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RANJAN NARULA

S 656730

ARBITRATOR

Appointed by the .In Registry – National Internet Exchange of India

In the matter of:

Lockheed Martin Corporation

6801 Rockledge Drive

Bethesda, MD 20817

U.S.A

.....Complainant

Zhengxiao

Room 501, No.133,

Hu Bing Road

Fu zhou Fujian

China - 350003

.....Respondent

Disputed Domain Name: www.lockheedmartin.in

AWARD

1) The Parties:

The Complainant in this arbitration proceeding is **Lockheed Martin Corporation** of 6801 Rockledge Drive, Bethesda, MD 20817, USA. The Complainant is represented by its authorized representatives Mr. Tarvinder Singh and Mr. Anshuman Sharma of Kochhar & Co. Advocates and Legal Consultants, Technopolis Building, 3rd Floor, Tower B, Sector-54, DLF Golf Course Road, Gurgaon - 122002, India who have submitted the present Complaint.

The Respondent in this arbitration proceeding is **Zhengxiao** of Room 501, No.133, Hu Bing Road, Fu zhou, Fujian, China - 350003 as per the details available in the whois database maintained by National Internet Exchange of India (NIXI).

2) The Domain Name, Registrar & Registrant:

The disputed domain name is www.lockheedmartin.in The Registrar is A to Z Domains Solutions Pvt. Ltd.

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.

As per the information received from NIXI, the history of the proceedings is as follows.

In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed Ranjan Narula as the Sole Arbitrator for adjudicating upon the dispute 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 February 20, 2012 and the notice was issued to the Respondent on March 12, 2012 at his email address with a deadline of 10 days to submit his reply to the arbitration. The Respondent did not submit any response. On March 26, 2012 the Arbitrator notified the Respondent that in the absence of any response filed by them within the stipulated time, the matter will be decided based on submission of the Complainant and documents filed by



them in support of their complaint. As the Arbitrator has not received any delivery failure message on the emails sent to the Respondent therefore, it is deemed to be an effective service within the meaning of Rule 2 (e) (iii) of the INDRP Rules of Procedure

In the circumstances the complaint is being decided based on materials submitted by the Complainant and contentions put forth by them.

Grounds for administrative proceedings:

- A. The disputed domain name is identical with or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- B. The Respondent has no rights or legitimate interests in respect of the impugned domain name;
- C. The impugned domain name was registered and is being used in bad faith.

4) Summary of the Complainant's contentions:

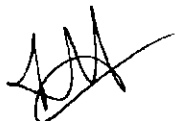
The Complainant in support of its case has made the following submissions

- a) The complainant is among the world's largest military contractors. It manufactures combat and military aircraft, weapons, satellites, etc., and provides abroad range of management, engineering, technical, scientific, logistic and information services to the global defence industry. The complainant serves both domestic and international customers with products and services that have defense, civil and commercial applications.
- b) The complainant was founded in March 1995 when Lockheed Corporaton and Martin Marietta Corporation merged through a merger agreement dated march 15, 1995. Today, the Complainant stands as the world's largest defence contractor by revenues. The complainant is a worldwide corporation with many government and industry partnerships throughout the world. Its core businesses are Aeronautics, Electronic Systems, Information Systems & Global Sevices, and Space Systems.
- c) The Complainant employs about 136,000 people in the United States and internationally. The Complainant currently has about 1000 facilities in about 500 cities and 46 states throughout the U.S. The Complainant has customers around the world and partners in more than 50 countries around the world.
- d) The Complainant has 22 business development offices in the USA and 27 offices in 23 countries including India, namely, Australia, Belgium, China, Egypt, England, Germany, Greece, Indonesia, Israel, Japan, Korea, Malaysia, Norway, Poland, Philippines, Romania, Saudi Arabia, Singapore, Spain, Taiwan, Turkey and United Arab Emirates.
- e) The Complainant is the registered proprietor of the trademark 'Lockheed Martin' in numerous jurisdictions of the world including in European Union (OHIM-CTM), United Kingdom, Hongkong, United States of America, India, Philippines , Japan, Singapore and many other nations in various international



associate the same exclusively with the Complainant. A list of Worldwide registrations of the trade mark LOCKHEED MARTIN together with few copies of extracts taken from the data base of the respective Trade Marks Offices of the concerned countries are annexed hereto and collectively marked as Annexure-3

- f) The profile and popularity of the Complainant under the trade/service name/mark '**Lockheed Martin**' has been continuously increasing since the date of adoption and use of the mark. At present the Complainant's trade name/mark is a formidable brand and has acquired an enormous goodwill not only in USA or India but in many countries across the globe. It is submitted that the '**Lockheed Martin**' mark/name, due to its extensive use, advertisements, publicity and awareness throughout the world, has acquired the status of a well-known trade mark under **Section 2(1) (zg) of the Trade Marks Act, 1999**. The said mark/name qualifies all tests for the well-known status of a mark under **Section 11(6) of the Trade Marks Act, 1999**, which includes considerations like knowledge or recognition among relevant section of public, duration, extent and geographical area of use, promotion and publicity of mark etc. It is further submitted that the mark/name '**Lockheed Martin**' also falls under the category of a famous mark as provided by **Article 6 bis of the Paris Convention**.
- g) The Complainant considers its trade/service name/mark an important and an extremely valuable asset and thus in order to protect the same, has obtained trade mark registration for the mark '**Lockheed Martin**' in India. The Complainant had enclosed copies of extracts from the data base of the Indian Trade Marks Registry marked as **Annexure-4**.
- h) The name/mark 'Lockheed Martin' has acquired unique importance and is associated with the Complainant. A mere mention of the said name/mark establishes an identity and connection with the Complainant and none else. The Complainant owns all the rights in the said name which is its "Trade Mark" & "Service Mark". The use of the said name by a third party either as a mark, name and domain name, or in any other form whatsoever constitutes infringement and passing off and is a violation of the Complainant's rights in the said mark. Further, the use of the disputed domain name by the Respondent amounts to misrepresentation and the Respondent by doing so is indulging in unfair competition.
- i) As the internet has become an essential medium to conduct business, the Complainant in order to expand its presence decided to obtain a domain name registration. The domain name extension in question (www.lockheedmartin.in) is a natural extension of its corporate name. The Complainant has spent a considerable amount of money and skill to develop the mark/brand/name 'Lockheed martin'. The website www.lockheedmartin.com is a comprehensive, unique and acclaimed site of the Complainant.



- j) Recently, the Complainant came to know that someone has obtained a domain name registration for www.lockheedmartin.in. The complainant immediately searched the WHOIS database for the disputed domain name and found that the disputed domain name is registered in the name of **Zhengxiao** of China. The registrar for the disputed domain name is **A to Z Domains Solutions Pvt. Ltd.** The malafide and devious intention of the respondent is evident from the glaring fact that the disputed domain name registration is the verbatim duplication of the Complainant's domain name.
- k) The Complainant has registered/acquired a number of domain names containing the word(s) "Lockheed Martin" such as www.lockheedmartin.com, www.lockheedmartin.co.uk, www.lockheed-martin.in, etc. in order to prevent others from using variations of its famous marks.
- l) Thus aggrieved by the registration of the disputed domain name i.e., www.lockheedmartin.in, the Complainant has approached this Honorable Forum and the present complaint is based on the following grounds:

5) **Respondent**

The Respondent has not filed any response to the Complaint though they were given an opportunity to do so. Thus the complaint had to be decided based on submissions on record and analyzing whether the Complainant has satisfied the conditions laid down in paragraph 3 of the policy.

6) **Discussion and Findings:**

The submissions and documents provided by Complainant in support of use and registration of the mark 'Lockheed Martin' leads to the conclusion that the Complainant has superior and prior rights in the mark Lockheed Martin. Thus it can be said a) the web users associate the word Lockheed Martin with the goods and services of the Complainant b) the web users would reasonably expect to find Complainant's products and services at the www.lockheedmartin.in and c) they may believe it is an official website of the Complainant and the services being offered/advertised are associated or licensed by the Complainant.

Based on the elaborate submission and documents, I'm satisfied that the Complainant has established the three conditions as per paragraph 4 of the policy which are listed below. Further the Respondent has not contested the claim.

- (1) the Respondent's domain name is identical or confusingly similar to the trademark in which he has rights;

It has been established by the Complainant that it has trademark rights, and rights on account of prior and longstanding use of the mark 'LOCKHEED MARTIN'. The Complainant has in support submitted substantial documents. The disputed domain name contains or is identical to Complainant's 'LOCKHEED MARTIN' trademark in its entirety. The mark is being used by the Complainant to identify its business. The mark has been highly publicized by the Complainant and has earned a considerable reputation in the market.



mark has been highly publicized by the Complainant and has earned a considerable reputation in the market.

- (2) the Respondent has no rights or legitimate interests in respect of the domain name;

The Complainant has not authorised the Respondent to register or use the 'LOCKHEED MARTIN' trademark. Further, the Respondent has never used the disputed domain name or any trademark similar to the disputed domain name prior to the registration of the disputed domain name in favour of the Complainant.

The Respondent has not rebutted the contentions of the Complainant and has not produced any documents or made submissions to show his interest in protecting his own right and interest in the domain name. Further, the Respondent has not used the domain name or a name corresponding to the disputed domain name in connection with a bonafide offer of goods or services. Further, the Respondent is not commonly known by the disputed domain name and has not made any legitimate non-commercial or fair use of the disputed domain name.

The above leads to the conclusion that Respondent has no right or legitimate interest in respect of the disputed domain name 'lockheedmartin'.

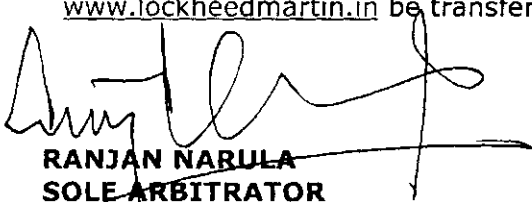
- (3) the domain name has been registered in bad faith.

It may be mentioned that since the Respondent did not file any response and rebut the contentions of the Complainant, it is deemed to have admitted the contentions contained in the Complaint. As, the Respondent has not established its legitimate rights or interests in the domain name, an adverse inference as to their adoption of domain name has to be drawn.

Based on the documents filed by the Complainant, it can be concluded that the domain name/mark 'Lockheed Martin' is identified with the Complainant's products, therefore its adoption by the Respondent shows 'opportunistic bad faith'.

7. Decision:

In view of the foregoing, I am convinced that the Respondent's registration and use of the domain name www.lockheedmartin.in is in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name. In accordance with the Policy and Rules, the arbitrator directs that the disputed domain name www.lockheedmartin.in be transferred from the Respondent to the Complainant.


RANJAN NARULA
SOLE ARBITRATOR
NIXI
INDIA

05 April, 2012