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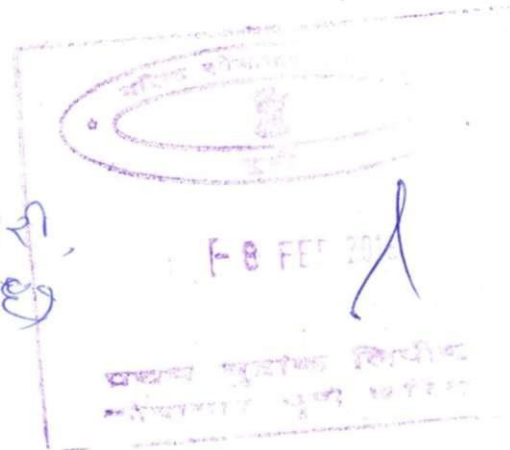
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## AWARD IN ARBITRATION

'WILLIAMS-SONOMA.IN'

WILLIAMS-SONOMA, INC.  
3250 Van Ness Avenue, San Francisco  
CA 94109. USA

THE COMPLAINANT

AND

**LIHENG**  
Room 1326, Kexin Building  
Hong Kong  
Hong Kong 999077 HK

**THE RESPONDENT /  
THE REGISTRANT**

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**IN THE MATTER OF DISPUTED DOMAIN NAME: - 'WILLIAMS-  
SONOMA.IN'  
BEFORE MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.  
SOLE ARBITRATOR**

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**DELIVERED ON THIS 9th DAY OF FEBRUARY TWO THOUSAND  
SIXTEEN AT PUNE, INDIA.**

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**SUMMARISED INFORMATION ABOUT THE DISPUTE: -**

01. Names and addresses  
Of the Complainant: - **WILLIAMS-SONOMA, INC.**  
3250 Van Ness Avenue, San Francisco  
CA 94109. USA
- Through its authorized  
representative **P.S. Davar & Co.**  
N-220, Greater Kailash - 1  
New Delhi. 110048. India.
02. Name and address of  
The Respondent: - **LIHENG**  
Room 1326, Kexin Building  
Hong Kong  
Hong Kong 999077 HK

**03. Calendar of Major events:**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Date (Communications in electronic mode)</b>
01	Arbitration case referred to me & acceptance given by me	18.01.2016
02	Hard copy of complaint received	23.01.2016
03	Notice of Arbitration issued with the instructions to file reply latest by 03.02.2016	23.01.2016
04	Reply by Registrant	23.01.2016
05	Notice for rejoinder, if any, to the Complainant	24.01.2016
06	Rejoinder filed by the Complainant	28.01.2016
07	Notice to Registrant to file his say, if any, on the rejoinder filed by the Complainant, latest	28.01.2016



	by 31.01.2016	
04	Notice of closure of arbitration	03.02.2015
06	Award passed	09.02.2016

#### **I] PARTIES TO THE DISPUTE: -**

1. **Williams-Sonoma Inc.**, having its principal place of business at 3250 Van Ness Avenue, San Francisco CA 94109, USA. **(The Complainant)**.

2. **Liheng**, Room 1326, Kexin Building, Hong Kong, 999077 HK is **the Respondent**.

3. **Authorised representative of the Complainant is P.S.Davar & Co., N-220**, Greater Kailash -1, New Delhi. 110048. India.

#### **II] PARTICULARS OF DISPUTED DOMAIN NAME & REGISTRATION:**

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1. Disputed domain name is www.williams-sonoma.in.
2. Date of registration is 27.08.2013
3. Registrar is Mitsu.in, Adarsh Place, 118, Old Hanuman Lane, Kalbadevi Road, Mumbai. 400002. India.

#### **III] PROCEDURE FOLLOWED IN ARBITRAION PROCEEDINGS: -**

01. In accordance with INDRP read with INDRP Rules of Procedure, notice of arbitration was sent to the Respondent on 23.01.2016 with the instructions to file his reply / say latest by 3rd February 2016.
02. The Registrant / Respondent filed his reply / say on 5th 23.01.2016.
03. In view of his mail the Complainant was directed to file rejoinder, if any, latest by 28.01.2016.
04. The Complainant filed rejoinder on 28.01.2016.
05. The Registrant was directed to file his reply / say on the rejoinder, if any latest by 31.01.2016. However no reply / say so filed by the Registrant.
06. Notice of Closure of Arbitration proceedings was issued on 03.02.2016.
07. No personal hearing was requested / granted / held.

#### **III] SUMMARY OF THE COMPLAINT OF THE COMPLAINANT: -**

The Complaint is based on the following points / issues in brief: - -

#### **(A) CONTRAVENTION OF THE REGISTERED TRADEMARKS AND DOMAIN NAMES OF THE COMPLAINANT (CONTRAVENTION OF PARA (3), (4) AND (6) OF THE IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP) : -**

1. The Complainant states that the domain name registered by the Respondent includes the words WILLIAMS-SONOMA which is both similar and identical to 'WILLIAMS-SONOMA' trademarks, of which it is the registered owner. A list of such trademarks registered in many countries is provided in Annexure to the Complaint, by the Complainant. Among other registered trademarks, the Complainant also holds Indian Trademarks under Registration No.1472089 dated 21.07.2006, NO. 1472093 dated 21.07.20016 and No. 1472095 dated 21.07.2006. Apart from the Indian trademarks, the Complainant also holds about 12 trademarks in US.
2. The Complainant submits that in 1947 Charles E Williams opened his first shop as a hardware store in Sonoma, California, USA. The word WILLIAMS-SONOMA was coined by making combination of his surname and location of his first store. Currently the company deals in kitchenware, home furnishing and associated goods. It is one of the largest e-commerce retailers in US.
3. The Complainant also owns various websites like www.Williams-sonoma.com, www.Williams-sonoma.org and www.Williams-sonoma.net.
4. The disputed domain name is visually and phonetically identical and / or confusingly similar to the trademark and trade name, several domain names of the Complainant. It is violation of Para 3 and attracts Para 4 and Para 6 of INDRP.
5. Upon perusal of the Respondent's website it appears that the Respondent is a cyber squatter / cyber pirate and has registered disputed domain name merely due to the reputation and goodwill of the Complainant.

**(B) NO RIGHT OR LEGITIMATE INTEREST IN DISPUTED DOMAIN NAME ( PARA 3(b)(vi)(2) OF INDRP RULES READ WITH PARA 7 :-**

The Complainant has legitimate interest in the williams-sonoma trademark in India since it has registered the said mark and has been used openly, continuously, and extensively for decades. Against this the Registrant is neither commonly known in the public nor has applied for any registration of the mark williams-sonoma, nor has any business registered under the said name. The Respondent has intentionally adopted the said name for commercial gain to misleadingly divert the consumers or traders of the Complainant to the disputed domain name. The adoption of the said name by the Respondent is dishonest and is in bad faith.

**(C) REMEDIES SOUGHT BY THE COMPLAINANT: -**

On the background of the Complaint and reasons described therein the Complainant has requested for transfer of the Registrant's domain name to it.



## **VI| REPLY TO THE COMPLAINT / STATEMENT OF DEFENSE: -**

In reply the Registrant / Respondent has sent email to this Arbitration Tribunal on 23.01.2016 merely stating that ' domain is only for sale @990 US\$.'

There is no other reply / say filed by the Respondent either to the Complaint or to the Notice of Arbitration or to the rejoinder filed by the Complainant.

## **VI| REJOINDERS OF THE PARTIES: -**

Due to email dated 23.01.2016 by the Registrant, an opportunity was given to the Complainant to file rejoinder if any. Accordingly the Complainant filed rejoinder on 28.01.2016. In the said rejoinder the Complainant reiterated important points of the Complaint.

Similar opportunity was given to the Registrant to file his rejoinder. However the Registrant has failed / neglected to file any rejoinder.

## **VII| MERITS OF THE COMPLAINANT: -**

On the basis of the Complaint, email of the Registrant and subsequent rejoinder of the Complainant, this Arbitration panel wants to record the following observations: -

(a) The Complainant has several registered trademarks, websites and its corporate name, all including the word 'WILLIAMS-SONOMA'. All of them have been in use for several years and much before the registration of disputed domain name by the Registrant.

Against this the Registrant does not have any registered trademark, website, or any business mark / identity containing the words or part thereof 'WILLIAMS-SONOMA'. He is also not commonly known by these words or any part thereof.

(b) The Registrant has registered domain name but the same has not been use. The Registrant has not demonstrated any effort to build the website or making use of the same in near future. In fact when one attempts to visit the website the error message is flagged.

(c) The Registrant has made his intention very clear to sell the domain name for US \$ 990. This is the price much higher any official expense for registration of the same in India. This leads to unequivocal conclusion that the Registrant wants to make illegal, immoral and unethical profit by selling the disputed domain name.

(d) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights according to the requirement of para 4(a)(i) of the INDRP Rules

(e) The Registrant / Respondent has no rights or legitimate interests in respect of the domain name as required by Para 4(a)(ii) of the Rules.

(f) Use of disputed domain name by the Registrant / Respondent, if any in future, would lead to creation of confusion in the minds of internet users regarding its ownership. This would also lead to huge losses to the Complainant as due to loss of business and severe damage to its goodwill and creditworthiness.

From all above findings, it can be concluded that the Complainant has proved its case of the entitlement to the disputed domain name.

On the basis of my findings on issues and foregoing discussion I pass the following award: -

- 01. The Complainant is entitled to the disputed domain name – 'WILLIAMS-SONOMA.IN' and hence the same be transferred to the Complainant.**

Dated: - 09.02.2016  
Place: - Pune

  
(S.C. INAMDAR)  
SOLE ARBITRATOR