

**ARBITRATION PROCEEDINGS OF DOMAIN NAME**

[www.wework.in](http://www.wework.in)

**between**

**WEWORK COMPANIES INC.**

**...COMPLAINANT**

**AND**

**Mr. TONY MA**

**...RESPONDENT**

**AWARD**



**VISHESHWAR SHRIVASTAV  
SOLE ARBITRATOR  
NEW DELHI**



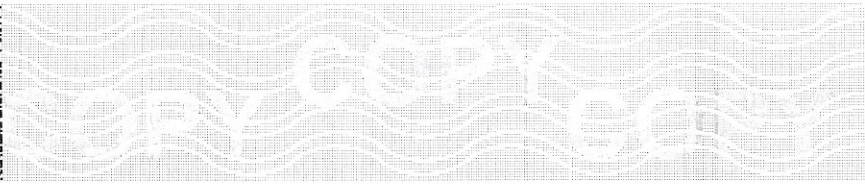
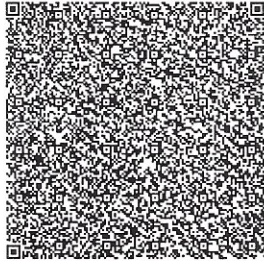
सत्यमेव जयते

# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

Certificate No.	: IN-DL146542459477400
Certificate Issued Date	: 27-Oct-2016 12:23 PM
Account Reference	: IMPACC (IV)/ dl921303/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL921303295070200088940
Purchased by	: V SHRIVASTAV
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: V SHRIVASTAV
Second Party	: Not Applicable
Stamp Duty Paid By	: V SHRIVASTAV
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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### VISHESHWAR SHRIVASTAV

SOLE ARBITRATOR

IN

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1

#### 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.



1. This Arbitral Tribunal was constituted by nomination of undersigned as the Arbitrator in the aforesaid proceeding vide communication by NIXI and accordingly this Tribunal issued notice to the parties on 26/09/2016. However, while checking the records of the proceedings, this Tribunal found that there is nothing on record which shows that the copy of the complaint has been supplied to the Respondents. Accordingly vide the aforesaid communication this Tribunal directed the Complainants to either supply proof of dispatch of the hard copy of the complaint to the respondent or send a copy of their complaint to the Respondents vide Courier .
2. That the Complainants vide their email dated 26/09/2016 complied with the directions of this Tribunal stating that the complaint by courier giving dispatch receipts to the Respondent and online statement stating that the Respondent refused to take delivery.
3. This Tribunal received an email dated 28/09/2016 from NIXI stating that they have sent the complaint sent by courier on

11/08/2016 to the Respondents and NIXI has vide email on 28/09/2016 informed this Tribunal that the courier sent by NIXI is undelivered even though the courier agency tried to contact on phone he was told that *"there is no person called Tony Ma."* Even the online status of 15/08/2016 as given by the complainant says that the *"recipient refused delivery"*.

4. That vide its order dated 29/09/2016 this Tribunal directed the Respondent to send their correct postal address by the return email within next three days as the emails sent by this Tribunal have been received by him as the same have not bounced back. Hence this Tribunal noticed that it is not the case that the Respondent is not aware of the present proceedings and it was apparent that the Respondent was evading service.
5. This Tribunal observed vide its order dated 05/10/2016 that the Respondents had not complied its earlier order dated 29/09/2016 to send their correct postal address within the time frame. In view of the above the Complainants were directed to file their Evidence by way of Affidavit as soft copy by email



and hard copy by courier in 7 days so that it reaches this Tribunal by 12/10/2016. That on this, the Tribunal received an email on 12/10/2016 from the Ld. Counsel of the Complainants requesting extension of time in filing their Evidence by way of affidavit as the Complainant is located in USA. Hence, time of one week was granted to the Complainant to file the same so that it reaches this Tribunal by 20/10/2016.

6. Meanwhile, on 12/10/2016, the Respondents also sent an email stating *interalia* that he had not received the copy of the complaint. This Tribunal directed the Respondent Mr. Tony Ma to send correct postal address by the return email by 15/10/2016. However, it was noted that NIXI had sent a soft copy of the complaint vide email to the Respondent and the same had not bounced back. Be it that as it may, as directed above the Respondent was required to send his correct postal address by 15<sup>th</sup> October, 2016. Vide order dated 17/10/2016 this Tribunal again granted Last and Final Opportunity to the Respondent to send their correct postal address within 24 hrs

time, which the Respondent failed to comply with. Thus it is inferred that the Respondent is evading the service of Complaint and has chosen not to take part in the present proceedings.


7. The Complainant sent the soft as well as hard copy of their Evidence by way of Affidavit. Hence, this Tribunal vide its order dated 27/10/2016 reserved its award clarifying that incase the respondents send their response /evidence in support thereof, the same would be taken into consideration by this Tribunal at the time of making the award.

#### **CLAIM**

8. The claim as put forward by the complainant is briefly as under:
  - A. It is claimed that mark WEWORK was adopted by the Complainant in 2009 and has been in use ever since, both as a trademark and as the corporate/trade name of the Complainant.

B. It is also claimed that the Complainant is a corporation formed under the laws of the State of Delaware, United States of America, having its principal office at 115 West 18<sup>th</sup> Street, 4<sup>th</sup> Floor, New York, New York 10011, United States of America. Reliance is placed on Annexure 3.

C. It is claimed that under its WEWORK trademark and corporate/trade name, the Complainant provides a variety of co-working workspaces and provides the infrastructure, services, events and tech services that any individual or company might need, including shared workspaces, HR services, and online member networking services for entrepreneurs, freelancers, startups and small businesses. It is also claimed by relying on Annexure 4 & 5 that the Complainant were founded in 2009 and have approximately 80 co-working locations across North America, Europe, the Middle East and Asia.





- D. It is also claimed that the Complainant has an estimated value at approximately \$16 billion. Reliance is placed on Annexure 6.
- E. It is claimed by relying on Annexure 7 that Complainant's investors include J.P. Morgan Chase & Co, T. Rowe Price Associates, Goldman Sachs Group, the Harvard Corp., and Mortimer Zuckerman, former CEO of Boston Properties.
- F. It is further claimed that the Complainant's customers include entrepreneurs, freelancers, startups, small businesses and even Fortune 500 companies, including many successful startups, such as ONA Bags, Pavlok, Broome & Mercer, Playmob, Soko Glam, Zine Pak, Turf, Fitocracy, Reddit and New York Tech Meetup. Reliance is placed on Annexure 8.
- G. By relying on Annexure 9 the Complainants claim to have garnered tremendous media attention and a number of news and feature articles have been written about the Complainant in magazines and at websites targeting readers around the



world, including in India, such as FORBES, Business Insider, The Wall Street Journal and Bloomberg Business.

H. It is stated that the Complainants international goodwill and reputation have extended to India by diverse means such as media publicity, increased foreign travel by Indians, Internet advertisements, and the print media especially when WEWORK's founder, Adam Neumann visited India and got extensive Indian media coverage. Reliance is placed on **Annexure 10**.

I. It is claimed that the goods and services offered under the WEWORK mark are advertised on a regular basis through a host of print and digital media and further the Complainant's [www.wework.com](http://www.wework.com) website contains information about the Complainant, its business and services. Reliance is placed on **Annexure 11** besides this it is claimed that the Complainant also has a prominent social media presence, including accounts at Facebook (<http://www.facebook.com/WeWork/>); Twitter (<http://twitter.com/WeWork>); and Instagram

(<http://www.instagram.com/wework/>). Reliance is placed on **Annexure 12**.

J. By relying on **Annexure 13** it is claimed that the Complainant first obtained the <wework.com> domain name on or around October 3, 2010.

K. It is further claimed that the Complainant's website is accessible to users around the world, on websites such as, <https://www.wework.com/locations/india>,  
<https://www.wework.com/locations/shanghai>,  
<https://www.wework.com/locations/berlin>.

Reliance is placed on **Annexure 14**. Besides reliance is placed on **Annexure 15**, to emphasize that the Complainant have also has registered a number of "wework" domain names with relevant ccTLD and new gTLD domain extensions such as <wework.com.hk>, <wework.co.il>, <wework.fr>, <wework.ie>, <wework.amsterdam>, <wework.tokyo>, <wework.community>, <wework.company> and <wework.life>.



- L. The Complainants by relying on Annexure 16 to 18 state that in order to protect its valuable WEWORK trademark from cybersquatting, the Complainant registered its WEWORK trademark, specifically U.S. Reg. No. 4,015,942, with the Trademark Clearinghouse.
- M. It is also shown by relying on Annexure 19 that the Complainant has been actively pursuing acts of infringement, passing off and misuse of the WEWORK mark, by way of court actions, oppositions and cease-and-desist notices.
- N. It is stated that in February 2016, the Complainant discovered that the domain name <wework.in> was registered in the name of one Tony Ma [the Respondent]. Reliance is placed on Annexure 20.
- O. It is alleged that the website at the disputed domain name is currently nothing more than a parked holding page that includes links to a variety of third-party websites. The website

also includes a notice that the disputed domain name is listed for sale. Reliance is placed on Annexure 21 & 22.

P. It is alleged by relying on Annexure 22 that the Respondent wanted to sell the domain name for a price leaving no avenue open to the complainant but to file the present complaint.

Q. Grounds as given by the Complainants are :

- i) The disputed domain name <wework.in> is identical to the Complainant's registered WEWORK trademark.
- ii) The Complainant has **exclusive rights** in the WEWORK mark by virtue of prior adoption and use of WEWORK as a trade name, trademark and domain name.
- iii) That the disputed domain name, <wework.in>, is identical to its trademark WEWORK which is also a part of the Complainant's corporate/trade name.
- iv) The Complainant, as the registered proprietor of the trademark WEWORK further submits that it has statutory and common law rights in the WEWORK name and



mark arising from its long and continuous use of the WEWORK trademark and from the publicity relating to the WEWORK trademark it has received around the world.

- v) The Respondent has no rights or legitimate interests with respect to the disputed domain name.
- vi) The Respondent is not connected with the Complainant in any manner and the Complainant has no knowledge of the Respondent.
- vii) The Complainant has never authorized or licensed the Respondent to apply for, register, use or offer for sale the disputed domain name or any of Complainant's trademarks forming part thereof.
- viii) That the Respondent is offering the disputed domain name for sale at the sedo.com website for an amount of 1,500 euros.



- ix) There is no evidence that the Respondent is conducting any business under the name and mark WEWORK to warrant registration of the disputed domain name in his name.
- x) The Respondent has not made any use of the disputed domain name, nor shown any demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services.
- xi) The Respondent is not making any legitimate non-commercial or fair use of the disputed domain name.
- xii) The disputed domain name was registered and is being used in bad faith.
- xiii) That the Respondent appears to be a serial cyber-squatter. Reliance is placed on Annexure 24.



## ORDER

9. This Tribunal has perused the complaint and the documents relied upon by the complainants and the same has not been controverted by the Respondents despite opportunity being given to them by this Tribunal. Hence, in view of the irrebutted evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name [www.wework.in](http://www.wework.in) hence this Tribunal directs the Registry to transfer the domain name [www.wework.in](http://www.wework.in) to the complainants.
10. The Complainants too are free to approach the Registry and get the same transferred in their name.
11. There is no order as to the cost as no details of the cost / damages have been specified / detailed in the complaint.



12. The original copy of the Award is being sent along with the records of this proceedings to National Internet Exchange of India (NIXI) for their record and a copy of the Award is being sent to both the parties for their records.

Signed this 3<sup>rd</sup> day of November, 2016.

NEW DELHI  
03/11/2016



V. SHRIVASTAV  
ARBITRATOR