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**NATIONAL INTERNET EXCHANGE OF INDIA**  
**Incube Business Centre, 5<sup>th</sup> Floor,**  
**18, Nehru Place,**  
**NEW DELHI – 110 019**

**Tenaris Connections BV v. Mr. Riguo Ding, China**

**AWARD**

**1. The Parties**

The Complainant is Tenaris Connections BV, Alicia Moreau de Justo 400, 3<sup>rd</sup> Floor, (C1107AAH) Buenos Aires, Argentina.

The Respondent is Mr. Riguo Ding – Netlon Ltd, 3F, No. 199 Shifu Road, Taizhou, Zhejiang, China.

**2. The Domain Name and Registrar**

The disputed domain name is <www.tenaris.co.in>. The said domain name is registered with Directi Internet Solutions Pvt. Ltd., dba PublicDomainRegistry.com (R5-AFIN)

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### 3. Procedural History

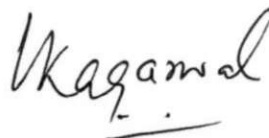
- (a) A Complaint has been filed with the National Internet Exchange of India. The Complainant has made the registrar verification in connection with the domain name at issue. The print out so received is attached with the Complaint as Annexure. It is confirmed that the Respondent is listed as the registrant and provided the contact details for the administrative, billing, and technical contact. The Exchange verified that the Complaint satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the "Policy") and the Rules framed thereunder.
- (b) The Exchange appointed Dr. Vinod K. Agarwal, Advocate and former Law Secretary to the Government of India as the sole arbitrator in this matter on October 18, 2011. The arbitrator finds that he was properly appointed. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Exchange.
- (c) In accordance with the Rules, on October 20, 2011 the Sole Arbitrator notified the Respondent of the Complaint through the e mail address domain.for.sale.tel13819669399@gmail.com. The Respondent was required to submit his defence within 20 days from the date of receipt of the e mail, that is, by November 10, 2011. The Respondent was informed that if his response was not received by that date, he would be considered in default and the matter will proceed ex-parte. No reply has been received from the Respondent.

### 4. Factual Background

From the Complaint and the various annexures to it, the Arbitrator has found the following facts:

#### **Complainant's activities**

In these proceedings the Complainant Tenaris Connections BV of Argentina is a holding company of Tenaris S.A., Luxembourg. The Complainant is the manufacturer and supplier of steel pipe products and related services used in the drilling, completion and production of oil and gas, power plants, specialized industrial applications, etc., for the last fifteen years. The business units of the Complainant are (a) Tenaris Oilfield Services; (b) Tenaris Pipeline Services; (c) Tenaris Process and

  
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Power Plant Services, and (d) Tenaris Industrial and Automotive Services.

According to the Complainant, its operations extend to North and South America, Europe, Asia (including China) and Africa and its customers include oil and gas companies as well as engineering companies engaged in constructing oil and gas gathering, transportation and processing facilities. The Complainant caters to the needs of large and medium enterprises and public institutions in most countries in the world.

### **Respondent's Identity and Activities**

Respondent did not file any reply. Hence, the Respondent's activities are not known.

## **5. Parties Contentions**

### **A. Complainant**

The Complainant contends that each of the elements specified in the Policy are applicable to this dispute.

In relation to element (i), the Complainant contends that its name is Tenaris. The disputed domain name is <WWW.TENARIS.CO.IN>. Thus, the disputed domain name contains the complete name of the Complainant. The addition of the words "co" or "in" is insignificant. The word "TENARIS" is registered as trademark/service mark of the Complainant in many countries. Therefore, the Complainant is well known to its customers as well as in business circles as TENARIS all around the world.

The Complainant contends that it has several domain names containing its trademark Tenaris, such as, Tenaris.co.in, Tenaris.net, Tenaris.org, Tenaris.us, Tenaris.biz, Tenaris.info, Tenaris.asia, Tenaris.tel, Tenarisgroup.com., Tenarisconnections.com, etc.

In support of its contentions, the Complainant has relied on the following cases:

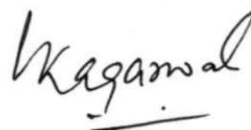
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- (a) *EAuto L.L.C. v. Triple S. Auto Parts*, (WIPO Case No. D2000-0047) wherein it has been held that “when a domain name incorporates in its entirety, a distinctive mark, that creates sufficient similarity between the mark and the domain name renders it confusingly similar.”
- (b) *Disney Enterprises Inc. v. John Zuccarini Cupcake City and Cupcake Petrol*, (WIPO Case No. D2001-0489) wherein it has been held that “Domain names that incorporate well-known trademarks can be readily confused with those marks.”
- (c) *Osram GmbH v. Yuri A Ivanov* (WIPO Case No D2009-0692) holding that, “incorporating a trademark in its entirety may be sufficient to establish that a domain name is identical or confusingly similar to a registered trademark”.
- (d) *Farouk Systems Inc., v. Yishi*, (WIPO Case No. 2010-0006) it has been held that the domain name wholly incorporating a complainant’s registered trademark may be sufficient to establish identity or confusing similarity, despite the addition of other words to such marks.
- (e) *Alta Vista Company v. Curtis Claard/b/a Tae Po Promotions*, FA 0009000095549 (NAF Oct. 24, 2000) it has been held that the domain name <altavistas.com>, irrespective of addition of the word “s” was confusingly similar to the ALTAVISTA trademark.

In relation to element (ii), the Complainant contends that the Respondent (as an individual, business, or other organization) has not been commonly known by the mark “TENARIS”. Further, the Respondent is not making a legitimate or fair use of the said domain name for offering goods and services. The Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public and for sale.

In support of its contentions, the Complainant has relied on the following cases:

- (a) *Chanel Inc. v. Torres*, (WIPO Case No. D2000-1833) – “Respondent had no rights in “Chanel” trademark when complainant had never “given the respondent permission to use its domain name” and had never “had any relation at all with the respondent”.
- (b) *Guerlain S. A. v. Peikand* (WIPO Case No. D2000-0055) - “In the



absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no actual or contemplated bona fide or legitimate use of the domain name could be claimed by the respondent”.

- (c) *Kabushiki Kaisha Toshiba v. Shan Computers*, (WIPO Case No. D2000-0325).

Regarding the element at (iii), the Complainant contends that the main object of registering the domain name <www.TENARIS.CO.IN> by the Respondent is to mislead the general public and the customers of the Complainant. Further that, the Respondent has offered the disputed domain name for sale. The Complainant has stated that the use of a domain name that appropriates a well known trademark or service mark to promote competing or infringing products cannot be considered a “*bona fide offering of goods and services*”.

## **B. Respondent**

The Respondent did not submit any evidence or argument indicating his relation with the disputed domain name <www.TENARIS.CO.IN> or any trademark right, domain name right or contractual right. Therefore, the Respondent has no legal right or interest in the disputed domain name.

## **6. Discussion and Findings**

The Rules instruct this arbitrator as to the principles to be used in rendering its decision. It says that, “a panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any rules and principles of law that it deems applicable”.

According to the Policy, the Complainant must prove that:

- (i) The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;



- (ii) The Respondent has no rights or legitimate interests in respect of the domain name that is the subject of Complaint; and
- (iii) The domain name in question has been registered and is being used in bad faith and for the purposes of trafficking;

#### **A. Identical or Confusingly Similar**

As per the whois information, the Respondent has created the disputed domain name <www/TENARIS.CO.IN> on August 09, 2010. The expiration date is August 09, 2011. In other words, the registration of the disputed domain name has already expired.

The Complainant's trademark "TENARIS" is registered in many countries of the world such as, Armenia, Azerbaijan, Bahrain, Bangladesh, China, Georgia, India, Indonesia, Iran, Israel, Japan, Jordan, South Korea, Kazakhstan, Kuwait, Lebanon, Malaysia, Oman, Pakistan, Philippines, Qatar, Saudi Arabia, Singapore, Taiwan, Thailand, Turkey, Turkmenistan, United Arab Emirates, Vietnam, etc., mostly in Class 6, except Japan where it is registered in classes 16 and 39.

The Complainant started doing business in 2001. In India the trademark "TENARIS" was registered on January 07, 2004 with the Registrar of Trademarks of the Government of India. It is registered in class 6, that is, for "Unwrought and partly wrought common metals and their alloys, dells, rolled and cast building materials, rails and other metallic materials for railway tracks, chains (except driving chain for vehicles), cables and wires (non-electric) locksmiths work, metallic pipes and tubes, safes and cash boxes, steel dells, horseshoes, nails and screws, other grades in non-precious metal not included in other classes."

The present dispute pertains to the domain name <www.TENARIS.CO.IN>. The Complainant possesses a large number of other domain names, as mentioned above, with the word "TENARIS". The Complainant is also the owner of trademark "TENARIS". Most of these domain names and the trademarks/certification marks have been created by the Complainant much before the date of creation of the disputed domain name by the Respondent.

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The disputed domain name is very much similar or identical to these domain names and the trademarks of the Complainant. The cases relied up on by the Complainant support its contention.

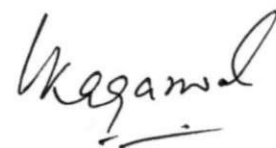
Therefore, I hold that the domain name <www.TENARIS.CO.IN> is confusingly similar to the Complainant's marks.

#### **B. Rights or Legitimate Interests**

The Respondent may demonstrate its rights to or legitimate interest in the domain name by proving any of the following circumstances:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) The Respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent's response is not available in this case. There is no evidence to suggest that the Respondent has become known by the disputed domain name anywhere in the world. Based on the evidence adduced by the Complainant, it is concluded that the above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name. TENARIS is the name and mark of the Complainant. The trade mark "TENARIS" has acquired unique importance and is associated with the Complainant. A mention of the said trademark establishes an identity and connection with the Complainant. The Respondent is known by the name of Mr. Riguo Ding. It is evident that the Respondent can have no legitimate interest in the domain name.



The Complainant contends that TENARIS does not have any relationship or association with the Respondent. Further that, the Complainant has not licensed, authorized or otherwise permitted the Respondent to use its name or trademark or to apply for or use the domain name incorporating said name. The WIPO decisions relied upon by the Complainant also support its contentions.

I, therefore, find that the Respondent has no rights or legitimate interests in the domain names.

### **C. Registered and Used in Bad Faith**

Any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) Circumstances indicating that the Respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of documented out of pocket costs directly related to the domain name; or
- (ii) The Respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that it has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or

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location.

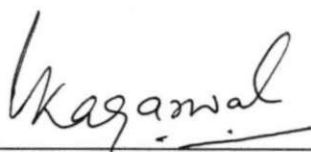
The contention of the Complainant is that the present case is covered by the above circumstances. The Respondent has put up the disputed domain name for sale. The Complainant has provided sufficient evidence to establish the fact that the Respondent has offered the disputed domain name for sale. The email address as provided by the Respondent at the time of registration domain.for.sale.tel13819669399@gmail.com establishes beyond doubt that the disputed domain name was registered for sale.

The Respondent's registration of the domain name <www.TENARIS.CO.IN> is likely to cause immense confusion and deception and lead the general public into believing that the said domain name enjoys endorsement and/or originates from the Complainant. Thus, I hold that the disputed domain name has been registered and used by the Respondent in bad faith.

The foregoing circumstances lead to the presumption that the domain name in dispute was registered and used by the Respondent in bad faith. Therefore, I conclude that the domain name was registered and used by the Respondent in bad faith.

## 7. Decision

In the light of the foregoing findings, namely, that the domain name is confusingly similar to a mark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the domain name, and that the domain name was registered in bad faith and is being used in bad faith, in accordance with the Policy and the Rules, the Arbitrator orders that the domain name <www.TENARIS.CO,IN> be transferred to the Complainant.



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Vinod K. Agarwal  
Sole Arbitrator  
Date: November 17, 2011