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Government of National Capital Territory of Delhi

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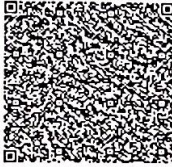
e-Stamp

Certificate No.	: IN-DL43763304148457W
Certificate Issued Date	: 27-Aug-2024 02:45 PM
Account Reference	: IMPACC (SH)/dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1740305767752952W
Purchased by	: DEEPALI GUPTA
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: DEEPALI GUPTA
Second Party	: Not Applicable
Stamp Duty Paid By	: DEEPALI GUPTA
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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DEEPALI GUPTA IN-DL43763304148457W
SOLE ARBITRATOR

.IN Registry - National Internet Exchange of India
INDRP Case No: 1884

In the matter of Arbitration Between:

WIKIMEDIA FOUNDATION, INC.

VERSUS

.....COMPLAINANT

WIKIPEDIA FOUNDATION

.....RESPONDENT

Disputed Domain Name : < wikipedia.org.in >

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
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3. In case of any discrepancy please inform the Competent Authority.

**DEEPALI GUPTA
SOLE ARBITRATOR
.IN Registry - National Internet Exchange of India
INDRP Case No: 1884**

In the matter of Arbitration Between:

WIKIMEDIA FOUNDATION, INC.,
1 Montgomery Street,
Suite 1600, San Francisco,
California, 94104,
U.S.A.

Through its Authorised Representative:

Himanshu Sharma,
S&H Partners,
Regency Pinnacle Heights,
Flat No Connecting H2
Thannisandra main Road
Bangalore 560077

Email: himanshu@sandhpartners.com

Ph No: 9811687637

.....Complainant

VERSUS

Wikipedia Foundation,
1 Montgomery St., Suite 1600,
San Francisco, Texas-94104, U.S.

Through: Debobrato Mukherjee,

Phone: (+91).7696993972

Email: debobratomukherjee07@gmail.com

.....RESPONDENT

Disputed Domain Name : <wikipedia.org.in >

ARBITRARTION AWARD

DATED AUGUST 29, 2024.

1) The Parties:

The Complainant in the present arbitration proceedings is Wikimedia Foundation, Inc., 1 Montgomery St Suite 1600, San Francisco, CA 94104



United States, Through its Authorised Representative Himanshu Sharma Advocate, S&H Partners Regency Pinnacle Heights, Flat No. Connecting H2, Thannisandra main Road, Bangalore. Email: himanshu@sandhpartners.com.

The Respondent in the present case is Wikipedia Foundation, 1 Montgomery St., Suite 1600, San Francisco, Texas-94104, U.S. Through Debobrato Mukherjee, Email: debobratomukherjee07@gmail.com as per the details available in the 'WHOIS' database by National Internet Exchange of India (NIXI).

2) The Domain Name, Registrar and Registrant:

The disputed domain name is < wikipedia.org.in >

The Registrar is 'GoDaddy.Com LLC'

The Registrant is: Wikipedia Foundation, 1 Montgomery St., Suite 1600, San Francisco, Texas-94104, U.S.

3) Procedural History:

This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP) adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28th June 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed Ms. Deepali Gupta as the Sole Arbitrator to arbitrate the dispute between parties in accordance with the



Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, IN Domain Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.

- The Complaint was produced before the Arbitrator on 7th AUGUST, 2024.
- That Notice was issued to the Respondent on 8th August 2024, at his e.mail address 'debobratomukherjee07@gmail.com', communicating the appointment of the Arbitrator in the case relating to the disputed Domain name <wikipedia.org.in> wherein the Complainant had sought the transfer of the disputed Domain Name. The Respondent was called upon to submit their response within five (5) days of the receipt of the Arbitrators email.
- The Arbitrator received a reply email from the Respondent showing his willingness to transfer the disputed domain name to the Complainant.

4) FACTUAL BACKGROUND:

The Complainant 'WIKIMEDIA FOUNDATION, INC.' is a nonprofit charitable organization dedicated to encouraging the growth, development, and distribution of free, multilingual, educational content. WMF was founded in 2003, and today manages 14 free knowledge projects built and maintained by a community of thousands of active volunteers, known as the "Wikimedia movement."

On January 10, 2006, Complainant obtained a registration for the trademark "WIKIPEDIA" from the United States Patent and Trademark Office, for "providing information in the field of general encyclopedic knowledge via the Internet." The registration indicates first use of the mark in January, 2001. In subsequent years, Complainant has registered a number of other marks that incorporate the Wikipedia mark.



Well-known projects managed by WMF include Wikipedia, a free, online encyclopedia compiled, edited, and maintained by over 115,000 active contributors, Wikimedia Commons, a shared media repository of over 100 million freely usable images, sound files, and video files, and Wikinews, a free-content news source. WMF provides technological, legal, fundraising, and administrative support for these projects, which together represent one of the most-visited web properties in the world.

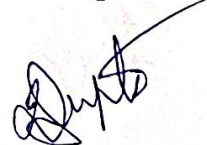
Complainant owns approximately 468 trademark registrations worldwide for the Wikipedia trademark and the foreign equivalents thereof, has extensive common law rights, and has acquired distinctiveness in the Wikipedia trademark since its first use in 2001. Complainant owns national and International Registrations for these marks in over 111 jurisdictions around the world.

Complainant registered the domain name <wikipedia.org> on January 13, 2001. Complainant also owns registrations for multiple domain names that incorporate the Wikipedia Mark.

That due to extensive and continuous use in respect of the Wikipedia Mark coupled with the registrations of the said trademark the public at large associate said trademark with the goods/services offered by Complainant alone and none else and considerable reputation and valuable goodwill has accrued to the complainant's marks.

5) Summary of Complainant's contentions:

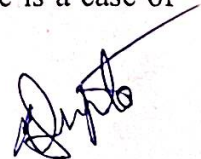
The Complainant has contended that each of the element in the .IN Domain Name Dispute Resolution Policy are applicable to the present dispute. It has thus been contended that the Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; that the Registrant's has no rights or legitimate

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interests in respect of the domain name that is the subject of complaint; and the Registrant's domain name has been registered or is being used in bad faith. The Complainant has in support of its case has made the following submissions:

1. The Complainant submits that the Complainant is a nonprofit charitable organization dedicated to encouraging the growth, development, and distribution of free, multilingual, educational content. WMF was founded in 2003, and today manages 14 free knowledge projects built and maintained by a community of thousands of active volunteers, known as the "Wikimedia movement." It has further been submitted that the many well-known projects managed by WMF include Wikipedia, a free, online encyclopedia compiled, edited, and maintained by over 115,000 active contributors, Wikimedia Commons, a shared media repository of over 100 million freely usable images, sound files, and video files, and Wikinews, a free-content news source. WMF provides technological, legal, fundraising, and administrative support for these projects, which together represent one of the most-visited web properties in the world.
2. The Complainant has submitted that on January 10, 2006, Complainant obtained a registration for the trademark "WIKIPEDIA" from the United States Patent and Trademark Office, for "providing information in the field of general encyclopedic knowledge via the Internet." The registration indicates first use of the mark in January, 2001. In subsequent years, Complainant has registered a number of other marks that incorporate the Wikipedia mark. The Complainant has relied on Annexure-4, the true copies of registration certificates of the Complainants trademarks.

3. The Complainant has submitted that the Wikipedia Mark has acquired enormous goodwill and reputation from the very beginning and down the years, said name has become synonymous with Complainant. It is an essential and prominent feature of all WIKIPEDIA trademarks and the said trademark is prolifically featured on all commercial documents, official documents, and websites of the Complainant. Complainant has invested years of time, capital, efforts and resources and has attained immeasurable fame and goodwill so much so that the same is identified exclusively with Complainant across the globe. The Wikipedia Mark is therefore a well-known mark of the Complainant.
4. The Complainant has submitted that the Complainant registered the domain name <wikipedia.org> on January 13, 2001. Complainant also owns registrations for multiple domain names that incorporate the Wikipedia Mark, including the following: <wikipediya.org>, <wikipediaarticle.org>, and <wikiartpedia.org>. The Complainant has relied on **Annexure-5**. The Complainant submitted that Complainant has registered the trademark WIKIPEDIA and other related marks in India and relies on **Annexure 6**.
5. The Complainant submits that by virtue of prior adoption, extensive and continuous use in respect of the Wikipedia Mark coupled with the registrations of the said trademark, Complainant is entitled to the exclusive proprietary rights therein, and the public at large associate said trademark with the goods/services offered by Complainant alone and none else. As the goods/services offered under said trademark conforms to very high standards of quality.
6. The Complainant submits that the disputed domain name www.wikipidia.org.in was registered by the respondent herein without any permission or license from the Complainant. Further, the Respondent's unauthorized registration of domain name is a case of



Passing off/infringement of trademark and is in conflict with the legitimate rights and interest of the Complainant in its registered domain name.

7. The Complainant has submitted that the Respondent's act of registering a confusingly similar domain name as that of the Complainant's well-known mark is creating confusion and deception, as the webpage of the Respondent's domain name shows that they are using it for providing services which are identical to the Complainant's services. The Complainant has submitted that factually, the website connected to the domain name is a replica of the Complainant's website [wikipedia.org](https://www.wikipedia.org/), Complainant relies on **Annexure 8**. The Complainant submits that apparently, the Respondent's website is using the same logo, visual design and is posing to be operating the official [wikipedia.org](https://www.wikipedia.org/) website. Thus, said website is most likely fraudulent and in any event, clearly infringing on the Complainant's rights to the Wikipedia Mark. The Respondent's disputed domain name gives the impression that this domain is associated with the Complainant. Thus, the Respondent's act of registering the domain name by using the Complainant's registered trade mark and domain name amounts to passing off/ infringement of their trademark and conflict of rights and interest in the domain name of the Complainant.
8. The Complainant submitted that Complainant has been using the trade/service mark **WIKIPEDIA** since 2010 in India and the domain name <https://www.wikipedia.org/> was registered by Complainant since 2001 which is much earlier to that of the Respondent's domain name in the year 2024. This shows that the Respondent has registered the disputed domain name www.wikipidia.org.in with bad faith for providing the services which are identical to those of the Complainant.



Further, the Respondent, despite having the knowledge of the Complainant's wellknown trademark and domain name being in use, registered the impugned domain name www.wikipidia.org.in with ulterior motives of cyber squatting.

9. The Complainant has submitted that the registration and use of disputed domain name www.wikipidia.org.in by the Respondent is in violation of ".IN Domain Name Dispute Resolution Policy" (INDRP), as the Respondent's domain name is confusingly similar to Complainant's domain name and Wikipedia Mark and that the Respondent has no right or legitimate interest in the disputed domain name (www.wikipidia.org.in) at issue and that the domain (www.wikipidia.org.in) was registered to achieve ulterior motives and is being used in bad faith by the Respondent. That the Respondent having knowledge of the well-known trademark/ service mark **WIKIPEDIA** and widely known reputation of the domain https://www.wikipedia.org, of the Complainant, registered the domain name www.wikipidia.org.in shows the bad faith in itself. Hence, the Respondent had bad faith in registering the said domain name for providing identical services compared to the Complainant and potentially also for the purpose of selling, renting or otherwise transferring the said domain name to the Competitor of the Complainant. Therefore, it also amounts to cyber squatting.
10. The Complainant thus submits that the registration of the disputed domain name is illegal, involves bad faith and Respondents have no legitimate right to use the disputed domain name.

6. RELIEF SOUGHT:

The Complainant thus seeks that the registration of the disputed



domain name "www.wikipedia.org.in" be cancelled with immediate effect and same be transferred to the Complainant immediately.

7. RESPONDENT:

The Respondent in reply to the NOTICE dated 8th August 2024 of Arbitration proceedings immediately communicated vide return email dated August 8th 2024, his willingness to transfer the disputed domain name 'wikipedia.org.in' to the Complainant.

8. DISCUSSION AND FINDINGS

Under the INDRP Policy the following three elements are required to be established by the Complainant in order to obtain the relief of transfer of the disputed domain name:

- (i) The disputed domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights and
- (ii) The Respondent lacks rights or legitimate interests in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered or is being used in bad faith.

That as the Respondent has shown his willingness to transfer the disputed domain name to the Complainant and has not contested the claim of the Complainant on any counts, there arises no requirement to go into the questions of law and facts to establish the rights of the Complainant or Respondent qua the disputed domain name. The presumption of the rights of the Complainant in respect of the disputed domain name thus stand established.

Further, during the pendency of the present proceedings both the parties have amicably settled their disputes and have sent a duly executed document dated 13/08/2024, signed by both parties stating that the matter regarding the disputed



domain name 'wikipedia.org.in' has been settled amongst them and the disputed domain name be transferred to the Complainant. Copy of the said document is Annexed herein as Annexure R-1.

DECISION

In view of the above facts and circumstances, and as per the consent of both the parties, it is ordered that the disputed domain name <WIKIPIDIA.ORG.IN > registered in the name of respondent be immediately transferred to the Complainant.



Deepali Gupta
Sole Arbitrator
Date: 29th August, 2024.

Annexure - R-1

Subject: Transfer of Disputed Domain Name – www.wikipedia.org.in

Agreement:

I, Debobrato Mukherjee the respondent, agree to transfer ownership of the disputed domain name, www.wikipedia.org.in, to the complainant, Wikimedia Foundation, Inc., 1 Montgomery Street, Suite 1600, San Francisco, California, 94104, U.S.A., a Florida non-profit corporation, as part of the settlement agreement reached between both parties.

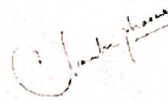
Signature:

Debobrato mukherjee

Respondent:

Debobrato Mukherjee

Date: 13 August 2024



Himanshu Sharma

Authorized Representative
complainant