



CASE NO. – NOT ALLOTTED BY NATIONAL INTERNET EXCHANGE OF  
INDIA (NIXI)

BEFORE MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.

SOLE ARBITRATOR

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DELIVERED ON THIS 6<sup>th</sup> DAY OF MAY TWO THOUSAND ELEVEN AT  
PUNE, INDIA.

**SUMMARISED INFORMATION ABOUT THE DISPUTE: -**

**01. Names and addresses**

**Schlumberger Ltd.**

Of the Complainant: -

277, Park Avenue, New York, U.S.A.  
WITH Schlumberger Asia Services Ltd.  
14<sup>th</sup> Floor, Tower C, Building 10,  
DLF Cyber City, Phase II  
Gurgaon. 122002.  
HARYANA. INDIA.

Through its authorized  
representative

Shri Rodney D.Ryder  
Scriboard, Advocates & Legal  
Consultants  
1441, Sector 7E, Faridabad,  
National Capital Region, 121004.  
India

**02. Name and address of  
The Respondent: -**

**Ruo Chang**  
Jiefangjie, 3 hao, Lishui,  
Zhejiang. 323000.

**03. Calendar of Major events:**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Date (Communications in electronic mode)</b>
01	Arbitration case was referred to me	22/03/2011
02	Acceptance was given by me	22/03/2011
03	Copy of the complaint was received and Notice of arbitration was issued	19/04/2011
04	Submission of say by the Respondent	Did not file say
05	Reminder Notice sent to the Respondent to submit his say, if any.	02/05/2011
06	Submission of say by the Respondent	Did not file any say
06	Award	06/05/2011

**i] PRELIMINARY: -**

1) M/s Schlumberger Ltd., having its office at 277, Park Avenue, New York, U.S.A., along with Schlumberger Asia Services Ltd., having its office at 14<sup>th</sup> Floor, Tower C, Building No.10, DLF Cyber City, Phase II, Gurgaon, 122001, Haryana, India (**The Complainant**) have filed complaint with National Internet Exchange of India (NIXI) disputing the registration of domain name **schlumberger.in** (**the disputed domain name / domain name**)..

2) Since the Complainant claimed to be the holder of trademark / service mark with the word **SCHLUMBERGER**, it has disputed registration of domain name '**panasonic.in**' in the name of **Mr. Ruo Chang, Jiefangjie 3 hao, Lishui, Zhejiang – 323000, China. (The Respondent)**.

3) Major events took place as enumerated in the above table.

## II] 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 19<sup>th</sup> April 2011 with the instructions to file his say latest by 29<sup>th</sup> April 2011.
02. The Respondent did not file his reply to the Complaint by 29<sup>th</sup> April, 2011.
03. Thereafter the reminder notice was sent to the Respondent to submit his say, if any, latest by 5<sup>th</sup> May 2011 failing which the dispute shall be decided ex-parte.
04. The Respondent failed / neglected to file any say even by the extended time period.
05. Copies of notices were marked to the Complainant's authorised representative and NIXI every time.

## III] SUMMARY OF THE COMPLAINT: -

(A) The Complainant has raised, *inter-alia*, following important objections to registration of disputed domain name in the name of the Respondent and contended as follows in his Complaint: -

- a) The Complainant is a registered proprietor of various trademarks / service marks in India and world as enumerated in Annexure C to the Complaint. All these trademarks / service marks are in force on the date of filing of the Complaint.
- b) The Complainant is a corporation organized and has a history of more than 85 years. It has its principal offices in Huston, Paris, and Hague. The company has got its shares listed on leading stock exchanges all over the world.
- c) The complainant is a worldwide leader in oilfield services, supplying technology, information solutions and integrated management services in oilfield industry. Similarly through its another arm WesternGeco it also enjoys the status of the largest seismic company and provides

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advanced acquisition and data processing services. Presently it employs about 105000 employees from over 80 countries world over.

- d) The company has its principal website www.slb.com which provides all material information and introduction to the company.
- e) Google search of the word 'Schlumberger' provides huge number of results leading to the Complainant. The Complainant has annexed first page of search results on Google as Annexure E to the Complaint.
- f) The Complainant has spent huge amounts on promotion and advertisement of its products and services which has established the Complainant as a reputed company in its field. Similarly over a period of time its products and services have gained considerable popularity and goodwill in the market.
- g) The disputed domain name was registered by the Respondent on 7<sup>th</sup> April 2010. Upon taking search at Whois facility the Complainant came to know about the details of the Respondent.
- h) The domain name schlumberger.in is confusingly similar to the Complainant's mark 'schlumberger'. The mala fide intention of the Respondent in registering the disputed domain name is evident from the mere fact that there is no difference of even a single letter in the disputed domain name from the corporate name of the Complainant. The Complainant has referred to and cited decided cases such as Reuters Ltd. V/s Global Net 2000 Inc., Altavista Company V/s Grandtotal Finances Ltd. and Playboy Enterprises V/s Movie Name Company, all decided by WIPO Arbitration and Mediation Centre.
- i) Mere variation in TLD such as .com, .in, .co.in, .net or .travel in domain name does not affect the purpose of determining whether it is identical or confusingly similar. The Complainant has referred to and cited Magnum Piercing Inc. V/s The Mudjackers and Garwood S.Wilson case decided by WIPO Arbitration and Mediation Centre.

- j) The Complainant has furnished promotional information and brochures wherein the Trademark / Service mark 'schlumberger' has been extensively used prominently. All stationery, display materials used by the Complainant extensively and prominently bear the trade / service mark. This has been done since last many years consistently by the Complainant and hence registration of disputed domain name by the Respondent would lead to utter confusion in the minds of customers, prospective customers and people at large.
- k) In today's world use of internet is very extensive and hence any internet user would wrongly conclude that the Respondent is associated with the Complainant in some or the other way, which is not a fact.
- l) Administrative panels have also ruled in favour of the brand owners even where the marks were not registered – e.g. Satyam Computer Services Ltd. V/s Vasudeva Verma Gokharaju.
- m) The Respondent has no proprietary or contractual rights in any registered or common law trade mark corresponding in whole or in part to the disputed domain name.
- n) The Respondent has no connection with the Complainant nor has the Complainant authorised or licensed the Respondent to use its registered trade mark. Similarly the Respondent has not commonly been known with the registered trade mark or service mark. The Complainant has not authorised the Respondent to register the disputed domain name in his name.
- o) It is inconceivable that the Respondent has registered the disputed domain name without full knowledge of the Complainant's rights in the trademark / service mark. Hence it is to be construed as the registration of disputed domain name has been done by the Respondent

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- p) Registration of disputed domain name by the Respondent is to take disadvantage of goodwill of the Complainant by misusing the trade name incorporated in the domain name.
- q) The Respondent might have registered the disputed domain name to extract huge money from the Complainant who has legitimate interests in the disputed domain name. Alternatively the Respondent can sell or transfer the disputed domain name to any other party for valuable consideration to which he is not legitimately entitled.
- r) The Complainant has finally sought the remedy in the form of transfer of disputed domain name to itself and also requested for costs to be awarded.

#### **IV] REPLY TO THE COMPLAINT / STATEMENT OF DEFENSE: -**

In response to the contentions of the Complainant, the Respondent has not filed any say / reply even within the extended time period granted by this arbitral panel on the principles of natural justice. The Respondent has failed / neglected to bring out his case in any manner by keeping total silence on his part.

#### **ISSUES & FINDINGS: -**

On the basis of policies and rules framed by NIXI in respect of dispute resolution as also on the basis of submissions of both the parties I have framed following issues. My finding on each issue is also mentioned against it respectively.

SR. NO.	ISSUE	FINDING
01	Whether the Complainant could establish his nexus with the registered trade marks and as such whether he is entitled to protect their rights / interests in the same?	Yes

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02	Whether the Registrant's domain name is identical or confusingly similar to a name or trademark in the Complainant has rights?	Yes
03	Whether the Respondent is holder of any registered trademark or service mark and accordingly has any right or legitimate interest in respect of disputed domain name?	No
04	Whether the Registrant / Respondent has registered domain name in bad faith?	Yes
05	Whether the Registrant has commonly been known by the domain name?	No

#### VII] BASIS OF FINDINGS: -

(A) Whether the Complainant could establish his nexus with the registered trade marks and as such whether he is entitled to protect their rights / interests in the same?

1. The Complainant has filed a list of its registered trade / service marks registered in India as well as in other countries. All these marks are valid and in force as on the date of filing the Complaint.
2. The Complainant has brought out its case by furnishing data, information and supporting evidence in respect of employees, turnover, printed material for marketing and advertising and so on.
3. The Complainant has established the fact that it commenced its business about 85 years ago and since then it has been using the name 'schlumberger' in all its stationery, display material, as a part of name of the organization and also as registered marks. The Complainant has its official website [www.slb.com](http://www.slb.com) which provides introductory information about the company, its business, contact details etc.
4. The Complainant has also stated that its shares are listed on various reputed stock exchanges all over the world.

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Therefore my finding on the first issue is affirmative.

- (B) Whether the Registrant's domain name is identical or confusingly similar to a name or trademark in the Complainant has rights?

The Complainant has furnished a list of various trade / service marks registered in its name in India as also other countries of the world. The word 'schlumberger' is an integral part of its corporate name, trade / service marks, stationery, marketing material etc. There is no variation of even a single character in the disputed domain name as compared with the Complainant's name, registered marks etc.

My finding on this issue is affirmative.

- (C) Whether the Respondent is holder of any registered trademark or service mark and accordingly has any right or legitimate interest in respect of disputed domain name?

The Respondent has not bothered to file his say / reply to the complaint or to substantiate his case in any way.

My finding on this issue is negative.

- (D) Whether the Registrant / Respondent has registered domain name in bad faith?

The Respondent has not file his say / reply to the Complaint. The name of the Respondent does not in any way similar to the Complainant's name, its registered marks etc. He also failed to establish whether he has been carrying business in the name containing disputed domain name.

My finding on this issue is therefore affirmative.

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(E) Whether the Registrant has commonly been known by the domain name?

The name of the Respondent / Registrant is Ruo Chang which has no similarity, nexus, or resemblance to the word schlumberger.

My finding on this issue is therefore negative.

**IX] AWARD: -**

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

01. The Complainant is entitled to the disputed domain name – www.schlumberger.in and hence the same be transferred to the Complainant.
02. The Respondent shall pay all documented expenses of these arbitral proceedings to the Complainant.

Dated: - 06.05.2011

Place: - Pune

  
(S.C.INAMDAR)

SOLE ARBITRATOR