

ARBITRATION PROCEEDINGS OF DOMAIN NAME

www.naturesbasket.in

between

NATURES BASKET LIMITED & ORS.

...COMPLAINANTS

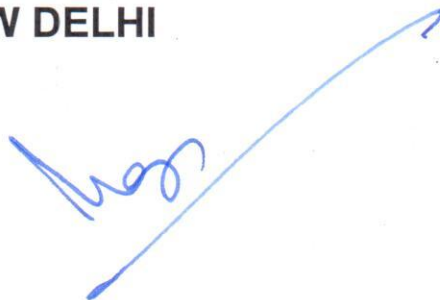
AND

DIPTI SINGLA

...RESPONDENTS

AWARD

**VISHESHWAR SHRIVASTAV
SOLE ARBITRATOR
NEW DELHI**

A handwritten signature in blue ink, appearing to be 'Visheshwar Shrivastav', is written over a long, thin blue diagonal line that extends from the bottom left towards the top right.



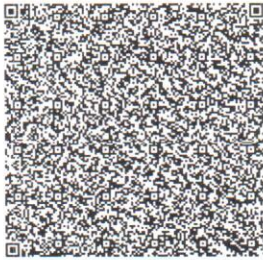
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL23346521600289N
Certificate Issued Date : 03-Jul-2015 11:28 AM
Account Reference : IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference : SUBIN-DLDSLHIMP1743934547426570N
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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www.naturesbasket.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 28/05/2015. 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. It was also noticed that the complainant's POA filed in favour of the Counsel(s) is a photocopy and the same does not bear signature of the counsel neither is the same dated, moreover the same is not stamped as per the Stamp Act, 1899. Hence, the complainants were directed to furnish a proper POA duly notarized by a public notary.

2. That the Complainants vide their email dated 28/05/2015 requested for time for filing of their POA / Vakalatnama which was granted by this Tribunal vide its order dated 02/06/2015. The other directions were complied by the complainants.



3. This Tribunal vide same communication dated 28/05/2015 directed the Respondent to file their Statement of Defense by 12/06/2015 as they had already received the hard copy of the complaint sent to them by NIXI.

4. The complainant sent the soft copy of their Vakalatnama vide email dated 5th June, 2015 and the hard copy thereafter. This Tribunal vide order dated 17/06/2015 notified the parties to file their Evidence by way of affidavit by 24/06/2015. However, the Respondents despite having received the hard copy of the complaint and emails from this Tribunal chose to remain silent.

5. The complainants requested time for filing their Evidence by way of Affidavit as the copy received by them from their clients were not notarized hence had to be sent back for notarization. This Tribunal vide its order dated 25/06/2015 granted time till 01/07/2015 to the complainants and the said affidavit was finally received by this Tribunal on 29/06/2015.



6. That this Tribunal reserved the award vide order dated 01/07/ 2015 with a note that since there is no response from the side of the respondents it was clarified that incase the respondents sent their response /evidence in support thereof the same would be taken into consideration by this Tribunal at the time of making the award.

7. In view of the above this Tribunal perused the Claim Statement, Evidence, the documents filed along with the claim statement and briefly summarizes the claim as under:

CLAIM

- A. The Complainant #1 is Natures Basket Limited whereas Complainant #2 is Godrej Agrovet Limited and Complainant #3 is Godrej Industries Limited.

- B. It is claimed that Natures Basket Limited, having its registered office at Pirojshanagar, Eastern Express Highway, Vikhroli [East], Mumbai - 400079, Maharashtra, India operates 'Nature's Basket', a retail venture of Godrej



Group and prior to the incorporation of Natures Basket Limited in 2008, Complainant #2, Godrej Agrovet Limited, ran and managed the Nature's Basket stores and related business. It is stated that the Godrej Group is an Indian conglomerate headquartered in Mumbai, Maharashtra and was founded in 1897 and it operates in several different sectors such as real estate, consumer products, industrial engineering, appliances, furniture, security and agricultural products, and claims that it has a combined revenue of over 4.1 billion USD through its various subsidiaries. It is also stated that the Godrej Group, through Nature's Basket, provides international and domestic wines, cold cuts, meats, cheese, organic foods and a large variety of pastas, noodles, beverages, exotic and rare ingredients, meals, sauces, preserves and packaged food from around the world to cater to the refined needs of urban consumers in India. Besides it has been stated that Nature's Basket has been widely recognized as the leading grocery and gourmet food chain in India and has won several awards such as the Coca-Cola Golden Spoon Awards 2015, 2012 and 2010, CMO



Asia Brand and Marketing Excellence Awards 2014, 10th Asia Retail Congress, "Most Admired Retailer Of The Year 2012" in Food & Grocery category by 'Images' Group, Asia Retail Award 2012, Godrej Awards 2011, etc.

- C. It is claimed that Nature's Basket is considered to be India's foremost retail destination for food products from across the world. Started in 2005 as a single fresh food store, Nature's Basket has an online store at <www.naturesbasket.co.in> as well as 32 physical stores located in cities such as Mumbai, Delhi/NCR, Pune, Hyderabad and Bangalore. In February 2015, Nature's Basket acquired www.ekstop.com, an online grocery provider.
- D. It is claimed that the Complainant/s have spent a huge amount of money on the promotion and advertisement of its services and products under the trade/service name/mark 'Nature's Basket' since its adoption and use and have spent moneys on promoting Nature's Basket's services including advertising and producing



literature/brochures valuing approximately 90 million Indian Rupees. It is further claimed that the Complainant/s' Sales figures for Nature's Basket for the last five years, i.e from the year 2009-10 through 2013-14 has been approximately 4500 million Indian Rupees.

- E. It is claimed by the Complainant/s that they consider their trade/service name/mark an important and a valuable asset and thus in order to protect the same, have secured trade mark registrations for the mark 'Nature's Basket'. Reliance is placed on "**Annexure C**".
- F. The complainants submit that their official website <www.naturesbasket.co.in> offers groceries and other gourmet food items through this website. Reliance is placed on "**Annexure D**" & "**Annexure E**".
- G. It is further claimed that the complainants profile and popularity under the trade/service name/mark 'Nature's Basket' has been continuously increasing since the date

of adoption and use of the mark and has acquired an enormous goodwill not only in India but in several other countries across the globe. It is also submitted that the Complainant/s in order to expand their presence decided to obtain a domain name registration and settled for <www.naturesbasket.co.in> as a natural extension of their corporate name for the registration of their domain name and have purportedly spent considerable amount(s) of money and skill to develop a website on the obtained domain name <www.naturesbasket.co.in>. However, the Complainants learnt that the Respondent had obtained a domain name registration for <www.naturesbasket.in>. The complainants also state that the Registrar for the disputed domain name is Webiq Domains Solutions Pvt. Ltd.

H. The Complainant/s have approached this Hon'ble Forum and emphasize the following:

1. The domain name <www.naturesbasket.in> is confusingly similar to the Complainant/s' mark 'Nature's Basket' and



have relied on several WIPO cases e.g. **Reuters Ltd. v. Global Net 2000 Inc. (WIPO Case No. D2000-0441)**, **Altavista Company v. Grandtotal Finances Ltd. (WIPO Case No. D2000-0848)**, **Playboy Enterprises v. Movie Name Company (WIPO Case No. D2001-1201)** wherein it has been held that the mere omission of one letter of a trade mark has no effect on the determination of confusing similarity between a trade mark and a domain name. The Complainants allege that in the present case the Respondent has picked up the mark/name of the Complainant/s verbatim without even changing a single letter which as per complainants allegations amounts to cyber squatting and trade/service mark/name infringement.

2. Complainants further rely upon **Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr., WIPO Case No. D2000-1525; Rollerblade, Inc. v. Chris McCrady, WIPO Case No. D2000-0429; Wells Fargo and Company v. Jessica Frankfurter, INDRP/392 (September 25, 2012)]**.

3. The complainants urge that the term 'Nature's Basket' has been used by the Complainant/s continuously for a number of years, and it is associated exclusively with the Complainants and thus its use by any other concern is bound to lead to confusion and deception and amounts to passing off, and any person or entity using the mark/name 'Nature's Basket' in any manner is bound to lead customers and users to infer that its product or service has an association or nexus with the Complainants.

4. It is alleged that the mark 'Nature's Basket' has been used in relation to advertisements and related business/commercial information disseminated in several print media such as newspapers, magazines etc. both in India as well as abroad. Reliance is placed upon complainant's promotional information, brochures attached as "**Annexure F**".

5. It is further stated by relying upon "**Annexure G**" the complainant urge that Complainant #1, known as 'Natures

Basket Limited' is a registered company since 2008 under the Companies Act, 1956. It is also submitted that prior to 2008, the Nature's Basket stores and business were managed by Godrej Agrovet Limited.

6. By relying upon "Annexure H" the complainants lay emphasis that they have the official website <www.naturesbasket.co.in> of the Complainant/s has achieved widespread popularity and are ranked amongst the top 5000 websites in India in terms of internet traffic.

7. The complainants allege that the Respondents do not have any proprietary or contractual rights in any registered or common law trade mark corresponding in whole or in part to the disputed domain name. They say that Ms. Dipti Singla is not commonly known by the disputed domain name nor does the Respondent actually engage in any business or commerce under the name 'Nature's Basket'.



8. The Complainants further allege that the Respondent is not a licensee of the Complainant/s, nor has the Respondent ever been authorized by the Complainant/s to use the Complainant/s' trademarks or register the disputed domain name. They also add that they have no relationship with the Respondent.
9. The complainants state that the domain name in question is being held by the Respondent in bad faith and is a clear attempt to take advantage of the Complainant/s' goodwill and reputation besides being an attempt to misuse the domain name by the use of a simple domain name extension variant.
10. By relying on "Annexure I" it is stated that the official website of the Complainant/s <www.naturesbasket.co.in> had been operational at the time the Respondent registered the impugned domain name <www.naturesbasket.in>.



11. It is alleged from the side of the complainant that out of the 32 'Nature's Basket' stores of the Complainant/s, 12 of them are located in Mumbai, with one being located at Shop No 4, BG - India ,Hiranandani Gardens, Powai, Mumbai, which is in the same vicinity as that of the Respondent's address. Reliance is placed on "Annexure J".

ORDER

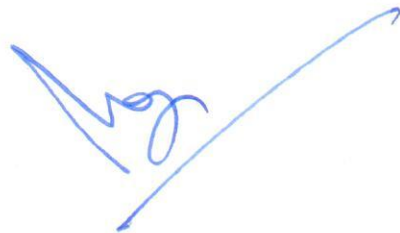
8. This Tribunal has perused the complainants affidavit / documents relied upon by the complainants which has not been controverted by the Respondents despite repeated opportunity being given to them by this Tribunal. Hence, in view of the unrebutted evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name www.naturesbasket.in hence this Tribunal directs the Registry to transfer the domain name www.naturesbasket.in to the complainants.

9. The Complainants too are free to approach the Registry and get the same transferred in their name.

10. There is no order as to the cost as no details of the cost / damages have been specified in the claim statement.
11. 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 6th day of July, 2015.

NEW DELHI
06/07/2015



V. SHRIVASTAV
ARBITRATOR