



हरियाणा HARYANA

L 483514

RANJAN NARULA

ARBITRATOR

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

In the matter of:

**Caviar Petrossian SA**  
18, Boulevard de Latour Maubourg,  
75007, Paris  
France

.....Complainant

**Liheng/Just Traffic Supervision Consulting**  
Room 1326, Kexin Building, 999077,  
Hong Kong

..... Respondent

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

**AWARD**

**1) The Parties:**

The Complainant in this arbitration proceeding is Caviar Petrossian SA of 18, Boulevard de Latour Maubourg, 75007, Paris. The Complainant is represented by its authorized representatives Ms. Sudarshana Sen-Mitra, Constituted Attorney of Complainant, D.P Ahuja & Co. of 14/2, Palm Avenue, Kolkata – 700 019.

The Respondent in this arbitration proceeding is Liheng/Just Traffic Supervision Consulting, of Room no. 1326, Kexin Building, 999077, Hong Kong 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.petrossian.co.in](http://www.petrossian.co.in). The Registrar is IN Registrar d.b.a. inregistrar.com (R123-AFIN)

The Registrant is Liheng/Just Traffic Supervision Consulting, of Room no. 1326, Kexin Building, 999077, Hong Kong.

**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 December 16, 2013, and the notice was issued to the Respondent on December 17, 2013 at his email address with a deadline of 10 days to submit his reply to the arbitration. The Respondent did not submit any response. The Arbitrator granted further opportunity to the Respondent to submit its response on or before January 10, 2014. 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) Melkoum and Mouchehgh Petrossian, two Armenian brothers, started importing caviar in France in the 1920's. Caviar Petrossian SA is a company registered in France on November 3, 1965. Armen Petrossian, son of Mouchehgh Petrossian is still running the family business as CEO of Caviar Petrossian SA and CEO of the American subsidiary Petrossian Inc.
- b) Caviar Petrossian S.A and Caviar Petrossian Inc. are selling caviar all over the world for more than 90 years. The Petrossian group also sells fine food products, such as smoked salmon, foie gras, candies, chocolate, fish eggs, truffles, oil and vinegar, tea, soups, as well as vodka. The Petrossian group operates several restaurants, boutiques, corner shops and cafes under the name Petrossian all over the world i.e in Paris (a shop, two corner shops at Galeries Lafayette and Publicis drugstore as well as Restaurant opened in 1999, In france shops and nice and Lyon, in New York (a boutique as well as a restaurant founded in 1984, in West Hollywood (restaurant and boutique opened in 2001); In Las Vegas (lounge in Hotel Bellagio), in Dubai (boutique and café and in Sao Paulo (restaurants and boutiques in Iguatemi and Jardim etc.
- c) The Petrossian boutiques and restaurants are often mentioned in articles on the Internet. Caviar Petrossian has been offered to customers of Air France for Christmas 2012. The group Petrossian has also been a pioneer in the field of e-commerce among the luxury goods companies. It has been the first to launch an online shop in the USA in 1997 and in France in 1998. Due to such long extensive and illustrious global use, the trademark Petrossian has acquired tremendous reputation and is widely known throughout the world.
- d) Complainant's trademark Petrossian has been derived from the family name of the founders of Complainant. Because "Petrossian" has no meaning other than to identify Complainant and its founder, Respondent has no justification to adopt the identical expression and has not independently arrived at its use of Petrossian in its domain name.



- e) Petrossian has strong reputation and brand recall among the discerning consumers throughout the world, and is the subject of substantial recognition and goodwill.
- f) Complainant owns several registrations for Petrossian mark in the following countries :
- French trademark Petrossian no. 1358658 dated November 06, 1986 in classes 8, 14, 18, 21, 22, 29, 30, 31, 32, 33, 40, 42, 43, 44 and 45.
  - International Registration Petrossian no. 425498 filed on October 22, 1976 in classes 18, 22, 29, 30, 31, 32, 33 and 42
  - UK trademark Registration Petrossian no. 1065452 filed on July 08, 1976 in class 29
  - Australian trademark Registration Petrossian no. 1277416 filed on December 15, 2008 in classes 29, 30 and 33
  - New-Zealand trademark Petrossian no. 800507 filed on December 15, 2008 in classes 29, 30 and 33
- g) In addition to this the Complainant owns several domain names such as :
- Petrossian.com registered on July 31, 1997
  - Petrossian.fr registered on July 28, 1998
  - Petrossian.in registered on November 02, 2010
- h) The disputed domain name is nearly identical and confusingly similar to Complainant's registered and well-known trademark PETROSSIAN. The disputed domain name is entirely comprised Complainant's mark PETROSSIAN with the ccTLD.co.in as extension. 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.
- i) Respondent has not made any legitimate offering of goods or services under the domain name petrossian.co.in. instead, it diverts Complainant's consumers to a page that offers, among other things, directly competing products. The diversion of traffic to third parties/competitors and their products demonstrates that Respondent is using the disputed domain name for commercial purposes. The fact that the Respondent is taking benefit from the hyper links by receiving click-through fees and tries to sell the disputed domain names demonstrates that the Respondent is not willing to use the domain name in connection with a bona fide offering of goods or services.



- j) Complainant avers that an Internet user would likely mistakenly believe that a website accessible by the URL <http://www.petrossian.co.in> is affiliated with or endorsed by Complainant. Respondent reference to PETROSSIAN indicated that Respondent wished to deceive visitors into believing that the above address will lead to a website affiliated with or managed by Complainant, or enjoys the benefit of Complainant's news and information resources. If somebody looking for Complainant's India-specific offers, would be misled by the address <http://petrossian.co.in>
- k) The Complainant's submits that the website address <http://www.petrossian.co.in> directs Internet users to a "parking page" which contains several pay-per-clicks advertisements and third party links to websites.
- l) Complainant has never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to use the distinctive mark "PETROSSIAN" or to register the disputed domain name.
- m) The Complainant further submits that the Respondent has not registered or applied for registration of PETROSSIAN as a trademark. It is further submitted that it is relevant to point out that the disputed domain name resolves into a parking web page with hyper links related to caviar:
- "CAVIAR RUSSO beluga caviar Matossol 678g - €198.30 [www.caviarastrakhan.com](http://www.caviarastrakhan.com) which in turn points to the website of a competitor offering caviar for sale
  - "RUSSIAN BELUGA CAVIAR 678g - €187.60 [www.caviar-market.com](http://www.caviar-market.com)
  - "CAVIAR BELUGA RUSSIAN [www.CaviarAstrakhan.com](http://www.CaviarAstrakhan.com)" which points to the website of a competitor offering caviar for sale
  - "TZAR CAVIAR [www.tzarcaviar.com](http://www.tzarcaviar.com)" which also points to the website offering caviar for sale;
  - Related links, i.e. "Red caviar", "Caviar price", "Ossetra caviar", "Malossol. caviar", "Canadian caviar", Beluga caviar, "Petrossian caviar", "Caviar russe".
  - The contents of the parking page, naturally, differ and are changed with the geographical location of the visitor attempting to access the web page or the links therein.
- n) The Complainant's further submits that Just Traffic Supervision Consulting owns 505 domain names and the contact email address [shahuang@msn.com](mailto:shahuang@msn.com) is associated with up to 509 domain names. Respondent itself has registered several domain names in 2013, all of which containing well-known trademarks and trade names, and even of international law firms, some of which are:





- forever21.biz registered on June 23, 2013
  - lalique.biz registered on September 10, 2013
  - linkiaters.biz registered on August 28, 2013
  - pantene.biz registered on October 18, 2013
  - burlingtoncoatfactory.biz registered on February 7, 2013
  - c-and-a.org> registered on February 10, 2013
- o) It is therefore obvious that the Respondent is a prolific cyber squatter; he acquires domain names in order to prevent the owners of well-known trademarks from reflecting their marks in a corresponding domain names and or to sell the domain name registrations to the owners of the trademarks for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name.
- p) Since Complainant's mark PETROSSIAN is distinctive, unique and well-known over the world, Respondent could not have just invented and conceived this trademark, and clearly has not registered this domain by chance.
- q) Indeed, Respondent knows about Complainant's trademark and activities since it is using the disputed domain name to direct visitors to a "parking page" which contains pay-per-click advertisements and third party links of websites offering goods and services in direct competition with the Complainant. On October 17, 2013, the contested domain name resolved to a website that hosts hyper links, all of which directed visitors to websites related to caviar:
- "CAVIAR RUSO beluga caviar Malossol 678g - €198.30 www.caviarastrakhan.com which points to the website of a competitor offering caviar for sale:
  - "RUSSIAN BELUGA CAVIAR 678g - €187.60 www.caviar-market.com.,
  - On November 6, 2013, the contested domain name resolved to a website that hosts hyper links directing to websites related to caviar:
  - "CAVIAR BELUGA RUSSIAN www.CaviarAstrakhan.com which points to the website of a competitor offering caviar for sale;
  - "TZAR CAVIAR www.tzarcaviar.com" which also points to the website offering caviar for sale;
  - Related links, i.e. "Red caviar", "Caviar price", "Ossetra caviar", "Malossol caviar"
  - "Canadian caviar", Beluga caviar", "Petrossian caviar", "Caviar russe"
  - as well as hyper Links referring the origin of the caviar and/or the origin of the Petrossian family, i.e. Armenia:
  - "Hotels Yerevan Armenia", "Armenian language"

The presence of Links in relation with Complainant's activities is not a mere coincidence. It shows that the Respondent has knowingly attempted to ride on the coat-tails of the Complainant's trademark and activities. Respondent intentionally attempted to attract for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's marks.

- r) In light of the international fame and wide use of Complainant's mark PETROSSIAN, Complainant believes that Respondent knew of and knowingly exploited Complainant's mark, brand name and its substantial accompanying goodwill.
- s) Further Complainant submits that the disputed domain name was created on 27 July, 2013. If Respondent had a bona fide reason or intention for registering the said domain name, he would have proceeded to host a proper and relevant website with the domain name. The fact that Respondent has chosen not to do so proves Respondent's wrongful intention to misuse Complainant's trademark and brand for fraudulent purposes. Complainant asserts that Respondent's bad faith holding of the 'PETROSSIAN' domain names is clear indication that Respondent is harbouring plans for illegal gains, either from Complainant or its competitors.

#### **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 'PETROSSIAN' leads to the conclusion that the Complainant has superior and prior rights in the mark 'PETROSSIAN'. Thus it can be said a) the web users associate the word 'PETROSSIAN' 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.petrossian.co.in](http://www.petrossian.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 at the time of registration, which is evidence from non-delivery of courier containing the Complaint (as per the report provided by NIXI dated 27<sup>th</sup> December, 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 'PETROSSIAN'. The Complainant has in support submitted substantial documents. The disputed domain name contains or is identical to Complainant's 'PETROSSIAN' 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 'PETROSSIAN' 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 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 above leads to the conclusion that Respondent has no right or legitimate interest in respect of the disputed domain name 'www.petrossian.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 'petrossian.co.in' is identified with the Complainant's products, therefore its adoption by the Respondent shows 'opportunistic bad faith'.

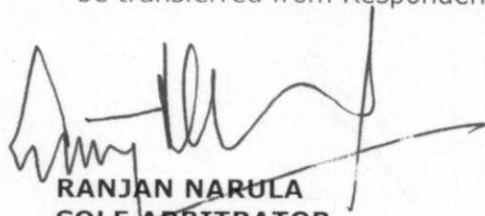
## **7. Decision:**

In view of the foregoing, I am convinced that the Respondent's registration and use of the domain name [www.petrossian.co.in](http://www.petrossian.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.petrossian.co.in](http://www.petrossian.co.in) be transferred from Respondent to the Complainant.



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

January 17, 2014