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INDIA NON JUDICIAL

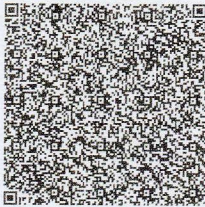
Government of National Capital Territory of Delhi

₹100

e-Stamp

Certificate No. : IN-DL63381553381520W
Certificate Issued Date : 25-Mar-2024 05:04 PM
Account Reference : SELFPRINT (PU)/ dl-self/ NEHRU/ DL-DLH
Unique Doc. Reference : SUBIN-DL DL-SELF86358814821085W
Purchased by : SANJEEV CHASWAL
Description of Document : Article 12 Award - Movable
Property Description : AWAED IN ARBITRATION CASE INDRP 1813 OF MOLNLYCKE HEALTHVARE AB
Consideration Price (Rs.) : 100
(One Hundred only)
First Party : SANJEEV CHASWAL
Second Party : NA
Stamp Duty Paid By : SANJEEV CHASWAL
Stamp Duty Amount(Rs.) : 100
(One Hundred only)

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INDRP ARBITRATION

UNDER THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]
ADMINISTRATIVE PANEL PROCEEDING

SOLE ARBITRATOR: SANJEEV KUMAR CHASWAL

In the matter of Arbitration Proceeding for the Domain name
<molnlycke.co.in> and in the matter of INDRP Case no: 1813

**SANJEEV KUMAR CHASWAL
SOLE ARBITRATOR
INDRP ARBITRATION NIXI**

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**INDRP ARBITRATION
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In the matter of Arbitration Proceeding for the Domain name

<molnlycke.co.in>

and in the matter of INDRP Case no: 1813

**M/s. Molnlycke Healthcare AB
Gamlestadsvagen 3 C, G6teborg,
Sweden
E-Mail: Jennifer.godornwessman@molnlycke.comComplainant**

Vs.

**M/s. Cui Long
Tiaoxi Jiayuan 3-502
Huzhou,Zhejiang
313000 CN
wuloudemao@gmail.com Respondent**

ARBITRATIONAWARD

Disputed Domain Name: <molnlycke.co.in>

History:

That the undersigned was appointed by NIXI as sole arbitrator pursuant to the complaint filed by the complainant The Complainant in this administrative proceedings is M/s. Molnlycke Healthcare AB Gamlestadsvagen 3 C, G6teborg, Sweden represented through its authorized attorneys seeking invoking of arbitration proceedings, against the Registrant / Respondent M/s. Cui Long, Tiaoxi Jiayuan 3-502 Huzhou Zhejiang, 313000 CN email: wuloudemao@gmail.com in respect of registration of domain name <molnlycke.co.in>

As the Registrant / Respondent, who had obtained registration of domain name <molnlycke.co.in> in 2023-11-23 through the IN. registry Registrar's M/s. Hosting Concepts B.V. d/b/a, Open provider Inc, 197 Hanlon Creek Boulevard, Ontario, Canada, NIC 0A1 abuse @openprovider.com but the Registrar domain has withheld and concealed the registration record containing the address and the domain details by invoking "REDACTED FOR PRIVACY" on request of the complainant the NIXI has provided the copies of WHOIS record containing the address and the domain details of the Registrant / Respondent to the complainant.

The complainant after receipt of the said domain details the address etc., from the NIXI in relation to the Registrant / Respondent, the complainant has moved an amended complaint by incorporating all the details of the Registrant / Respondent, who has obtained the registration of the disputed domain name from the domain Registrar.

That the sole arbitrator had issued the directions to the complainant and the Registrant / Respondent to comply notice of on 6th of February 2024 to file reply, detail statement, if any, **within 15 (fifteen) days from issue the date of this Notice**, the reply detail statement, if any should reach by **21st day of February 2024**. The complainant had served the notice to the respondent / registrant to their email address as listed in WHOIS records. As such the issued notice is duly served to the respondent / registrant.

The complainant has moved an application though email dated 23rd February 2024 seeking to submit additional documents, by way of an affidavit, as evidence in support of the averments made in sub-paragraphs 4 and 6 of paragraph 15[c] of the complaint as the said additional documents, which were not available to Complainant at the time of filing the present complaint and are directly related to the claims already raised in the complaint and necessary for proper adjudication of the subject dispute.

The complainant is here by directed to file additional documents by way of an affidavit within a week by 2nd of March 2024 and respondent / registrant is also hereby further directed to file document if any within week thereafter by 9th of March 2024. The additional documents if any should be filed in one set of copies each to the Arbitrator, the respondent / registrant IN Registry and the Complainant.

That as per earlier order the respondent / registrant has failed to file rebuttal to complainant additional documents by way of an affidavit by 9th of March 2024 the sole arbitrator is of considered view that the respondent / registrant have been duly served and despite of receipt of this further notice, the respondent / registrant had failed to submit its reply or Statement to the sole arbitrator office within prescribed time.

Keeping in view of the circumstance as stated above that the respondent / registrant is not interested in pursuing or represent in the present arbitration proceedings pending before this tribunal, in view of the above, the sole arbitrator forecloses the opportunity granted to complainant and to the respondent / registrant in the present case and further the undersigned as arbitrator reserves this domain dispute complaint *<molnlycke.co.in>* for final orders on merits.

As the respondent / registrant, who has obtained registration in respect of domain name *<molnlycke.co.in>* has failed to submit its reply, or any detail statement to the above arbitral complaint reference after receipt of notice. On **20th of March 2024** the undersigned as sole arbitrator has decided foreclosed the opportunity of filing of reply or statement and reserved this domain dispute complaint *<molnlycke.co.in>* for final orders on its merits.

1. The Parties:

That the Complainant in this arbitration proceeding is M/s. M/s. Molnlycke Healthcare AB Gamlestadsvangen 3 C, G6teborg, Sweden, the complainant is a Swedish corporation incorporated under the laws of the Sweden with its principal place of business at G6teborg, Sweden represented through its authorized representative, has invoked this administrative domain arbitration proceedings against the Registrant / Respondent, in respect of registered domain name <***molnlycke.co.in***>.

Registrant / Respondent M/s. M/s. Cui Long Tiaoxi Jiayuan 3-502, Huzhou, Zhejiang, 313000 CN wuloudemao@gmail.com in respect of registration of domain name >. As the Registrant / Respondent, who had obtained registration of domain name <***molnlycke.co.in***> in the year 2023.

2. The Domain Name and Registrar:

2.1 The disputed domain name <***molnlycke.co.in***> is registered by the IN. registry, M/s. Hosting Concepts B.V. d/b/a, Open provider Inc, 197 Hanlon Creek Boulevard, Ontario, Canada, NIC 0A1abuse@openprovider.com but the Registrar domain has withheld and concealed the registration record containing the address and the domain details of the Registrant / Respondent by invoking “REDACTED FOR PRIVACY” .

3. Arbitration Proceedings Procedural History:

3.1 This is a mandatory arbitration proceeding 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] as approved by NIXI 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 there solution of the disputes pursuant to the IN Dispute Resolution Policy and Rules framed there under.



The image shows a handwritten signature in black ink on the left. To its right is a circular stamp. The stamp has a double border. The outer border contains the text "SARVEY KUMAR CHANDAN ADVOCATE SOLE ARBITRATOR" at the top and "DELHI" at the bottom. The inner border contains the text "DELHI" in the center.

According to the information provided by the National Internet Exchange of India ["NIXI"], the history of this proceeding is as follows:

3.2 In accordance with the Rules,2(a) and 4(a), NIXI formally notified the Respondent to the Complaint, and appointed the undersigned as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act,1996, and the Rules framed there under.IN Domain Name Dispute Resolution Policy and the Rules framed there under. The Arbitrator as submitted the Statement of Acceptance and Declaration of Impartiality and Independence as required by the NIXI.

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

3.3 The present Arbitral Proceedings have commenced on 6th of February 2024 by issuing of 1st notice under rule 5(c) of INDRP rules of procedure and the same was forwarded through email directly to the Respondent / Registrant as well as to complainant separately, directing the complainant to serve the copies of the domain complaint along with complete set of documents in soft copies as well as physically or via courier or post to the Respondent / Registrant at the address provided in the WHOIS. The said notice was successfully served by the complainant to the Respondent / Registrant through email too.

3.4 Further as per the issued Notice to the Respondent / Registrant was directed to file their reply, detail statement, if any, to the above said complaint within 15 (fifteen) days from the date of this Notice or by 21st of February 2024, failing which the Complaint shall be decided on the basis of the merits.

3.Further as the Respondent / registrant has failed to submit its reply statement to complainant affidavit hence on 9th March 2024 as such the sole arbitrator foreclosed the right of Respondent / registrant to file reply or statement on 20th March 2024 On non receipt of reply as such the sole arbitrator now reserves this domain dispute complaint <*molnlycke.co.in*> for final orders and shall be decided on merits.

4 Complainant Contentions:

- 4.1 The complainant has submitted many legal submissions under INDRP Rules of Procedure for seeking relief against the Registrant / respondent for registering domain name <***molnlycke.co.in***> *illegally*.
- 4.2 The complainant has raised three pertinent grounds under INDRP Rules of Procedure for seeking relief against the Registrant / respondent disputed domain name <***molnlycke.co.in***> is stated as under:

A. Complainant Grounds for proceedings

- I. The Complainant counsel states that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has statutory/common law rights.*
- II. The Complainant counsel states that the Respondent has no rights or legitimate interests in respect of the disputed domain name.*
- III. That the disputed domain name has been registered or is/are being used in bad faith.*
- I. The Complainant counsel states that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has statutory/common law rights.*

The Complainant's Claim of Statutory Rights

- 4.3 The Complainant is the owner and bonafide prior user of the “Molnlycke” trademark and trade name. Complainant was originally founded in 1849 and in the 1940s, it began supplying wound care products to the healthcare industry. Today Complainant is a world leading manufacturer of single use surgical and wound care solutions, which are available in almost 100 countries and is particularly well-known for its unique range of products and patented technologies.



The image shows a handwritten signature in black ink on the left. To its right is a circular stamp. The stamp has a double border. The outer border contains the text "CHARTERED ACCOUNTANT" at the top and "DELHI" at the bottom. The inner border contains the text "SAHAYAN CHANDAN ADVOCATE & ARBITRATOR" around the perimeter. In the center of the stamp, the word "DELHI" is printed.

Complainant operates in India through its wholly owned subsidiary, Molnlycke Health Care Private Limited, incorporated in 2011.

4.4 The Complainant MOLNLYCKE / MOLNLYCKE trademark is registered/granted protection in many countries, namely Algeria, Armenia, Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China, Croatia, Czech Republic, Cyprus, Denmark, Egypt, Estonia, European Union, Finland, France, Germany, Greece, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Kazakhstan, Korea (Republic of), Korea (Democratic People's Republic of), Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova, Mongolia, Morocco, Netherlands, New Zealand, Norway, Philippines, Poland, Portugal, Republic of North Macedonia, Romania, Russian Federation, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Thailand, Tunisia, Turkey, Ukraine, UAE, UK, USA, Uzbekistan and Vietnam. The oldest surviving registration was obtained in Denmark on 7 September, 1963.

4.5 The Complainant's MOLNLYCKE / MOLNLYCKE trademark is recognized globally including in China, where Complainant has active commercial presence. Thus, the Respondent cannot but be aware of the MOLNLYCKE trademark/trade name/corporate name/brand name at the time of obtaining the disputed domain.

4.6 The Complainant enjoy prior trade name rights, prior trademark rights, prior domain name rights and other related rights in respect of the "MOLNLYCKE" marks in various countries and regions worldwide. The Complainant has been using marks including "MOLNLYCKE" as their trade name since long. Apart from the aforementioned registration in India, The Complainant has a registration of Trademark qua "MOLNLYCKE".

The Complainant owns over 100 domain names containing its trade name and registered trademark MOLNLYCKE and relies, inter alia, on the following domain names:



	Domain names	Registered in the name of / for Complainant since
1	<molnlycke.com>	22/09/1996
2	<molnlycke.net>	11/01/2001
3	<molnlycke.co.uk>	12/01/2001
4	<molnlycke.us>	16/05/2002

	Domain names	Registered in the name of / for Complainant since
5	<molnlycke.cn>	14/03/2007
6	<molnlycke.mobi>	27/06/2007
7	<molnlycke.in>	14/01/2008
8	<molnlycke.hk>	15/01/2008
9	<molnlycke.asia>	04/02/2008
10	<molnlycke.tv>	18/08/2011

4.7 The Complainant holds a large number of registrations for its trade mark As a result of more than 80 years of use, Complainants have created in their MOLNLYCKE Mark one of the most famous and distinctive marks in retailing. The MOLNLYCKE Mark has acquired a valuable goodwill and reputation, and is widely recognized by the consuming public as a designation of source of the goods and services of MOLNLYCKE not only in the United States but throughout the world.

	Trademark	Class	Country	Regn. No.	Regn. Date	Status
1	MÖLNLYCKE	05, 22, 25	Denmark	1963 02047	17/09/1963	Valid
2	MOLNLYCKE	05	Australia	1316246	22/06/1971	Valid
3	MÖLNLYCKE	05, 10, 25	INDIA	IRDI-2917216 IR-1230528	18/06/2014	Protection granted
4	MÖLNLYCKE	05, 10, 25	China	IR-1230528	18/06/2014	Protection granted

4.8 That by virtue of prior adoption, extensive and continuous use in respect of the “MOLNLYCKE” mark, the Complainant is entitled to the exclusive proprietary rights therein, and the public at large associate the said mark with the goods/services offered by Complainant alone and none else.



The image shows a handwritten signature in black ink on the left. To its right is a circular stamp. The stamp contains the text "SARVESH KUMAR CHAVAN, ADVOCATE & SOLE AGENT" around the perimeter, with "DELHI" in the center.

As the goods/services offered under the said trademarks conform to very high standards of quality.

- 4.9 The disputed domain name *<molnlycke.co.in>* incorporates the Complainant's "MOLNLYCKE" mark in its entirety. The alterations of the mark, made in forming the domain name, do not save it from the realm of confusing similarity. Precedents have shown that a domain name is identical to a trademark when the domain name contains or is confusingly similar to the trademark, regardless of the presence of other words in the domain name (*INDRP Case No.868, Amazon Technologies, Inc. v. Jack Worli*).
- 4.10 The Complainant has never authorized the Respondent to register or use any trade name, trademark, or domain name related to "MOLNLYCKE" but the impugned domain name is being registered and / or used in bad faith by the Respondent.
- 4.11 The Domain Name is identical or confusingly similar to Complainants' "MOLNLYCKE" Marks. The Domain Name includes the word mark "MOLNLYCKE" in its entirety along with a generic top-level suffix. Moreover, the Domain Name includes the use of a geographic term ("India"), which only exacerbates the likelihood of confusion since Complainants do business in India. The resulting Domain Name is identical or confusingly similar to Complainants' "MOLNLYCKE" mark.
- 4.12 The Complainant submits that as per .IN Registry WHOIS record, the disputed domain name *<molnlycke.co.in>* was created on 23 November, 2023. WHOIS record of *<molnlycke.co.in>* as obtained from 14.

On 22 December 2023 the Complainant's attorneys in Sweden sent a cease and desist letter to the registrar of the disputed domain name asking it to forward the letter to the registrant of the domain name (Respondent herein), and followed up with a reminder on 8 January 2024, but the attorneys received no response. Copy of the cease and desist letter dated 22 December 2023 \



The image shows a handwritten signature in black ink on the left. To its right is a circular official stamp. The stamp contains the text "SHREEJEE CHARTERED ACCOUNTANTS" around the top inner edge, "DELHI" in the center, and "REGISTERED" at the bottom. There are also small stars on either side of the word "REGISTERED".

II. The Complainant counsel states that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

4.13 The Complainant submits that that the Respondent has no legitimate interest in the impugned domain name <***molnlycke.co.in***> is clearly evident. The unlawful acquisition of the impugned domain name <***molnlycke.co.in***> without due reason and with the sole objective of obtaining illegal revenue on account of misdirected traffic intending to reach the Complainant's website, further establishes that the Respondent has registered the same in bad faith.

4.14 The Complainant submits that the registration and usage of the impugned domain <***molnlycke.co.in***> by the Respondent is an attempt to ride on the back of the massive reputation and goodwill of the Complainant and to pass off the impugned domain name as that belonging to the Complainant.

4.15 The Complainant submits that the Domain Name incorporates Complainants' "MOLNLYCKE" word mark in its entirety. Based on this alone, the Domain Name should be considered the same or confusingly similar to the "MOLNLYCKE" Marks...

4.16 The disputed domain name entirely comprises Complainant's MOLNLYCKE registered mark and is confusingly similar to Complainant's domains including <molnlycke.in> https :/ / www. molnlycke.in /. [If a well known trademark is incorporated in its entirety, it is sufficient to establish that a domain name is identical or confusingly similar to Complainant's registered mark : *Allied DOMEcq Spirits and Wine Lid vs. Roberto Ferrari ballantinesin (registry.in) INDRP/071; incorporation of a trademark in its entirety may be sufficient to establish that the domain name is identical or confusingly similar to a complainant's trademark : Virgin Enierprises Limited v. Guman Sulaen, Sulaen Company / Ivan Petrenkos / Leonid Duhar / Josh White, Build LMTD / Name Redacted, WIPO Domain Name Decision: D2021-2689 ; 1 Oréal, Lancdme Parfums et Beauté & Cle v. Jack Yang, WIPO Domain Name Decision: D2011-1627]..*

As in the case referred by the Complainant in Hugo Boss Trade Mark Management GmbH & Co. KG, Hugo Boss AG v. Xu Xiaobei, WIPO D2016-2456 (Jan. 31, 2017) (transferring domain name hugoboss-mexico.com where the Panel found that “The suffix “-mexico” is clearly used to geographically associate the Respondent’s Website and/or Disputed Domain Name with Mexico”and that “the mere addition of generic or descriptive terms to a trademark in a domain name does not mitigate the confusing similarity between the mark and the domain name”). and in another case Net2phone Inc. v. Netcall SAGL, WIPO D2000-0666 (Sept. 26, 2000).

- 4.15 The Complainant submits that the Ownership of registered trademark serves as prima facie evidence that Complainant has trademark rights.
- 4.16 The Complainant submits that The extension “.co.in” is a standard registration requirement, and hence, should not be taken into consideration when examining the identity or similarity between Complainant’s registered trademarks and the disputed domain name. [The mere adjunction of a generic Top Level Domain (“gTLD”) such as “.com” is irrelevant as it is well established that the gTLD is insufficient to avoid a finding of confusing similarity : *Compagnie Générale des Establishments Michelin v. Eduard Wolfowitz, WIPO Domain Name Decision: D2020- 0801; De Beers Intangibles Limited v. Registration Private, Domains By Proxy, LLC*
- 4.17 The Complainant submits that the Respondent is neither an authorized vendor nor a licensee of Complainants and does not have authorization to use the “MOLNLYCKE” Mark or to register any domain name containing the “MOLNLYCKE” Marks or any confusingly similar variation thereof. This alone is sufficient to support a finding that Respondent has no rights or legitimate interests in the Domain Name.
- 4.18 The Complainant submits that the Respondent is not commonly known as “MOLNLYCKE” or “*molnlycke.co*” nor can it be since the complainant has not authorized use of its “MOLNLYCKE” Marks by Respondent.

The image shows a handwritten signature in black ink on the left. To its right is a circular stamp. The stamp has a double border. The outer border contains the text "SARVEYANVAR CHANDAN ADVOCATE SOCIETY" at the top and "DELHI" at the bottom. The inner border contains the text "INDIAN COUNCIL OF ARBITRATORS" at the top and "DELHI" at the bottom.

III. That the disputed domain name has been registered or is/are being used in bad faith.

4.19. The Complainant submits Complainant's MOLNLYCKE / MOLNLYCKE trademark is recognized globally including in China, where Complainant has active commercial presence. Thus, Respondent cannot but be aware of the MOLNLYCKE trademark/trade name/corporate name/brand name at the time of obtaining the disputed domain.

Respondent is not using the domain name <molnlycke.co.in> for any apparent fair and legitimate purpose and the said domain name does not support any website.

4.20 The Complainant submits that Since Complainant's MOLNLYCKE mark is distinctive and well-known over the world, Respondent clearly has not acquired the disputed domain by chance. [the only plausible explanation for Respondent's actions appears to be an intentional effort to trade upon the fame of Complainant's name and mark for commercial gain: *Madonna Ciccone, p/k/a Madonna v. Dan Parisi and "Madonna.conf", WIPO Domain Name Decision: D2000-0847.*

4.21 The Complainant submits that it has been widely held that bad faith is found if it is unlikely that Respondent would have selected the domain name without knowing the reputation of the well-known trademark in question [*Northwest Airlines, Inc. v. Mario Koch, Northwest Airlines, Inc., v Mario Koch (adrforum.com); Educational Testing Service v. Atak Teknoloji Ltd. Sti, \NIPO Domain Name Decision: D2010-0479; The panel also recognizes the notoriety of Complainant's trademarks and it believes that Respondent must have known of Complainant's trademark TOEFL when registering the disputed domain names.*].

4.22 The Rules of Procedure of the INDRP clearly state that, at the time of application for a domain name, the registrant must accurately represent that to the registrant's knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party.

It is inconceivable that Respondent did not know of Complainant and its rights over the MOLNLYCKE marks. Respondent is, thus, guilty of willful misrepresentation and providing incorrect information to the Registry.

4.23 Complainant believes that Respondent knew of and knowingly exploited Complainant's mark, brand name and its substantial accompanying goodwill [registration of a domain name containing a famous mark is strong evidence of bad faith : *Barney's Inc. v BN Y Bulletin Board, WIPO Domain Name Decision: D2000-0059*; Only a person who is familiar with Complainant's mark could have registered a domain name that is confusingly similar: *ITC Limited v. Travel India, bristol 0.pdf (registry.in) INDRP/065*]. The circumstances indicate that the domain name was registered in bad faith.

4.24 The Complainant submits Respondent immediately after acquiring the disputed domain name, put it on sale. Thus, Respondent has registered the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to Complainant who is the owner of the trademark or to a competitor of Complainant, for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the disputed domain name, which indicates existence of bad faith.

See Dollar Financial Group, Inc. v. Bankshire Corp. FA 13686 (Forum Jul. 30, 2007) (respondent's use of confusingly similar domain name to complainant's mark, to redirect Internet users to respondent's own commercial website offering goods and services in direct competition with complainant's goods was evidence of bad faith registration and use under Policy); S. Exposure v. S. Exposure, Inc., FA 94864 (Forum Jul. 18, 2000) (finding the respondent acted in bad faith by attracting Internet users to a website that competes with the complainant's business); Chan Luu Inc. v. Li Yong Ze, FA 1463461 (Forum Nov. 2, 2012) (use of a confusingly similar domain name to compete with a complainant's business by marketing counterfeit goods is disruptive and demonstrates bad faith registration and use pursuant to the Policy ¶ 4(b)(iii)); Juicy Couture, Inc. v. Chinasupply, FA 1222544 (Forum Oct. 13, 2008) (holding that the selling of counterfeit versions of a complainant's products disrupted the complainant's business and is evidence of bad faith registration and use).



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Brief Contention of the Complainant:

- 4.25 Firstly the Complainant submits that the Respondent has used the Complainant's well-known trademark "MOLNLYCKE" as part of the impugned domain name <*molnlycke.co.in*> in which the Complainant has legitimate right under common law as well as under statutory rights. The said acts of the Respondent, therefore, amount to an infringement of the complainant's rights as are vested in the trade / service: mark "MOLNLYCKE". Secondly, the Respondent is well aware of the insurmountable reputation and goodwill associated with the Complainant's mark "MOLNLYCKE" which insures and continue to insure its legitimate right to Complainant only.
- 4.26 It is a settled law that registration of identical or confusingly similar domain name that is patently connected with a particular trademark owned by an entity with no connection with the trademark owner is indicative of bad faith as understood in the Policy. With regard to famous brands, successive UDRP panels have found Bad faith registration where:

a) Brief Contention of the Respondent:

- 4.27 The Respondent / Registrant had failed to file its detailed reply /statement rebutting the claim of the Complaint. The Complainant did not submit its submissions on record and to stake a claim that the respondent is registered owner of the mark but did not file the reply rebutting the claim of the complainant that the respondent domain does not come ambit within the conditions laid down in IDR of the policy.

5 Discussion and Findings:

- 5.1 It is clear from the record of NIXI the Respondent / registrant redacted private policy to conceal their identity. Rather, the Respondent is trying to take advantage of the Complainant's reputation, giving a false impression that the Respondent has some authorization or connection with the Complainant in terms of a direct nexus or affiliation but the same is not true.



The image shows a handwritten signature in black ink on the left. To its right is a circular stamp with a double border. The text inside the stamp, starting from the top and moving clockwise, reads: "SOCIETY OF ARBITRATORS", "DELHI", and "ADVOCATE GENERAL". There are small stars on either side of the word "DELHI".

5.2 It is evidently clear that the Respondent knowingly chose to registered and use the disputed domain name <*molnlycke.co.in*> to confuse customers from the Complainants' official website and drawing damaging conclusions as to the Complainant's operations in India, thus adversely affecting the Complainant's goodwill and reputation and its right to use said India specific domain name. Doing so, it also violated Rule 3 clause (b) of INDRP, whereby a domain registrant declared that he would not infringe the intellectual property rights of others.

5.3 As per the complaint herein, the Complainant in its complaint has invoked paragraph 4 of the INDRP which read as under:

"Brief of Disputes: Any Person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

(i) the Respondent's domain name is identical or confusingly similar to a name, 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; and

(iii) the Respondent's domain name has been registered or is being used in bad faith.

5.3 According to paragraph 4 of the INDRP, there are 3 essential elements of a domain name dispute which are being discussed hereunder in the light of the facts and circumstances of this case.

I. The Respondent's domain name is identical and confusingly similar to a name, trademark or service in which the Complainant has rights.

5.4 The Complainant further submits that any person or entity using the mark "MOLNLYCKE" as a domain name that too with related keyword referring to its corporate name "MOLNLYCKE" is bound to lead customers and users to infer that its product or service has an association

The image shows a handwritten signature in black ink on the left. To its right is a circular stamp. The stamp has a double border. The outer border contains the text "SALVEY CHOPRA ADVOCATES" at the top and "SOLE ANBILITATOR" at the bottom, with small stars on either side. The inner border contains the text "DELHI" in the center.

or nexus with the Complainant and lead to confusion and deception. It is indeed extremely difficult to foresee any justifiable use that the Respondent may have with the disputed domain name. On the contrary, registering this domain name gives rise to the impression of an association with the Complainant, which is not based in fact. [**Daniel C. Marino, Jr. v. Video Images Productions, WIPO-D2000-0598**].

Paragraph 3 of the INDRP is reproduced below:

"The Respondent's Representations: By applying to register a domain name, or by asking a Registrar to maintain or renew a domain name registration, the Respondent represents and warrants that: the statements that the Respondent made in the Respondent's Application Form for Registration of Domain Name are complete and accurate; to the Respondent's knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party; the Respondent is not registering the domain name for an unlawful purpose; and the Respondent will not knowingly use the domain name in violation of any applicable laws or regulations. It is the Respondent's responsibility to determine whether the Respondent's domain name registration infringes or violates someone else's rights."

- 5.5 The Respondent / Registrant has failed in his responsibility in submission of its detailed reply as discussed above and in the light of the pleadings and documents filed by the Complainant, the undersigned has come to the conclusion that the domain name <**molnlycke.co.in**> is identity theft, identical with or deceptively similar to the Complainants' mark. Accordingly, the undersigned conclude that the Complainant has satisfied the first element required by Paragraph 4 of the INDRP.
- 5.6 The Respondent by choosing to register and use a domain name which is not only fully similar to the Complainant's widely known and distinctive trade mark but identical, intended to ride on the goodwill of the Complainant's trademark in an attempt to exploit, for commercial gain, Internet traffic destined for the Complainant.

Potential partners and end users are led to believe that the website is either the Complainant's site, especially made up for the bearings, or the site of official authorized partners of the Complainant, while in fact it is neither of these [*Viacom International Inc., and MTV Networks Europe v. Web Master, WIPO- D2005-0321 – mtvbase.com*]

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name

- 5.7 The second element that the Complainant needs to prove and as is required by paragraph 4(ii) of the INDRP is that the Respondent has no legitimate right or interests in the disputed domain name.
- 5.8 Moreover, the burden of proof is on a Complainant regarding this element in the domain name lies most directly within the Respondent's knowledge and once the Complainant makes a prima facie case showing that the Respondent does not have any rights or legitimate interest in the domain name, the evidentiary burden shifts to the Respondent to rebut the contention by providing evidence of its rights in the domain name.
- 5.9 The domain name in dispute was registered in 2023, which is much later than the time of the Complainant and its affiliates' earliest use and registration of the trademarks "MOLNLYCKE" and the domain name <*molnlycke.co.in*> and there is no relationship between the Complainant and the Respondent. The Complainant has never authorized the Respondent to register or use any trade name, trademark, or domain name related to "MOLNLYCKE" reasons justifying that the impugned domain name is being registered and/ or used in bad faith.
- 5.10 The Respondent has not submitted its reply and has failed to rebut how the respondent has created the right over the domain name, when as a trademark it is registered and domain name by third party as such mere absence of contentions of the Respondent does not establish his/ her interest in protecting right and interest in the domain name.

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.

For these reasons, the Arbitrator opines that the Respondent / Registrant have no rights or legitimate interests in the disputed domain name.

III. The disputed domain name has been registered or is being used in bad faith.

- 5.11 It has been contended by the Complainant that the Respondent / Registrant has registered and used the disputed domain name in bad faith and rather done a identity theft on their back. The language of the INDRP paragraph 4(iii) is clear enough, and requires that either bad faith registration or bad faith use be proved.
- 5.12 Further the due to act of the Respondent / Registrant has prevented the Complainant, who is the owner of the mark “MOLNLYCKE” from reflecting in the domain name and also that the domain name is deceptively similar to the trademark of the Complainant and will lead to confusion with the Complainant's mark “MOLNLYCKE”. Moreover, the Respondent / Registrant, who have intently, invoke private policy to conceal its actual identity details and have not been replying to the communications sent by the complainant.
- 5.13 The paragraph 6 of the INDRP Rules provides that the following circumstances are deemed to be evidence that a Respondent / Registrant has registered and used a domain name in bad faith:
- 5.14 *"Circumstances indicating that the Respondent has registered or has 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 the complainant \for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name;*



or 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 the Respondent has engaged in a pattern of such conduct;

or 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 its Website or location or of a product or service on its Website or location."

- 5.15 From the circumstances of the case and the evidences placed before me by the Complainant herein, I am of the opinion that the Respondent / Registrant had no previous connection with the disputed domain name and being web designer it has clearly registered the disputed domain name in order to prevent the Complainant, who is the owner of the said trademark from reflecting the said trademark in a corresponding domain name, It is clear case identity theft.
- 5.22 Moreover, use of similar disputed domain name by the Respondent / Registrant would certainly result in confusion and deception of the trade, consumers and public, who would assume a connection or association between the Complainants as disputed domain name **<molnlycke.co.in >**, is associated exclusively with the complainant, by the trade and public in India and all over the world.
- 5.23 Further the due to act of the Respondent / Registrant has prevented the Complainant, who is the owner of the service mark "MOLNLYCKE" from reflecting in the domain name and also that the domain name is deceptively similar to the trademark of the Complainant and will lead to confusion with the Complainant's mark "MOLNLYCKE". Moreover, the Respondent / Registrant, who have intently, invoke private policy to conceal its actual identity details and have not been replying to the communications sent by the complainant.

5.24 Thus, all the three conditions given in paragraph 6 of the Rules are proved in the circumstances of this case and thus the registration of the impugned domain name of the Respondent is a registered in bad faith.

5.25 Subsequent to the filing of the modified complaint, the Complainant came to know that the Respondent has also registered several other domain names containing well known trademarks and brand names of other right holders. Furthermore, from a search among the WIPO domain dispute cases the Complainant learnt that the Respondent has been involved in a number of domain name disputes, each such domain containing well known trademark/trade name of the right holder, all of which were decided against the Respondent and resulted in a transfer of the subject domains.

WIPO Case No.	Domain name	Complainant	Respondent	Decision date	Decision
D2019-0358	ashleymadison.asia	Ruby Life Inc.	Cui Long	27.02.2019	Transfer
DUA2022-0001	boehringer- ingelheim.com.ua	Boehringer Ingelheim Pharma GmbH & Co. Kg	Cui Long	12.07.2023	Transfer
DUA2021-0024	klarna.com.ua	Klarna Bank AB	Cui Long	15.01.2022	Transfer
DRO2022-0002	danielwellington.ro	Daniel Wellington AB	Cui Long	27.04.2022	Transfer
DRO2020-0005	clarins.ro	Clarins	Cui Long	07.10.2020	Transfer
DCO2021-0062	barilla.com.co	Barilla G. e R. Fratelli S.p.A.	Cui Long	14.09.2021	Transfer
DCH2016-0021	neste.ch	Neste Oyj	Cui Long	28.11.2016	Transfer

6 DECISION

6.1 The Respondent / Registrant has failed to comply with Para 3 of the INDRP which requires that it is the responsibility of the Respondent / Registrant to ensure before the registration of the impugned domain name by the Respondent that the domain name registration does not infringe or violate someone else's rights other than the complainant herein.

6.2 The Complainant has given sufficient evidence to prove trademark rights on the disputed domain name. Further; the Respondent's registration of the domain name is dishonest and malafide.



The image shows a handwritten signature in black ink on the left. To its right is a circular stamp. The stamp contains the text 'SANJEEV KUMAR GUPTA, SOLE ARBITRATOR' around the perimeter and 'DELHI' in the center.

- 6.3 That the complainant has also provide domain details wherein the registrant / respondent has also registered many similar, where probably the actual prior domain owner does not know that the similar domain registered by the third party, the registration of many similar domain names by the present registrant / respondent clearly indicates that the respondent is regular squatter and it registers similar domain names regularly and later trade upon as ransom on higher rates with rightful owners right.
- 6.4 Further the due to act of the Respondent / Registrant has prevented the Complainant, who is the owner of the service mark “MOLNLYCKE” from reflecting in the domain name and also that the domain name is deceptively similar to the trademark of the Complainant and will lead to confusion with the Complainant's mark “MOLNLYCKE” Moreover, the Respondent / Registrant, who have intently, invoke private policy to conceal its actual identity details and have not been replying to the communications sent by the complainant.
- 6.5 The document attached by the complainant here in clearly shows that the thus it clearly shows that the domain owner of <***molnlycke.co.in***> is a squatter and does not have legitimate right claim over the domain name and the present respondent cannot claim or derive right of the third party, who is owner of the trademark “MOLNLYCKE”.
- 6.6 The Respondent / Registrant have not given any reason to register the domain name rightfully owned by the Complainant and therefore it can be presumed that the Respondent / Registrant had registered the domain name only to make monetary benefit by selling the domain name to the rightful owner or his competitor.

[Relevant WIPO decisions: Uniroyal Engineered Products, Inc. v. Nauga Network Services D2000-0503; Thaigem Global Marketing Limited v. SanchaiAree D2002-0358; Consorzio del Formaggio Parmigiano Reggiano v. La casa del Latte di Bibulic Adriano D2003-06611



The image shows a handwritten signature in black ink on the left. To its right is a circular stamp. The stamp has a double border. The outer border contains the text "SOLE ARBITRATOR" at the top and "SANJEEV KUMAR" at the bottom. The inner border contains the text "ADVOCATE" at the top and "DELHI" at the bottom.

6.7 It is a settled proposition that the registration of a domain name incorporating a well-known trademark has been upheld to be in bad faith and this contention upheld by numerous INDRP as well as UDRP decision. in *Trivago N.V. is. Shiv Singh (INDRP/1 171) and WIPO decisions in Marie Claire Album v. Mari Claire Apparel, Inc., Case No D 2003 0767.*

6.8 While the overall burden of proof rests with the Complainant, The panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the Respondent.

6.9 Therefore a complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie the case* is made, Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. Thus it is very much clear that the Respondent / Registrant who is actually squatter is using the disputed domain name in bad faith and has registered the domain name.

[Relevant WIPO decisions: Croatia Airlines d.d. v. Modern Empire nternet Ltd. D2003-0455; Belupod.d. v. WACHEM d.o.o. D2004-01101

6.10 The Respondent's registration and use of the Domain Name is abusive and in bad faith. The Respondent / Registrant has no right or legitimate interests in respect of the domain name. In my view, the Complainant has satisfied all the three requisite conditions laid down in paragraph 4 of the INDRP policy.

6.11 It has also well-settled and has been held by various Panels deciding under UDRP and INDRP that where the disputed domain name wholly incorporates the Complainant's registered trademark, the same is sufficient to establish the first element.

FAIRMONT Sons Ltd v. mmt admin / OkFAIRMONTbyebye.com (WIPO Decision Case No. D2009-0646), F. Hoffmann-La Roche AG v. Jason Barnes, ecnopt, WIPO Case No. D2015-1305, Swarovski Aktiengesellschaft v. meixudong, WIPO Case No. D2013-0150, Wal-Mart Stores, Inc. v. Domains by Proxy, LLC / UFCW International Union, WIPO Case No. D2013-1304

- 6.12 The prior decision of a Panel in ***M/s Retail Royalty Company v. Mr. Folk Brook INDRP/705*** wherein on the basis of the Complainant’s registered trademark and domain names for “AMERICAN EAGLE”, having been created by the Complainant much prior to the date of creation of the disputed domain name <***americaneagle.co.in***>by the Respondent, ***It was held that “The disputed domain name is very much similar to the name and trademark of the Complainant. The Hon’ble Supreme Court of India has recently held that the domain name has become the business identifier. A domain name helps identify the subject of trade or service that entity seeks to provide to its potential customers. Further that there is strong likelihood confusion that a web browser looking for AMERICAN EAGLE products in India or elsewhere would mistake the disputed domain name as of the Complainant. ”***
- 6.13 It was observed that ***“it is the Registrant's responsibility to determine whether the Registrant's domain name registration infringes or violates someone else's rights”*** and since the Respondent failed to discharge such responsibility, it was held that the Complainant has satisfied the first element required by Paragraph 4 of the INDRP.

In the present dispute as well, the WIPO Administrative Panel in ***Veuve Clicquot Ponsardin, Maison Fondée en 1772 vs. The Polygenix Group Co., WIPO Case No. D2000-0163*** has been held that registration of a domain name so obviously connected with a well-known product that its very use by someone with no connection with the product suggests opportunistic bad faith. The Respondent is also guilty of the same.

The Complainant has submitted that the Respondent has also registered several other domain names containing well known trademarks and brand names of other right holders. Furthermore, from a search among the WIPO domain dispute cases, the Respondent has been involved in a number of domain name disputes, each such domain containing well known trademark/trade name of the right holder, all of which were decided against the Respondent and resulted in a transfer of the subject domains.

As per pleading and record submitted by the complainant herein it shows that the respondent is a regular squatter as few orders in WIPO domain complaints have been passed indicating that they have registered domain names of the third parties clandestinely on the back of the complainant. Thus it is proved that the respondent is squatter and intently registers third party domains.

As the Registrant / Respondent, who had obtained registration of domain name *<molnlycke.co.in>* unauthorizedly in the year 2023 through the IN. registry Registrar's and the impugned registration is valid up to 23rd of November 2024 and the said registration just have few more months of life subsisting,

As such no financial loss will occur to the Registrant / Respondent, if the impugned registration is restored back to the complainant herein but if the impugned registration is not restored to back complainant then monetarily as well as reputation, goodwill loss will certainly occur to the complainant herein as the impugned domain *<molnlycke.co.in>* will be open to misuse and misappropriation by any third party.

As such, it is clearly proves from the document as mentioned that the Complainant has satisfied all the three requisite conditions laid down in paragraph 4 of the INDRP policy.



The image shows a handwritten signature in black ink on the left. To its right is a circular stamp. The stamp has a double-line border. The text inside the stamp, starting from the top and moving clockwise, reads: "SANKET KUMAR CHAKRABARTY ADVOCATE, SOLE AGENCY FOR * DELHI *".

In accordance to the INDRP defined Policy and Rules, the sole arbitrator directs that the disputed domain name *<molnlycke.co.in>* be transferred from the Registrant / Respondent restored Back to the Complainant herein with a request to NIXI to monitor the transfer of domain name in time bound manner.

A handwritten signature in black ink is positioned to the left of a circular stamp. The stamp is a grid-patterned seal with the text "SANJEEV KUMAR CHASWAL ADVOCATE SOLE ARBITRATOR * DELHI" around the perimeter.

**SANJEEV KUMAR CHASWAL
SOLE ARBITRATOR
INDRP ARBITRATION NIXI**

NEW DELHI

DATE 24th of March 2024