

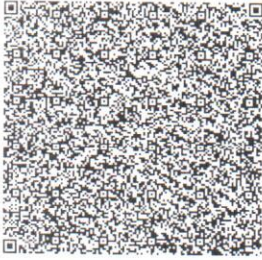


INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL93431195551299N
Certificate Issued Date : 16-Apr-2015 04:08 PM
Account Reference : IMPACC (IV)/ dl881103/ DELHI/ DL-DLH
Unique Doc. Reference : SUBIN-DL88110384050079828486N
Purchased by : LUCY RANA
Description of Document : Article Others
Property Description : NA
Consideration Price (Rs.) : 0
(Zero)
First Party : LUCY RANA
Second Party : NA
Stamp Duty Paid By : LUCY RANA
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



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**BEFORE THE SOLE ARBITRATOR UNDER THE
.IN DISPUTE RESOLUTION POLICY, (c/o NIXI)
ARBITRATION AWARD**

Disputed Domain Name: <orangebulksms.in>

IN THE MATTER OF:

Orange Brand Services Limited.

3 More London Riverside, London

United Kingdom, SE1 2AQ

Complainant

Versus

Orange Media Solutions

New Delhi-110092,

India

Respondent

Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcliestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
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Orange

1. **The Parties:**

The Complainant in this arbitration proceeding is Orange Brand Services Limited of the address 3 More London Riverside, London, United Kingdom, SE1 2AQ.

The Respondent in this arbitration proceeding is Orange Media Solutions of the address New Delhi-110092, India.

2. **The Domain Name, Registrar and Registrant:**

The present arbitration proceeding pertains to a dispute concerning the registration of the domain name <orangebulksms.in> with the .IN Registry. The Registrant in the present matter is Orange Media Solutions and the Registrar is GoDaddy.com.

3. **Procedural History:**

The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI).

NIXI vide its email dated March 19, 2015 appointed Mrs. Lucy Rana as the Sole Arbitrator in the matter. The Arbitrator submitted the statement of acceptance and declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure.

In accordance with Rules 2(a) and 4(a), NIXI vide email dated March 24, 2015, notified the Respondent of the filing of the Complaint and the appointment of the Arbitrator for adjudicating upon the disputed domain name <orangebulksms.in>.

The Arbitrator received the hard copy of the Complaint from NIXI on March 26, 2015.

Thereafter, the Arbitrator sent a notice to the Respondent vide email on March 26, 2015, granting the Respondent a period of **14 days (Fourteen Days)** from the receipt of the notice to file its response to the Complaint in both hard as well as soft copy.

The Respondent filed a written reply dated April 03, 2015, to the complaint, through its counsel, (which was received by the Arbitrator on April 09, 2015) stating that the Respondent without prejudice to its rights, titles and contentions is ready and willing to transfer the alleged domain <orangebulksms.in> to the Complainant to pursue a pre-decision settlement option and consents to the remedy requested by the Complainant in the complaint. A copy of the reply has also been served on the Complainant.



On the same date the counsel for Respondent sent an email to the Registrar Godaddy.com with a copy marked to the Arbitrator requesting them to transfer the disputed domains <orangebulksms.com> and <orangebulksms.in> in favour of the Complainant either on or before April 07, 2015.

Thereafter, the Registrar informed vide email dated April 07, 2015, that the domain <orangebulksms.com> has been transferred into the Complainant's account. However, the domain <orangebulksms.in> being a part of INDRP process could not be transferred to the Complainant, as locks have been placed on the said domain by NIXI.

On April 09, 2015, the Arbitrator sent an email to both the parties acknowledging receipt of the reply filed by the Respondent stating that the Respondent is willing to transfer the disputed domain <orangebulksms.in> and thereby asking Complainant and Respondent to inform if they are willing to opt for a pre-decision settlement of the dispute, within seven (7) days from the receipt of the email.

The Respondent vide email dated April 10, 2015, stated that it is willing to transfer the domain <orangebulksms.in> in favour of the Complainant.

The Complainant vide its email dated April 10, 2015, requested the Arbitrator to issue directions for suspension of proceedings to enable the Complainant to seek transfer of the disputed name from the Respondent.

4. Factual Background

The Complainant is a part of the group of Companies known as the Orange Group, (currently ranked 6th largest telecommunications company in the world) and Orange Brand is the international flagship brand of the Group. The Complainant is engaged in the business of providing a wide variety of services and associated goods under the trade mark Orange including but not limited to telecommunications, mobile telephony, fixed line, internet and television broadcasting and transmission services.

The Complainant is the proprietor (worldwide including India) of the mark 'ORANGE' and its variations in multiple classes (for a broad specification of goods and services in classes 9, 38 & 42) as per NICE classification. The word **ORANGE** also forms an integral part of the Company name and trading style of the Complainant i.e., **Orange Brand Services Limited**. The Complainant's Orange Trade Marks have been in continuous use since the launch of the Orange Brand in UK on 28 April 1994. The Complainant's Orange brand was subsequently launched in India in 2000.

The Complainant owns over 900 domains, wherein the word **ORANGE** forms a prominent part thereof.

The Complainant has filed the present complaint praying to this Tribunal that the Respondent be restrained from using the disputed domain name <orangebulksms.in> and the said domain be transferred to the Complainant, as registration and use of the aforementioned domain name is causing irreparable loss and hardship to the Complainant.

5. Discussion and Findings:

In the present circumstances, the decision of the Arbitrator is based upon the Complainant's contentions and evidence adduced as well as conclusion drawn from Respondent's willingness to transfer the domain in favour of the Complainant.

The Respondent has expressly agreed in its reply dated April 06, 2015, to transfer the domain <orangebulksms.in> in favour of the Complaint without admitting the element of paragraph 4 of the Policy. Hence, the Arbitrator is of the view that there is no need to assess the facts supporting the claim.

Therefore, as held in previous decisions, (Avaya Inc. v. Madhuran Sankaran Case no. INDRP/174, Merck Sharp & Cohme Corp. v. Marketing Munch Pry. Ltd. Case No. INDRP/230, IDFC Ltd. v. Pankaj Gupta Case No. INDRP/571 & Idea Cellular Limited v. Nick Cardew, Case No. INDRP/629,) given the Respondent's consent to transfer, no further consideration or discussion of the Policy is deemed necessary by the Arbitrator.

6. Decision:

For all the aforementioned reasons, in accordance with Paragraph 4 (i) of the Policy and 14 of the Rules, the panel orders that the domain name <orangebulksms.in> be transferred to the Complainant.

Lucy Rana
17/4/2015

Lucy Rana
Sole Arbitrator

Date: April 17, 2015
Place: New Delhi, India