



हरियाणा HARYANA

L 618936

RANJAN NARULA

ARBITRATOR

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

In the matter of:

**Compagnie Generale des Etablissements Michelin**  
12, Cours Sablon,  
63000 Clermont-Ferrand  
**FRANCE**

**AND**

**Michelin Recherche et Technique S.A.**  
10 route Louis-Braille,  
1763 Granges-Paccot  
**SWITZERLAND**

.....Complainant

**Gao Gou**  
Suite 1100 South Tower  
Toronto M4W 3R8  
**Canada**

..... Respondent

Disputed Domain Name: [www.bfgoodrich.co.in](http://www.bfgoodrich.co.in)

## **AWARD**

### **1) The Parties:**

The Complainant in this arbitration proceeding is **Compagnie Generale des Etablissements Michelin** of 12, Cours Sablon, 63000 Clermont-Ferrand, France and **Michelin Recherche et Technique S.A.** of 10 route Louis-Braille, 1763 Granges-Paccot, Switzerland. The Complainant is represented by its authorized representatives Nathalie DREYFUS, DREYFUS & ASSOCIES, 78 Avenue Raymond Poincare, 75116 Paris, FRANCE.

The Respondent in this arbitration proceeding is **Gao Gou**, Suite 1100 South Tower, Toronto M4W 3R8, Canada 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.bfgoodrich.co.in](http://www.bfgoodrich.co.in). The Registrar is Webiq Domains Solutions Pvt. Ltd., 102, Osia Friendship, 4<sup>th</sup> Gaothan Lane, Off J P Road, Opp. Ram Mandir, Andheri (W), Mumbai, Maharashtra.

The Registrant is Gao Gou, Suite 1100 South Tower, Toronto M4W 3R8, Canada

### **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 28<sup>th</sup> 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 August 22, 2013, and the notice was issued to the Respondent on August 22, 2013 at his email address with a deadline of 10 days to submit his reply to the arbitration. The Arbitrator also directed



the Complainant to provide by email copy of complaint and Annexures to the Respondent which was duly complied. The Respondent did not submit any response. The Arbitrator granted further opportunity to the Respondent to submit its response on or before September 20, 2013. However, no response was submitted by the Respondent within the stipulated time of thereafter. 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) Michelin Recherche et Technique S.A. is a subsidiary of Compagnie Generale des Etablissements Michelin.
- b) Complainant owns numerous trademarks, which are largely protected in the world, in connection with the automobile and tire manufacturing industries, as well as in connection with hotel/restaurant guides and maps publications. Complainant also has a definite and undisputable reputation in the automotive industry and in French gastronomy.
- c) Michelin is well established in India. Michelin came in India almost a decade ago and today markets its range of tubeless car radial, tubeless and tube type bus and truck radial tires. These tires produced for the Indian market contain the best Michelin technology and have carved a niche for themselves in the marketplace. Michelin also have manufactures in India.
- d) Michelin also have manufacture in India. Michelin is the pioneer in tire technology and manufacturing. Michelin supported Indian Red Cross Society for implementing "School Health and Hygiene Promotion Program" in 27 schools.
- e) Michelin also has an employability training program and provide driving courses and training such as Hotel Management Training, Electrician training or Plumbing training. Michelin also participates in the improvement of livelihood and under the umbrella of 'Sustainability Development' program has started a new initiative on Bio Gas which will benefit the 31 villages around the manufacturing plant.



- f) Michelin is also largely implanted in Canada where Respondent is located, with commercial sales offices since the years 1940 and with production facilities since 1969.
- g) Some years ago, the Michelin Group acquired from the BFGoodrich corporation, an American tire manufacture, the trademark BFGOODRICH which is currently a part of the Michelin Group trademarks and belongs to Michelin Recherche et Technique S.A. For many years BFGOODRICH has put a lot into rallying and has distinguished itself. It is currently the world benchmark in all disciplines: Long-distance Rallying, WRC (until 2007), IRC etc.
- h) Complainant and its trademark BFGOODRICH enjoy a worldwide reputation. Complainant's own numerous BFGOODRICH trademark registrations across the world and notably in Canada and India.
- i) Michelin is notably the owner of the following trademarks:
- Canadian trademark BFGOODRICH No. TMA262446 registered on September 18, 1981, duly renewed and covering goods in class 12.
  - Chinese trademark BFGOODRICH No. 292648, dated of September 4, 1986, duly renewed and covering tires in class 12.
  - Indian trademark BFGOODRICH No. 752558, dated of February 19, 1997 and covering tires in class 12.
- j) In addition, to these trademarks, Complainant is the owner of several domain names that incorporate the trademark BFGOODRICH. Complainant particularly owns the following domain names:
- <bfgoodrich.com> registered on August 15, 1996;
  - <bfgoodrich.net> registered on June 27, 2003;
  - <bfgoodrich.org> registered on August 27, 2002;
  - <bfgoodrich.in> registered on March 13, 2011;
- k) The disputed domain name is identical or at least confusingly similar to Complainant's trademark BFGOODRICH. The domain name bfgoodrich.co.in reproduces entirely Complainant's trademark BFGOODRICH. The disputed domain name resolves to a parking page displaying commercial links. These links are not exclusively related to automotive field, but related researches links, on the left and at the bottom of the website, direct Internet users to commercial links related to automotive products, especially tires of Complainant and its competitors. These pay-per-clicks links are very likely to generate revenues for Respondent.
- l) In addition, on this parking website, the first heading states "The domain bfgoodrich.co.in is listed for sale. Click here to inquire about this domain name".





Clicking through on that link directs the user to a webpage on which there is a form to fill out in order to inquire about the domain name for sale.

- m) The disputed domain name differs from BFGOODRICH trademark by the addition of the ccTLD “.co.in”. However, this is only a minor difference that is insufficient to avoid any likelihood of confusion between Complainant’s trademark and the disputed domain name.
- n) The Complainant submits that by registering the domain name in this manner, Respondent has therefore created a likelihood of confusion with Complainant’s mark. It is likely that the public and Internet users may be misled or confused thinking that the disputed domain name, which is identical to Complainant’s mark, is in some way associated with Complainant.
- o) The Complainant submits that given the strong distinctiveness of Complainant’s trademark BFGOODRICH and its extensive use in commerce, it is obvious that Respondent has targeted Complainant’s mark in choosing the disputed domain name.
- p) Further, Respondent is not commonly known by the name “BFGOODRICH” in any way affiliated with Complainant, nor authorized or licensed to use the BFGOODRICH trademarks, or to seek registration of any domain name incorporating said mark.
- q) The Complainant submits that it is obvious that Respondent knew or must have known Complainant’s trademark BFGOODRICH at the time it registered the disputed domain name. BFGOODRICH is a well-known trademark throughout the world, the Respondent cannot have ignore Complainant’s international reputation at the time of registration of the domain name.
- r) A simple search via Google or any other search engine using the keyword “BFGOODRICH” demonstrates that all first results relate to Complainant’s products or news. Further, the Complainant submits that it is hard to believe that Respondent was unaware of the existence of Complainant and its trademarks at the time of registration of the disputed domain name.
- s) Respondent is also offering to sell the domain name. It appears that the sole objective of Respondent was to sell the domain name for considerable compensation which is in bad faith. By offering the domain name to sale, Respondent’s intention was to generate profit and to capitalize on the confusion.

## **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 'BFGOODRICH' leads to the conclusion that the Complainant has superior and prior rights in the mark 'BFGOODRICH'. Thus it can be said a) the web users associate the word 'BFGOODRICH' 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.bfgoodrich.co.in](http://www.bfgoodrich.co.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 claims therefore deemed to have admitted the contentions of the Complainant. In addition, the Respondent by providing a wrong address of Respondent at the time of registration, which is evidence from non-delivery of courier containing the Complaint (as per the report provided by NIXI dated 3<sup>rd</sup> September, 2013 from Blue Dart Express), violated clause 3 (a) of .IN Domain Dispute Resolution policy.

- (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 'BFGOODRICH'. The Complainant has in support submitted substantial documents. The disputed domain name contains or is identical to Complainant's 'BFGOODRICH' 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.

- (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 'BFGOODRICH' trademark. Further, the Respondent has never used the disputed domain name for legitimate business services and their purpose for registration appears to be purely for monetary gain. The Respondent even demanded considerable compensation for transfer of the domain name and the amount asked was much higher than reasonable cost and expenses incurred for registering and maintain the domain name.

The Respondent has not rebutted the contentions of the Complainant and has not produced any documents or submissions to show his interest in protecting his own rights 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. The Respondent has simply parked its



domain for sale and is using the website to generate revenue through sponsored links.

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


- (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 'BFGOODRICH' 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.bfgoodrich.co.in](http://www.bfgoodrich.co.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.bfgoodrich.co.in](http://www.bfgoodrich.co.in) be transferred from Respondent to the Complainant.



**RANJAN NARULA**  
**SOLE ARBITRATOR**  
**NIXI**  
**INDIA**

**October 11, 2013**