03:15 PM
Account Reference : IMPACC (IV)/ dl861503/ DELHI/ DL-DLH
Unique Doc. Reference : SUBIN-DL86150390903306910474N
Purchased by : JAYANT KUMAR
Description of Document : Article Others
Property Description : Not Applicable
Consideration Price (Rs.) : 0
(Zero)
First Party : JAYANT KUMAR
Second Party : Not Applicable
Stamp Duty Paid By : JAYANT KUMAR
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



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

BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA

IN THE MATTER BETWEEN

Accor

v.

Xu Xiantao

Complainant

Respondent

Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.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.

Handwritten signature

ARBITRATION AWARD

1. The Complainant is Accor, a French company having its registered office at 110 avenue France, 75013 Paris, France.
2. The Arbitration pertains to the disputed domain name <hotelformule1.co.in>, registered on October 14, 2014 by the Respondent. The registrar for the disputed domain name is Webiq Domains Solutions Pvt. Ltd.
3. The sole arbitrator appointed in this complaint by NIXI is Jayant Kumar. The Arbitrator submitted the Statement of Acceptance and Declaration of Impartiality and Independence to NIXI on June 23, 2015.
4. The Complaint was handed over to the Arbitrator by NIXI on June 29, 2015. The Arbitrator vide email dated July 3, 2015 directed the Respondent to file Reply by July 28, 2015.
5. On July 6, 2015, the Arbitrator was informed by NIXI that a physical copy of the complaint could not be served upon the Respondent since courier could not be delivered on the address of the Respondent as it was reported incorrect/incomplete address by the courier service provider.
6. The Arbitrator therefore directed the Complainant to serve a copy of the complaint along with annexures upon the Respondent by email. The Complainant accordingly served upon the Respondent by email dated July 7, 2015.
7. The Respondent did not file its Reply to the Complaint by July 28, 2015. The Respondent was thereafter granted a final opportunity vide email dated August 3, 2015 to file its Reply by August 8, 2015.



8. The Respondent did not file its Reply by August 8, 2015 and is therefore proceeded *ex-parte*.

Complainant's Submissions

9. The Complainant states that it is a world leader in economic and mid-scale hotels and a major player in upscale and luxury hospitality services. It further submitted that it owns the brand 'HOTEL FORMULE 1' which is an international chain of "super low budget" or "no frills" hotels owned by the Complainant.
10. The Complainant states that it owns the domain name <hotelformule1.com> since March 31, 2010 allowing internet users to book a hotel, find out all about the brand and take advantage of tips and best rates year-round.
11. The Complainant further submitted that it owns trademark Registration No. 1244254 and 1448670 for the mark HOTEL FORMULE 1 registered on October 17, 2003 and April 28, 2006 respectively in class 42 in India. The Complainant also owns domain name registrations for <hotelformule1.com> since August 19, 1997 and <hotelformule1.in> since September 30, 2008.
12. The Complainant further submitted that it send a Cease and Desist Letter to the Respondent demanding transfer of the disputed domain name and the Respondent initially offered to do so for US\$ 6000 and then quote a final offer price of US\$ 5000.
13. The Complainant submitted that the mark HOTEL FORMULE 1 has gained worldwide recognition and goodwill has become exclusively associated to the Complainant and no one else.

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14. The Complainant submitted that the domain name <hotelformule1.co.in> is confusingly similar to its mark HOTEL FORMULE 1.

15. The Complainant submitted that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent registered the disputed domain name after the Complainant had acquired and established rights in the trademark HOTEL FORMULE 1. It was also submitted that there exists no relationship between Complainant and the Respondent and the Respondent is not commonly known by the disputed domain name and is not making legitimate non-commercial or fair use of the disputed domain name.

16. The Complainant submitted that the disputed domain name was registered by the Respondent for selling it and the offer for sale is indisputable evidence that Respondent is registered and is using it in bad faith.

Discussion and Finding

17. Under the .IN Policy, the registrant of the domain name is required to submit to a mandatory arbitration proceeding in the event that a complaint is filed in the .IN Registry, in compliance with the .IN Policy and the INDRP Rules. The .IN Policy, Paragraph 4 requires the Complainant, to establish the following three elements:

- a. The domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
- b. The Respondent has no rights or legitimate interests in respect of the domain name; and
- c. The Respondent's domain name has been registered and is being used in bad faith.

18. The Arbitrator finds that the Complainant has submitted evidence of trademark registrations for the mark HOTEL FORMULE 1 in India, which is sufficient

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documentary evidence to establish its rights in the mark HOTEL FORMULE 1. The Arbitrator is convinced with the distinctive nature of and the Complainant's ownership in the mark HOTEL FORMULE 1. The disputed domain name incorporates the mark HOTEL FORMULE 1 in entirety and hence, the disputed domain name is held to be confusingly similar with the Complainant's mark.

19. Paragraph 7 of the Policy states a Respondent's or a registrant's rights can be found from the material on record, if (i) before notice of the dispute, the registrant had used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services or (ii) the registrant (as an individual, business organization) has been commonly known by the domain name, or (iii) The registrant is making legitimate, non-commercial or fair use of the domain name without intent for commercial gain. The Respondent has not filed any evidence on record to show that the Respondent has made preparations to use the disputed domain name for a bona fide offering of goods or services or that the Respondent has been commonly known by the disputed domain name or makes legitimate non-commercial fair use of the website linked to the disputed domain name. Moreover, the Respondent does not appear to have any connection with the mark HOTEL FORMULE 1. Based on the above, the Arbitrator finds that the Respondent has no rights or legitimate interests in the disputed domain name.

20. The Respondent has made no use of the domain name or website that connects with the domain name, and has listed it for sale. The Respondent's action of offering the dispute domain name for sale to the Complainant at US\$ 5000 is sufficient evidence to hold the disputed domain name was registered and is being used in bad faith by the Respondent.



Decision

21. In light of the aforesaid discussion and findings, the Arbitrator directs that the disputed domain name <hotelformule1.co.in> be transferred to the Complainant.

A handwritten signature in blue ink, appearing to read 'Jayant Kumar', with a horizontal line drawn through the middle of the signature.

Jayant Kumar

(Sole Arbitrator)

Dated: August 24, 2015