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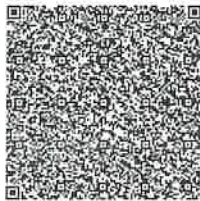
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Property Description	: AWARD
Consideration Price (Rs.)	: 0 (Zero)
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**BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME DISPUTE RESOLUTION POLICY
(Appointed by the National Internet Exchange of India)**

ARBITRATION AWARD

Disputed Domain Name: <valcambi.in>

IN THE MATTER OF

Valcambi SA
Via Passeggiata
6828 Balerna, Switzerland

.....(Complainant)

----versus---

Ajay Pal Singh Randhawa
SCO 61 2nd Level
Sector 32 C
Chandigarh 160031, India

.....(Respondent)

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1. The Parties

The **Complainant** in this arbitration proceeding is **Valcambi SA.**, a company located in Balerna, Switzerland that has been involved in the production and refinement of precious metals since 1961.

The **Respondent** in this arbitration proceeding is **Ajay Pal Singh Randhawa** of the address SCO 61,2nd Level, Sector 32-C, Chandigarh 160031 as per the WHOIS records.

2. The Domain Name, Registrar and Registrant

The present arbitration proceeding pertains to a dispute concerning the registration of the domain <VALCAMBI.IN> with the .IN Registry. The Registrar in the present matter is **GoDaddy.com, LLC**.

3. Procedural History

The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI). The procedural history of the matter is tabulated below:

Date	Event
January 20, 2025	NIXI sought consent of Ms. Lucy Rana to act as the Sole Arbitrator in the matter. The Arbitrator informed of her availability and gave her consent vide email on the same date, along with the Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure.
January 27, 2025	NIXI handed over the Domain Complaint and Annexures thereto to the Arbitrator.
January 28, 2025	The Arbitrator directed the Complainant's Counsel to serve a full set of the domain complaint as filed, along with annexures, upon the Respondent by email as well as physical mode (in case Complaint had already not done so) and provide proof of service within seven (7) days.

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	The Complainant's Counsel, confirmed having served the documents upon the Respondent via email and informed that the physical copy of the documents shall be dispatched via courier shortly.
January 30, 2025	The Complainant's Counsel confirmed having served the physical and soft copies of the Complaint and Annexures via courier and email and provided proof of service.
February 04, 2025	The Arbitrator accordingly commenced arbitration proceedings in respect of the matter. Respondent was granted time of fourteen (14) days, to submit a response, i.e. by February 18, 2025.
February 19, 2025	<p>As no response received, the Arbitrator granted a final and non-extendable period of three (03) days i.e., February 22, 2025 to the Respondent to submit a response.</p> <p>The Respondent requested for time till February 28, 2025 to provide a response.</p> <p>The Complainant's Counsel vide email submitted that the extension as requested by the Respondent till February 28, 2025 should not be allowed as they have already been provided extended time till February 21, 2025 to provide a response.</p> <p>The Arbitrator, in the interests of justice granted a final and non-extendable period of five days till February 24, 2025 to submit their response (if any) in the matter.</p>
February 25, 2025	As no response was received from the Respondent, the Arbitrator concluded proceedings.
February 26, 2025	<p>Time-barred response received from the Respondent.</p> <p>The Arbitrator informed the Respondent that their time-barred response cannot be entertained and reserved the present award.</p>

4. Factual Background – Complainant

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Counsel for the Complainant, on behalf of the Complainant in the present matter, has, inter alia, submitted as follows:

- i. That the Complainant is a well-known corporation that has been involved in the production and refinement of precious metals since 1961. The Complainant operates one of the biggest facilities in the world specifically for precious metal refineries, located in Switzerland and employs cutting-edge technology and the strictest quality control and monitoring procedures.
- ii. That the Complainant provides a wide range of services, including design and production of coins, medals, blanks, and difficult alloys, as well as refining, casting and minted bar manufacturing, assaying, and the creation of specialized semi-finished goods for the watch industry.
- iii. That some of the biggest mining corporations in the world are among the Complainant's clients. The Complainant uses state-of-the-art technology and incorporates the most stringent monitoring and quality control systems. The Complainant delivers a complete range of services from refining to the manufacture of cast and minted bars, assaying, the development of specialist semi-finished products for the watch industry, as well as design and manufacture of coins, medals, blanks and complex alloys.
- iv. That the mark **VALCAMBI** is the principal trademark of the Complainant and forms the dominant part of their corporate name.
- v. That the Complainant has generated a good and valuable reputation, and a vast amount of goodwill has accrued to the Complainant in the brand/trade name **VALCAMBI** through a strong physical and digital presence over several years.
- vi. That the Complainant has secured statutory protection for the trademark **VALCAMBI** in India and around the world. In this regard, the Complainant has annexed details of few **VALCAMBI** trademark registrations as **Annexure E**.
- vii. That the Complainant has secured domain registrations carrying reference to the mark **VALCAMBI**. In this regard, the Complainant has provided details of the WHOIS records of their domains as **Annexure G**.

5. Contentions And Legal Grounds Submitted By The Complainant

In support of the requirements under the captioned provisions of the INDRP (combined with the relevant Rules of Procedure), the Complainant has submitted that:

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A. **The disputed domain name is identical to a trademark or service mark in which the Complainant has rights**

- i. The Complainant's trademark **VALCAMBI** has been invented and uniquely coined by a combination of the two Italian words Valori & Cambi (translated Values & Exchanges).
- ii. That the Complainant is the sole legitimate owner of the trademark **VALCAMBI** and has overwhelming common law and statutory rights in its trademark, **VALCAMBI**, in India and around the world.
- iii. That the Complainant's marks have been granted protection in India, and the said mark **VALCAMBI** has also been extensively used in India.
- iv. That the Respondent's domain name <**VALCAMBI.IN**>, is identical to the complainant's trademark, **VALCAMBI**.
- v. That the Respondent's registration and use of the domain <**VALCAMBI.IN**> is bound to induce members of the public and trade to believe that the Respondent has a trade connection, association, relationship, or approval of the Complainant when it is not so.
- vi. That the disputed domain name incorporates the famous trademark **VALCAMBI** of the Complainant in its entirety and such adoption and use of the disputed domain name is considered evidence of bad faith registration and use under the **INDRP**. In this regard, the Complainant has placed reliance on (*INDRP/642 MOZILLA FOUNDATION Vs Mr. CHANDAN*).

B. **The Respondent has no rights claims, or legitimate interests in respect of the disputed domain name**

- i. That the Complainant is the sole legitimate owner of the trademark **VALCAMBI** and has not licensed or otherwise permitted the Respondent to use the trademark **VALCAMBI** or to apply for any domain name incorporating the said trademark.
- ii. That the Respondent has not made any legitimate use of the domain name <**VALCAMBI.IN**> since the date of its registration and is prejudicially blocking the domain register.

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- iii. That the impugned domain name is an identical copy of the Complainant's trademark **VALCAMBI**. The Respondent has no plausible reason to adopt the domain <VALCAMBI.IN> other than to exploit the commercial goodwill and reputation of the Complainant's trademark **VALCAMBI**.
- iv. That on account of the popularity and the well-known status of the Complainant's trademark **VALCAMBI**, the disputed domain name <VALCAMBI.IN> is bound to induce members of the public and trade to believe that the Respondent has trade connection, association, relationship, or approval of the Complainant, when it is not so.
- v. That the sole purpose of the Respondent in registering and maintaining the disputed domain <VALCAMBI.IN> is to misappropriate and usurp the reputation and goodwill of the Complainant's trademark **VALCAMBI**.

C. The domain name was registered and is being used in bad faith

- i. That the Respondent's intention is to attract the Complainant's customers and potential customers to the infringing website by misrepresenting an association.
- ii. That the very use of a domain name by someone with no connection with the Complainant suggests opportunistic bad faith. In this regard, the Complainant has placed reliance on (Mozilla Foundation and Mozilla Corporation Vs Lina, Double fist Limited INDRP Case No. 934)

6. Reliefs claimed by the Complainant (Paragraphs 11 of the .IN Policy and 4(b)(vii) of the .IN Rules)

The Complainant has requested that the domain <VALCAMBI.IN> be transferred to them.

7. Respondent's Contentions

As already mentioned in the procedural history of the matter, despite having been duly served with a copy of the Domain Complaint as filed, and thereafter being granted adequate time to respond to the same, the Respondent had not submitted any response thereto, or in fact any communication of any kind to the Arbitrator within the stipulated

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deadline. However, after the time period for the Respondent to file a response elapsed, a time-barred response was received from the Respondent. It is pertinent to mention that the response did not contain any formal submission, and the same only contained copies of two judgements of the Hon'ble Supreme Court of India without any proper explanation or context and the statement that the Respondent is working in the pharmaceutical sector.

8. Discussion and Findings

As mentioned in Paragraph 4 of the .IN Domain Name Dispute Resolution Policy, the Complainant is required to satisfy the below three conditions in a domain complaint:

- i. The Registrant's domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights; and
- ii. The Registrant has no rights and legitimate interest in respect of the domain name; and
- iii. The Registrant's domain name has been registered or is being used either in bad faith or for illegal/ unlawful purpose.

i. **The Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights**

(Paragraph 4(a) of the .IN Domain Name Dispute Resolution Policy)

- In the present domain dispute, the Complainant has furnished information about their trade mark rights over the mark **VALCAMBI** in several countries of the world including in India.
- The Complainant has also provided details of various domain names, comprising its **VALCAMBI** trade mark and provided evidence in respect of its prior adoption and use, as well as reputation in its **VALCAMBI** trade marks.
- The Complainant has also submitted that the Respondent's registration and use of the disputed domain <**VALCAMBI.IN**> is bound to induce members of the

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public and trade to believe that the Respondent has a trade connection, association, relationship, or approval of the Complainant when it is not so.

- It is a well settled principle in domain dispute matters, that trade mark registration is recognized as prima facie evidence of rights in a mark.
- In view of the documents and evidence placed on record by the Complainant, the Arbitrator finds that the Complainant has suitably demonstrated its rights in the mark **VALCAMBI**.
- In this regard, it is pertinent to point out that it has been held by numerous prior INDRP panels that there exists confusing similarity wherein the disputed name incorporates the Complainant's trade mark, including but not limited to in the decisions in *Kenneth Cole Productions v. Viswas Infomedia INDRP/093*, *Indian Hotel Companies Limited v. Mr. Sanjay Jha, INDRP/148 <Gingerhotels.co.in>*, *Carrier Corporation, USA v. Prakash K.R. INDRP/238 <Carrier.net.in>*, *M/s Merck KGaA v. Zeng Wei INDRP/323 <Merckchemicals.in>*, *Colgate-Palmolive Company & Anr. v. Zhaxia INDRP/887 <Colgate.in>*, *The Singer Company Limited v. Novation In Limited INDRP/905 <singer.co.in>*, *Tata Digital Private Limited & Tata Sons Pvt Limited v. Mltraj Mltraj INDRP/1876*, *Rudlsson Hospitality Belgium BV/SRL v. NAJIM INDRP/1818*, etc.

In view of the aforesaid, the Arbitrator accepts that the Complainant's rights in its trademarks, under Paragraph 4(a) of the INDRP has been established.

ii. **The Registrant has no rights and legitimate interest in respect of the domain name (Paragraph 4(b) and Paragraph 6 of the INDRP)**

As per paragraph 6 of the Policy, a Registrant may show legitimate rights and interests in a domain name, by demonstrating any of the following circumstances:

(a) *before any notice to the Registrant of the dispute, the Registrant'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;*



(b) the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no Trademark or Service Mark rights; or

(c) the Registrant is making a legitimate non-commercial or fair use of the domain name, without the intention of commercial gain by misleadingly or diverting consumers or to tarnish the Trademark or Service Mark at issue.

In this regard, in the absence of any formal response from the Respondent within the time period provided, and in light of the below assertions of the Complainant, the Arbitrator accepts the Complainant's assertion, that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with Paragraph 4(b) of the INDRP.

- The Respondent's disputed domain <VALCAMBI.IN> is identical to the Complainant's trademark VALCAMBI and the Respondent has no plausible reason to adopt the disputed domain other than to exploit the commercial goodwill and reputation of the Complainant's trademark VALCAMBI.
- The disputed domain <VALCAMBI.IN> is bound to induce members of the public and trade to believe that the Respondent has trade connection, association, relationship, or approval of the Complainant, when it is not so.

In the present domain dispute, the Respondent has not joined the arbitral proceedings by the time-period provided, despite being duly served with the domain complaint, and consequently, not coming forward with any assertion or evidence to show any bonafides has failed to satisfy the conditions enshrined in paragraph 6 of the INDRP Policy. As held by numerous prior panels, including recently in Case No. INDRP/1891 for <stanleyco.in>, *"the Complainant has to make out a prima facie case that the respondent lacks rights or legitimate interests, whereafter, the burden of proof on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."*

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The Complainant has established a prima facie case of its rights in the mark **VALCAMBI**. Thus, as mentioned above, in view of the lack of assertions on part of the Respondent, coupled with the other contentions put forth by the Complainant, the Arbitrator accepts the Complainant's assertion, that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with Paragraph 4(b) of the INDRP.

iii. **The Registrant's domain name has been registered or is being used in bad faith**
(Paragraph 4(c) of the .IN Domain Name Dispute Resolution Policy)

In this regard, the Complainant has *inter alia* contended the below points regarding Respondent's bad faith:

- That it is the identical imitation of the Complainant's mark **VALCAMBI** indicates the Respondent's intention to attract the Complainant's customers and potential customers to the infringing website by misrepresenting an association.
- That the use of a domain name by someone with no connection with the Complainant suggests opportunistic bad faith.

The Complainant has registrations for **VALCAMBI** dating back to 1997, which is well before Respondent's registration of the dispute domain name on July 08, 2019.

In view of the submissions of the Complainant, specifically the identicalness between the disputed domain name <**VALCAMBI.IN**> and Complainant's trade mark **VALCAMBI** coupled with the presence of PPCs on the webpage hosted on the disputed domain name, Arbitrator finds that the Respondent's registration and use of the disputed domain name prima facie does not appear to be bona fide and appears to be intended to deceive the lay public and trade off on the Complainant's reputation. It is pertinent to mention, also, that the Respondent has not submitted any reply nor rebuttal to the Complainant's contentions, or evidence in support of its bona fide registration or use of the disputed domain name.



Based on the submissions and documents placed on record, it prima facie appears that the Respondent is engaged in conduct enumerated in paragraph 7(c) of the Policy, namely “*the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location*”.

In view of the aforesaid, the Arbitrator concludes that the Complainant has satisfactorily proved the requirements of Paragraph 4(c) and Paragraph 7 of the INDRP.

9. Decision

Based upon the facts and circumstances, the Arbitrator allows the prayer of the Complainant and directs the .IN Registry to transfer the domain <VALCAMBI.IN> to the Complainant.

The Award is accordingly passed and the parties are directed to bear their own costs.



Lucy Rana, Sole Arbitrator

Date: March 19 2025.

Place: New Delhi, India.