



सत्यमेव जयते

INDIA NON JUDICIAL

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Description of Document

Property Description

Consideration Price (Rs.)

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Second Party

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Stamp Duty Amount(Rs.)

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: 07-Nov-2019 03:58 PM
: IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH
: SUBIN-DLDSLHIMP1767910182825012R
: NIKILESH RAMACHANDRAN
: Article 12 Award
: Not Applicable
: 0
(Zero)
: NIKILESH RAMACHANDRAN
: Not Applicable
: NIKILESH RAMACHANDRAN
: 100
(One Hundred only)



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INDRP CASE NO. 1149

IN THE MATTER OF:-

7-Eleven, Inc.

VERSUS

Ashwani Metals Pvt. Ltd.

DISPUTED DOMAIN NAME:

www.7eleven.in

COMPLAINANT

RESPONDENT

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Statutory Alert:

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2. The onus of checking the legitimacy is on the users of the certificate.
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AWARD:

The present domain name dispute relates to the registration of the domain name **www.7eleven.in** in favour of the Respondent.

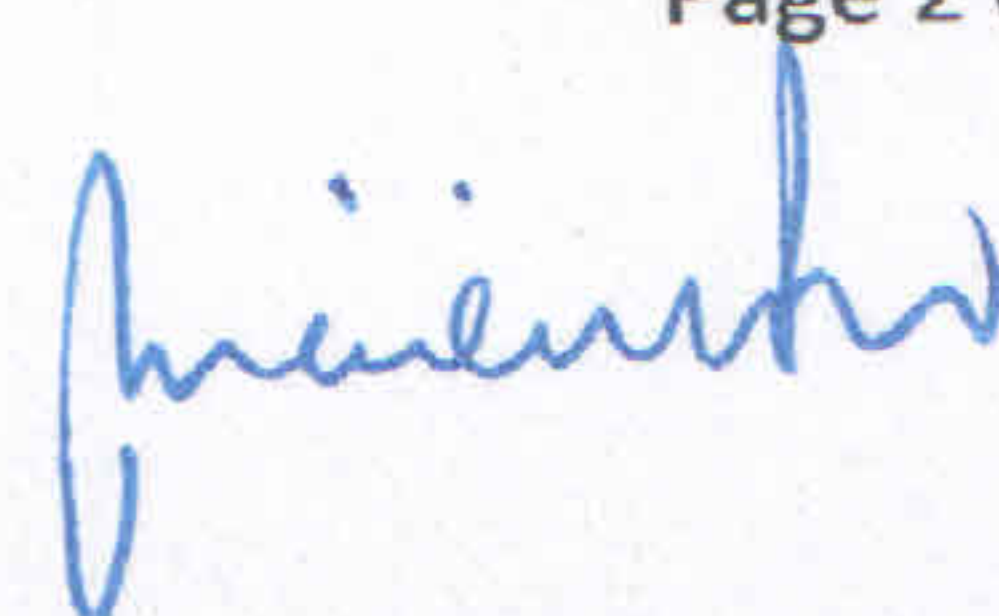
The Complainant has filed the instant complaint challenging the registration of the domain name **< www.7eleven.in >** in favour of the Respondent. Pursuant to the ".in" Domain Name Dispute Resolution Policy (INDRP) and the rules framed there-under, the Complainant has preferred this arbitration for raising this dispute for reprisal of its grievances.

I gave my consent to adjudicate the instant domain name dispute. I was handed over the complaint and accordingly, I issued notice on the 17.09.2019 calling upon the Respondent to file its reply on the complaint within fifteen days from the date of receipt of the notice and rejoinder within fifteen days thereafter. Since there has been no response from the Respondents to the Complaint, I accordingly proceed ex-parte the Respondents in adjudicating the instant complaint.

CONTENTIONS:

Since, the respondent has been proceeded ex-parte, I shall deal with the contention of complainant. The Complaint has been filed for transfer of the disputed domain name **www.7eleven.in**, which was registered by Respondent. Primarily the assertion of the complainant in its complaint is that the disputed domain name is identical to the trade mark of **7-ELEVEN**, which was coined from its erstwhile trade name being 7-ELEVEN. It has been recognized as the world's largest convenience store chain- operating, franchising and licensing convenience stores under the brand name '**7-ELEVEN**' with 67,000 stores around the world in spread across various countries and territories.

The Complainant's house mark and trading name 7-ELEVEN originated in 1946 when the name of Complainant's stores were changed to 7-Eleven' - and has been in use continuously ever since, with various 7-ELEVEN-fomative

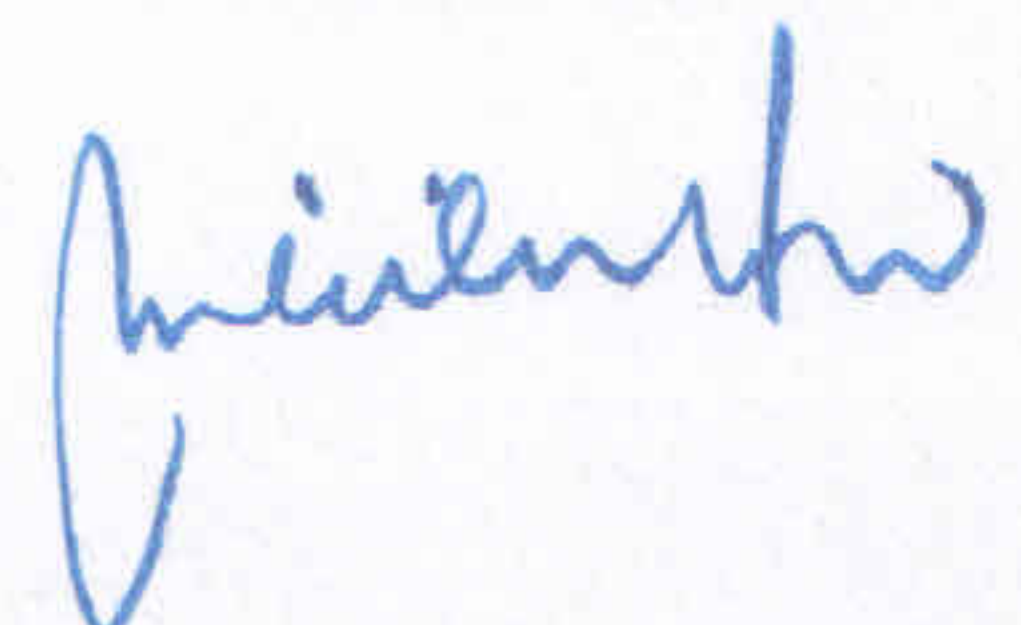


trademarks (hereinafter collectively 7-ELEVEN Marks'/ Complainant's Marks') having obtained registration in over 90 jurisdictions worldwide.

The Complainant further states that to build upon the enviable and continuously growing reputation of the 7-ELEVEN Marks, the Complainant changed its corporate name from The Southland Corporation to 7-Eleven, Inc. in 1999, thus enabling the general public to instantaneously relate and associate the 7-ELEVEN-Marks with the Complainant exclusively. The Change of Name Certificate of the Complainant (from The Southland Corporation to 7-Eleven, Inc.) dated April 29, 1999, and the Certificate of Amended and Restated Articles of Incorporation of the Complainant dated November 09, 2005 - both issued by the office of the Secretary of State for the state of Texas, U.S.A. and evidencing the above, has been filed alongwith this complaint.

The Complainant further states that '**7-ELEVEN**' owns and has used the brand and trademark '**7-ELEVEN**' and variations thereof (collectively referred to as "**7-ELEVEN**' Marks') for over six decades in relation to the convenience stores.

The Complainant is the genuine, sole and exclusive proprietor of the **7-ELEVEN**' name, logo, brand, and the **7-ELEVEN**-Marks including without limitation the globally ELEVEN registered trademarks **7-ELEVEN**', business thereunder. In order to protect the goodwill associated with these trademarks and business, the Complainant has secured statutory rights in its **7-ELEVEN** Marks around the world, flowing from trademark registrations across classes relevant to its business, including Classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43 in numerous jurisdictions. A detailed list of the trademark registrations granted for the **7-ELEVEN** Marks worldwide and the copies of some registration certificates from different jurisdictions has also been filed. It would be pertinent to note that the earliest of the



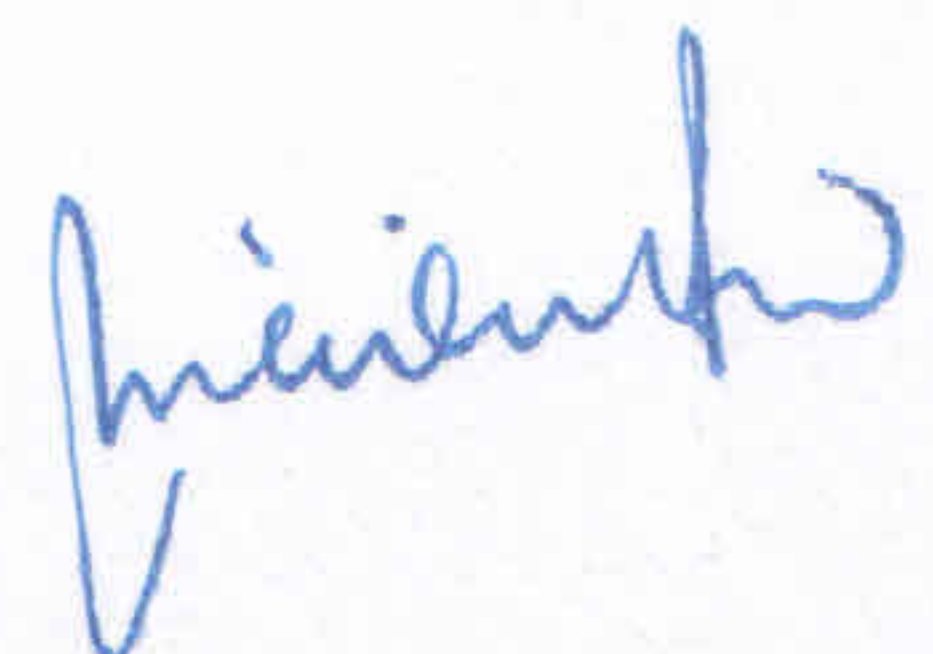
aforementioned registrations for the Complainant's **7-ELEVEN** Marks in relation to its core business, has been valid and subsisting on the Register of the United States Patent and Trademark Office since as early as July 04, 1961, with usage in Commerce claimed since 1946.

In the complaint, it is also contended that the Complainant owns the trademark '**7-ELEVEN**', which would create confusion and that the Respondent has no legitimate right or interest in respect of disputed domain name, and that the disputed domain name is being used in bad faith.

ANALYSIS

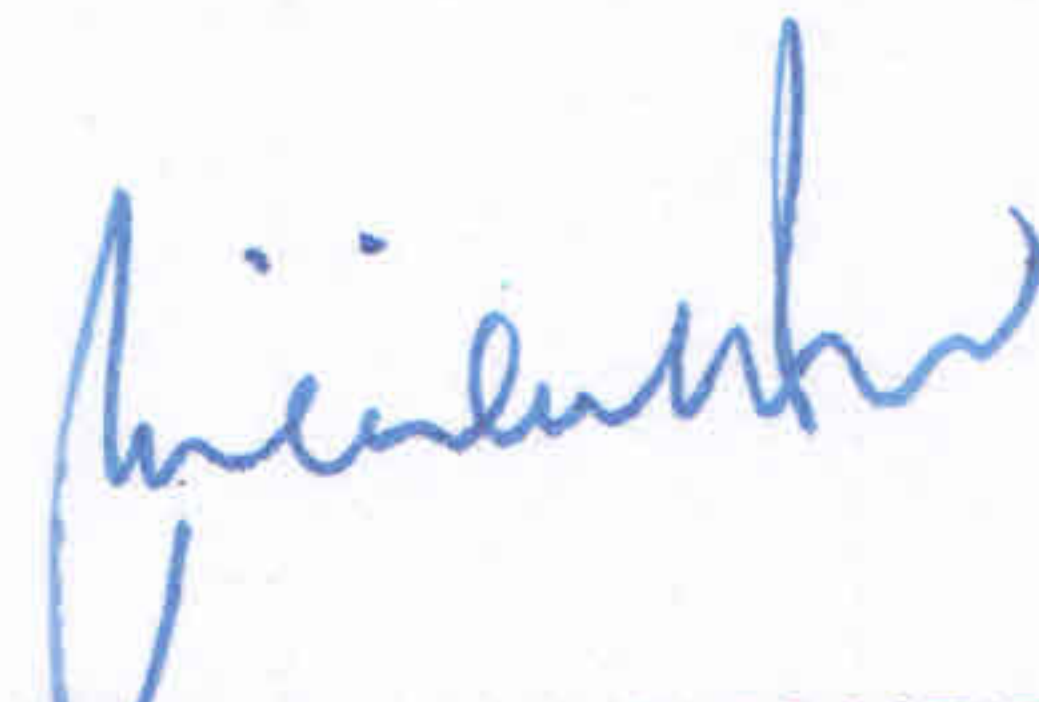
As the proceedings are set ex-parte the Respondent, I shall deal with the complaint on its prayer for transfer of the disputed domain name. The disputed domain name <www.7eleven.in> consists the mark '**7-ELEVEN**', which is the registered trademark of the Complainant. '**7-ELEVEN**' is a mark registered which has been established by the Complainant over a period of time by its use. The Complainant has used it world over, including India, and owns registered trademark. In support of which, the Complainant has placed on record the registration certificates, in India as well as world over. Also the Complainant has placed on record the domain name, which has been registered with the mark '**7-ELEVEN**'. All these support the Complainant's right over the name '**7-ELEVEN**'. Therefore, the complainant's claim that it has a right over the disputed name stands proved.

Secondly, as the Respondent's action to register the said domain name is not bonafide, therefore, the said registration is done in bad faith. Neither the Respondent is associated as an individual, business nor has organization with the name "**7-ELEVEN**" nor the complainant authorized in anyway the use of trademark '**7-ELEVEN**'. The Complainant has specifically stated that it has no relation with Respondent commercially or otherwise. So therefore, the use of trademark Respondent '**7-ELEVEN**' is not lawful. Therefore, the Respondent has no legitimate right over the said domain name.



CONCLUSION:

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 '**7-ELEVEN**'. 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.7eleven.in>** in favour of the complainant.



(NIKILESH RAMACHANDRAN)
ARBITRATOR

Dated: 11th November 2019.