

ఆంధ్రప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH

9752 Date 04/3/21

Vedula Gopinath, s/o G. V. R. Chennu

AG 691397  
BOLAGANA RAMA RAO  
LICENSED STAMP VENDOR  
L.No. 03/11/001-1999 RL.No. 03/11/05/2020  
# 51-4-3/1, Seethammadhara  
Visakhapatnam, Cell: 9849243254

BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)  
.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

Dr. Vedula Gopinath, Sole Arbitrator

Arbitration Award No. INDRP/1354 Dated March 17, 2021

In the matter of Arbitration Between :

M/s. SAFRAN

2 Boulevard du General Martial-Valin

75015

PARIS.

... Complainant

AND

Ding Ri Guo

8F, No.199 Shifu Road

Taizhou,

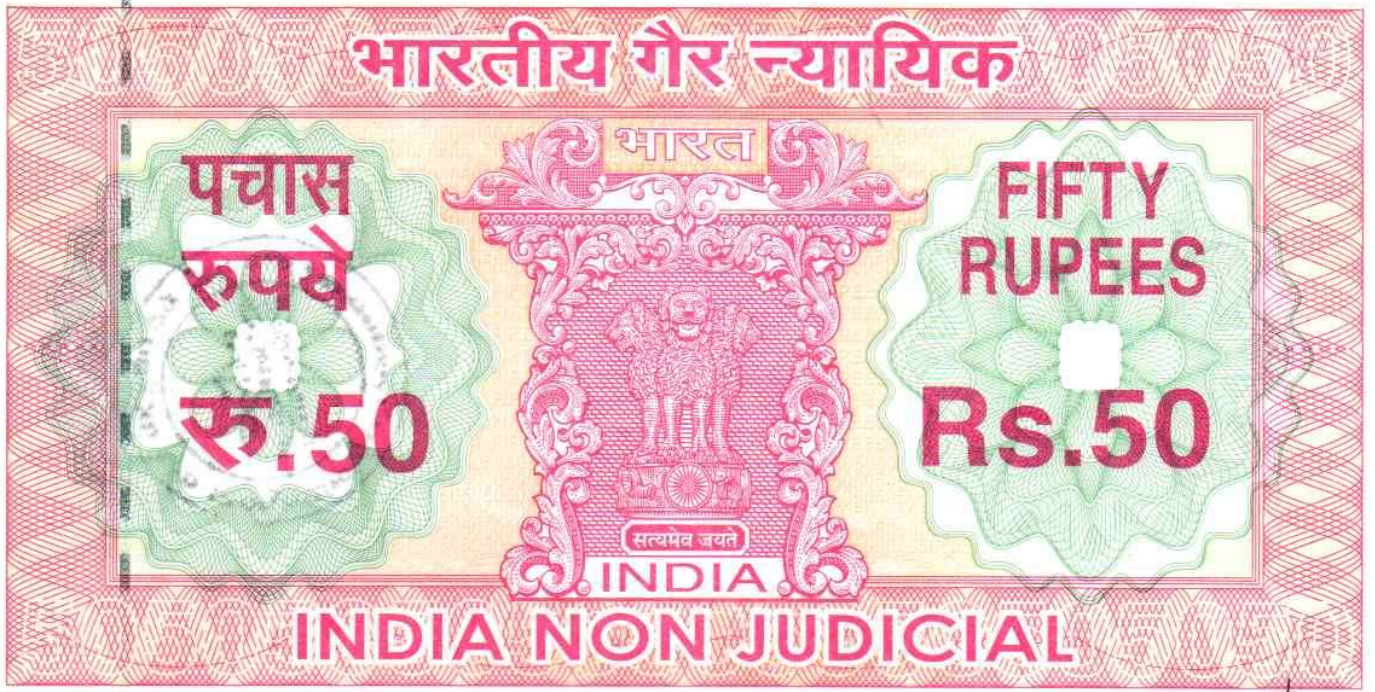
Zhejiang 318000 China

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Respondent





ఆంధ్రప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH

Sl.No.

735 Date 04/3/21

Sold to

For whom

THE PARTIES M/s. Safran's Authorized representative in these Administrative proceedings is:

M/Safran's Authorized representative in these Administrative proceedings is:

E BRAND Services

11 Agenuie de l'Opera

75001 Paris

Phone: +33 1 40 28 15 75

Email : ploubert@ebrand.com

A

A copy of Power of Attorney has been furnished by the complainant.

b. Respondent

Ding Ri Guo

8F, No.199 Shifu Road

Taizhou

Zhejiang

318000

CHINA

Telephone: +86.13819669399

Email : [juc@qq.com](mailto:juc@qq.com)

AG 691398  
BOLAGANA RAMA RAO  
LICENCED STAMP VENDOR  
L.No. 03/11/001-1009 RL.No. 03/11/001-1009  
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Visakhapatnam, Cell: 9849240264

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## II. DISPUTED DOMAIN NAME & REGISTRY:

- The following Domain name is the subject of this Complaint is [*<sagemcom.co.in>*] registered on 26<sup>th</sup> Sept. 2014
- The Registry is the National Internet Exchange of India (henceforth referred to as NIXI).
- The sponsoring Registrar with whom the domain name is registered is indicated as Endurance Domains Technology LLP IANA ID: 801217 Abuse Contact Email: [compliance@edtpl.in](mailto:compliance@edtpl.in) Unit No. 501 5th Floor IT Building 3 Nesco IT Park Nesco Complex Western Express Highway Go region(E) Mumbai 400063 Maharashtra India.

## III. PROCEDURAL HISTORY / BACK GROUND:


01-03-2021	The .IN REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator from its panel as per paragraph 5 of INDRP Rules of Procedure.
02-03-2021	Consent of the Sole Arbitrator along with declaration was given to the .IN REGISTRY according to the INDRP Rules of Procedure.
02-03-2021	.IN REGISTRY sent an email to all the concerned intimating the appointment of arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexure was sent to Respondent.
03-03-2021	Notice of Arbitration was sent to all concern by the Sole Arbitrator.
04-03-2021	Notice was sent by Arbitrator to the Respondent by-mail directing him to file his response within 10 days, marking a copy of the same to the Complainant's representative and .IN Registry.
11-03-2021	The Reminder Notice to Respondents.

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**IV. COMPLAINANT'S DETAILS**

- a) The complainant is an international high-technology group, operating in the aviation, defence and space markets. Safran has a global presence, with more than 95,000 employees and sales of 24.9 billion Euros in 2019. The complainant promoted the activity of French company SAGEMCOM BROADBAND SAS registered on 17.06.2009 with the Nanterre Trade and 9 companies Register, to which SAFRAN has granted a worldwide and exclusive license of the SAGEMCOM trademark and the SAGEMCOM name, as a trade name, corporate name, domain name, or all other distinctive sign identifying the company or its products and services.
- b) The Complainant is also the owner of 62 domain names composed of the SAGEMCOM trademark such as the following domain names:
- <sagemcom.com> registered on 2009/01/26;
  - <sagemcom.us> registered on 2009/02/10
  - <sagemcom.fr> registered on 2009/01/26
- (Annexure 11 to 14 of the complaint refers).
- c) The complainant asserts that SAGEMCOM is a leading European group on the high added-value communicating terminals market which turnover totals €2.1 billion and the headcount of 5,500 employees works in more than 50 countries.

  
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V. PARTIES' CONTENTIONS:


A COMPLAINANT

- a) The complainant asserts that the disputed domain name **<sagemcom.co.in>** which is identical to the composition of the main domain name of the Complainant, **<sagemcom.com>** and composed exclusively of SAFRAN's trademark, the registrant has prevented SAFRAN from having the said domain names.
- b) The complainant confirms the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (Policy, Paragraph 4(a); Rules, Paragraphs 4(b)(vi))
- c) The complainant states the term "Safeco" is not a generic term used in everyday language. Furthermore, as previously stated, SAGEMCOM is subject of several trademark registrations, including a European registration and an international registration. SAGEMCOM owns an extensive portfolio of national and international trademarks containing "sagemcom".  
**(Annexure- 16 of the complaint)**
- d) The complainant alleges that the Respondent is targeting sales-cum-trade mark by choosing SAGEMCOM in the impugned domain name (SAGEMCOM.CO.IN)
- e) The complainant further states that they are registering domain names composed of SAGEMCOM trademark in various jurisdictions including US and France, Moreover, as previously mentioned the Complainant is used to register domain names composed of the trade mark SAGEMCOM such as **<sagemcom.com>**, **<sagemcom.us>** and **<sagemcom.fr>**  
**(Annexures-12, 13, 14 of the complaint).**
- f) The complainant states for the aforesaid reasons the disputed domain name (SAGEMCOM.CO.IN) is identical to the complainants intellectual property rights.
- g) The complainant confirms that the Respondent has no rights or legitimate interests in respect of the domain name. (Policy Paragraph 4(b), Rules, Paragraph 4(b, vi).

  
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- h) The complainant confirms that SAFRAN has never authorized the registrant of the domain name <sagemcom.co.in> to use the SAGEMCOM trademark in the disputed domain name or neither granted to him any license, franchise or authorization to incorporate the SAGEMCOM trademark in the disputed domain name.
- i) The complainant states DING RIGUO is not commonly known under the name SAGEMCOM. The respondent has no prior rights or legitimate interests in the disputed domain name. Further the SAGEMCOM trademarks and the domain names of the complainant all precede the date of creation of the disputed domain name as per information provided from WHO is database.
- j) The complainant states that the domain name was registered and is being used in bad faith (INDRP Policy, Paragraph 4(c); Rules, Paragraph (4b, vi)
- k) The complainant affirms that the disputed domain name resolves to a website on which it is indicated "This premium domain name is for sale" on the website <http://sagemcom.co.in/> (**Annexure-6 of the complaint**)
- l) It is further alleged that global names on this page, global domain names trading platforms are listed to allow Internet users interested in the domain names to buy them. On such platforms, the Respondent put this domain name up for sale for USD 9000. Which is forbidden under Law.
- m) As mentioned by the complainant the offer for sale of the domain name at a high price amounts to cyber squatting which is not sustainable under Law.
- n) It was observed that respondent is regularly involved in infringement of domain name disputes, especially (INDRP) in numerous decisions. (**Annexures-18 and 19 of the complaint**). The Respondent was directed to transfer the domain name Arcelor Mittal Legal Affairs Corporate Vs Simon Ting, INDRP/336, decision rendered on 10/05/2012, the domain name <arcelor.co.in> to Arcelor Mittal; (**Annexure - 20 of the complaint**)

  
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**B RESPONDENT:**

a. The Respondent in spite of Notices dated 4<sup>th</sup> March 2021 and 11<sup>th</sup> March 2021 did not submit any response. The email [juc@qq.com](mailto:juc@qq.com) been continuously used by the respondent in various domain name cases. Various emails addressed to [postmaster@sagemcom.co.in](mailto:postmaster@sagemcom.co.in) have been returned undelivered.

**VI. DISCUSSION AND FINDINGS/REASONING:**

**(I) .IN Domain Name Dispute Resolution Policy (INDRP).**

The Arbitral Tribunal after examination of the matter in details arrived the following conclusion of Complainant's Compliance of INDRP Policy. In order to obtain the transfer of the Disputed Domain Name, Complainant should, accordingly, prove all the following three elements to paragraph 4 of the policy.

- (i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) The Disputed Domain Name has been registered and is being used in bad faith. (iv) Further, pursuant to paragraph 6 and 7 of INDRP policy, the respondent has no legitimate interests and the same have been used in bad faith.

Complainant proved the aforesaid aspects to the satisfaction of Arbitral Tribunal.

- (II) It has been contended that Respondents are only using the Disputed Domain Name in way to create a likelihood of confusion in the minds of the public as to the source of the products and services offered on its website, and thus to misleadingly attract users to its website at Complainant's detriment and to benefit from the SAFRAN trademark's goodwill.

  
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- (III) In case of failure of default of Respondent in sending response or reply to the complaint, the arbitrator is empowered to announce the judgement as thinks proper and appropriate as per applicable laws.
- (IV) In view of the foregoing discussion, the Arbitral Tribunal arrives at a Logical conclusion of accepting the Prayer of the Complainant.

(VII) **DECISION:**

For all the foregoing reasons, in accordance with Paragraph 10 of the. In Domain Name Dispute Resolution Policy (INDRP), the Arbitral Tribunal Orders that the disputed Domain name <**sagemcom.co.in**> be transferred to the Complainant.

National Internet Exchange of India (NIXI) are advised to take incidental or ancillary action involved in the transfer of the Domain Name as directed.

Visakhapatnam

Dated March 17, 2021



**Dr. Vedula Gopinath**

**Sole Arbitrator**

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Dr. VEDULA GOPINATH  
SOLE ARIBITRATOR

Dr. Vedula Gopinath  
B.L., F.C.S., F.I.C.A., Ph.D  
Advocate(High Court) & Corporate Advisor  
HIG-15, D.No.58-14-91,  
Vuda Layout, N.A.D.Post,  
Visakhapatnam - 530 009, A.P. India  
+91 95660 13121, 98482 27926