



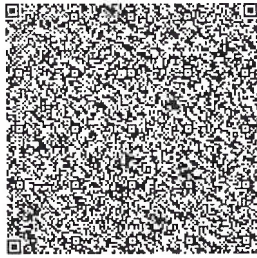
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL52312373947259P
Certificate Issued Date	: 13-Nov-2017 04:20 PM
Account Reference	: IMPACC (IV)/ dl889403/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL88940306885280896634P
Purchased by	: V K AGARWAL
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: V K AGARWAL
Second Party	: Not Applicable
Stamp Duty Paid By	: V K AGARWAL
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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

Dr. V. K. AGARWAL

Sole Arbitrator

NATIONAL INTERNET EXCHANGE OF INDIA

Flat No. 6C, 6D, 6E, Hansalaya Building,

Barakhamba Road,

New Delhi – 110 001

Society Generale, Paris v. Mr. Xi Da Hai

V K Agarwal

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.

AWARD

1. **The Parties**

The Complainant is Society Generale, 29 Boulevard Haussmann, 75009 Paris, France.

The Respondent is Xi Da Hai, Jiang Su Sheng Su Zhou Shi Can, Suzhoushi, JS 215005, China.

2. **The Domain Name and Registrar**

The disputed domain name is <www.QIGO.IN>. The said domain name is registered with the Registrar M/s Endurance Domains Technology Pvt. Limited, India.

The registration details of the disputed domain name as contained in whois are as follows:

- | | |
|--------------------------|---|
| (a) Domain ID | : D414400000003730714-AFIN |
| (b) Domain Name | : QIGO.IN |
| (c) Sponsoring Registrar | : Endurance Domains Technology Pvt. Ltd.
(R173-AFIN) |
| (d) Date of creation | : 26 th March 2017 |
| (e) Expiry date | : 26 th March 2018 |

3. **Procedural History**

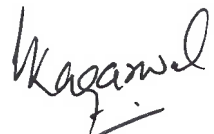
(a) A Complaint has been filed with the National Internet Exchange of India.

The Complainant has made registrar verification in connection with the domain name at issue. The print outs so received are attached with the

Kagameal

Complaint as Annexure 2. It is confirmed that presently the Respondent is listed as the registrant and provided the contact details for the administrative, billing, and technical contact. The Exchange verified that the Complaint satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the "Policy") and the Rules framed thereunder.

- (b) The Exchange appointed Dr. Vinod K. Agarwal, Advocate and former Law Secretary to the Government of India as the sole arbitrator in this matter. The arbitrator finds that he was properly appointed. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Exchange.
- (c) In whois data, the Respondent has given the postal address as Jiang Su Sheng Su Zhou Shi Can, Suzhoushi, JS 215005, China. The National Internet Exchange of India sent a copy of the Complaint to the Respondent through courier for his response. However, it was returned by the courier with the remarks that the postal address is incorrect and incomplete.
- (d) Further, in accordance with the Indian Domain Name Dispute Resolution Rules, on November 13, 2017 the Sole Arbitrator notified the Respondent along with a copy of the Complaint through the e mail address mentioned in Whois, that is, <xdh315@163.com. The Respondent was required to convey his response to the Complaint within 15 days from the date of receipt of the said letter and in any case latest by November 27, 2018. The Respondent was informed that if his response was not received by the Arbitrator by that date, the Respondent would be considered in default and the Arbitrator would still proceed to decide the dispute. No response has been received from the Respondent. Therefore, the case has to proceed ex-parte.



4. Factual Background

From the Complaint and the various annexure to it, the Arbitrator has found the following facts:

Complainant's activities

The Complainant, Society Generale S.A. founded in 1864, is a French multinational banking and financial services company existing under the corporate laws of France with its headquarter is at Paris, France. The Complainant Company is divided into three main divisions, namely, Retail Banking and Specialized Financial Services, Corporate and Investment Banking and Global Investment Management and Services.

As a fully subsidiary of the Bank "Society Generale", ALD Automotives is a French fleet managing and operational car leasing company. The ALD Automotives is providing such services in 41 countries of the world including India.

Respondent's Identity and Activities

The Respondent has not submitted any response to the Complaint. Hence, the Respondent's activities are not known.

5. Parties Contentions

A. Complainant

The Complainant contends that each of the elements specified in the Policy are applicable to this dispute.

In relation to element (i), the Complainant contends that since its inception the Complainant has adopted QIGO as trade name as well as

Kagawal

trademark. The word "QIGO" is not a generic term. It has no meaning in any language. It is therefore, distinctive term associated with the Complainant for its new activity. Further that, the trademark "QIGO" of the Complainant is registered in many countries of the world. Therefore, the Complainant is well known to its customers as well as in business circles as QIGO all around the world.

Thus, the disputed domain name QIGO is identical to the name and trademark of the Complainant. Further that, the Complainant has been continuously using the "QIGO" as trade name, trademark, etc. The Complainant also has other domain names with the trademark "QIGO", such as, <www.qigo.com> registered on November 29, 2005.

The Respondent has registered the disputed domain name <QIGO.IN> purposely with the motive or intention of obstructing the business of the Complainant, to obfuscate clients, prospective clients and other internet users and to cause negative impact on the reputation of the Complainant.

It is further contended that in recent times, the domain name has become a business identifier. A domain name helps identify the subject of trade or service that an entity seeks to provide to its potential customers. Further that, there is a strong likelihood that a web browser looking for QIGO products in India or elsewhere would mistake the disputed domain name as that of the Complainant.

Therefore, the disputed domain name <QIGO.IN> is similar or identical to the registered trademark of the Complainant.

In relation to element (ii), the Complainant contends that the

Wagawal

Respondent (as an individual, business, or other organization) has not been commonly known by the name or mark "QIGO" nor has applied for the registration of the mark "QIGO" anywhere in the world. The name of the Registrant/Respondent is Xi Da Hai. Further, the Respondent is not making a legitimate or fair use of the said domain name for offering goods and services.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Respondent has no right or legitimate interests in respect of the domain name. The Complainant does not carry out any activity for, nor any business with the Respondent. Neither licensed nor authorization has been granted to the Respondent to make any use of the Complainant's trademark QIGO or apply for registration of the disputed domain name by the Complainant.

In support of its contentions, the Complainant has relied on the decisions in the cases of *Educational Training Service v. TOFEL*, (WIPO Case No. D2000-0044); *Mr. Donning Eric v. Mr. Nyunhwa Jung*, (WIPO Case No. D2003-0689); *Benetton Group SpA v. Domain for Sale*, (WIPO Case No. D2001-1498).

Regarding the element at (iii), the Complainant contends that the trademark "QIGO" is entirely included in the disputed domain name without any adjunction of letter or word. Further that, the main object of registering the domain name <www.QIGO.IN> by the Respondent/Registrant appears to be to mislead the general public and the customers of the Complainant. The Complainant has stated that the use of a domain name that appropriates a well-known trademark to promote competing or infringing products cannot be considered a "bona fide offering of goods and services".

In the cases of *Alibaba Group Holding Limited v. Rickson Rodricks*

Kagamel

and Domaen com [INDRP/073] it has been held that the domain name wholly incorporating a Complainant's trademark may be sufficient to establish identity or confusing similarity; See also *Puneet Vatsayan v. Prajakt Raut* [INDRP/512]; *Amazon Technologies v. Mr. Harikishore* [INDRP/349] and *Pfzier v. NA* [WIPO D2005-0072].

B. Respondent

The Respondent has not submitted any response. Hence, the Respondent's contentions are not known.

6. Discussion and Findings

The Rules instructs this arbitrator as to the principles to be used or adopted in rendering its decision. It says that, "a panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Arbitration and Conciliation Act, 1996, (of India) the Rules and any rules and principles of law that it deems applicable".

According to the Policy, the Complainant must prove that:

- (i) The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The Respondent has no rights or legitimate interests in respect of the domain name that is the subject of Complaint; and
- (iii) The domain name in question has been registered and is being used in bad faith and for the purposes of trafficking;

A. Identical or Confusingly Similar

As per the whois information, the Respondent has created the disputed domain name <WWW.QIGO.IN> on March 26, 2017. It will expire on March 26, 2018 unless permitted to extend it further.

Kagame

According to the information submitted by the Complainant, the Complainant is the owner of trademark QIGO. The trademark QIGO is registered in certain countries.

The present dispute pertains to the domain name <QIGO.IN>. The Complainant possesses a number of other domain names with the word "QIGO". The Complainant is also the owner of trademark "QIGO". Most of these domain names and the trademark have been created by the Complainant much before the date of creation of the disputed domain name by the Registrant/Respondent. The disputed domain name is very much similar or identical to other domain names and the trademark of the Complainant.

Therefore, I hold that the domain name <QIGO.IN> is confusingly similar and identical to the Complainant's trademarks.

B. Rights or Legitimate Interests

The Respondent may demonstrate its rights to or legitimate interest in the domain name by proving any of the following circumstances:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) The Respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent's response is not available in this case. There is no

Wagawal

evidence to suggest that the Respondent has become known by the disputed domain name anywhere in the world. Based on the evidence adduced by the Complainant, it is concluded that the above circumstances do not exist in this case and that the Registrant/Respondent has no rights or legitimate interests in the disputed domain name.

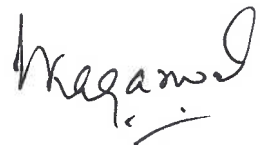
The name of the Complainant is Society Generale. The Respondent is known by the name of Xi Da Hai. It is evident that the Respondent can have no legitimate interest in the aforesaid disputed domain name. Further, the Complainant has not licensed or otherwise permitted the Respondent to use its name or trademark or to apply for or use the domain name incorporating said name.

I, therefore, find that the Registrant/Respondent has no rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

Any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) Circumstances indicating that the Respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of documented out of pocket costs directly related to the domain name; or

A handwritten signature in black ink, appearing to read 'Kegam' with a stylized flourish at the end.

- (ii) The Respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that it has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or location.

The contention of the Complainant is that the present case is covered by the above circumstances. The Respondent has intentionally attempted to attract, for commercial gain, internet users to the disputed website by creating a likelihood of confusion with the Complainant's mark. The Respondent was aware of the Complainant's registration of the trademark "QIGO".

Further that, it is apparent from the parking page of the website of the disputed domain name that the Respondent registered or acquired the disputed domain name primarily for the purpose of selling it. It clearly says that "The domain is on sale" and "Buy it" for a consideration of US \$ 29,117. The said amount is in excess of the Respondent's out-of-pocket costs directly related to the domain name. A copy of the said parking page is available as Annexure 8 to the Complaint.

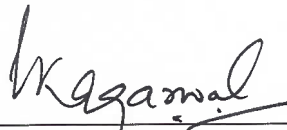
The complete address of the Registrant/Respondent could not be found and there is no response to the e-mail mentioned in the WHOIS record. The foregoing circumstances lead to the presumption that the domain name in dispute was registered and used by the Respondent in bad faith.

Kagana

Therefore, I conclude that the domain name was registered and used by the Registrant/Respondent in bad faith.

7. **Decision**

In light of the foregoing findings, namely, that the domain name is confusingly similar to the mark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the domain name, and that the domain name was registered in bad faith and is being used in bad faith in accordance with the Policy and the Rules, the Arbitrator orders that the domain name <www.QIGO.IN> be transferred to the Complainant.



Vinod K. Agarwal
Sole Arbitrator

Date: November 27, 2017