



TAMILNADU

26808
14.6.2011

D. SARAVANAN

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P.S. SHANMUGA SUNDARAM,
STAMP VENDOR,
L No B4 / 109 / 88
HIGH COURT CAMPUS,
CHENNAI-600 104. (TAMIL NADU)

BEFORE THE SOLE ARBITRATOR MR.D.SARAVANAN
.IN REGISTRY
(C/o. NATIONAL INTERNET EXCHANGE OF INDIA)

Disputed Domain Name: www.volvoce.co.in

Volvo Trademark Holding AB
C/O AB Volvo
SE-405 08 Goteborg, Sweden
Rep. by its Authorised Representatives
Anand & Anand
pravin@anandandaiiand.com
diva@anandandanand.com

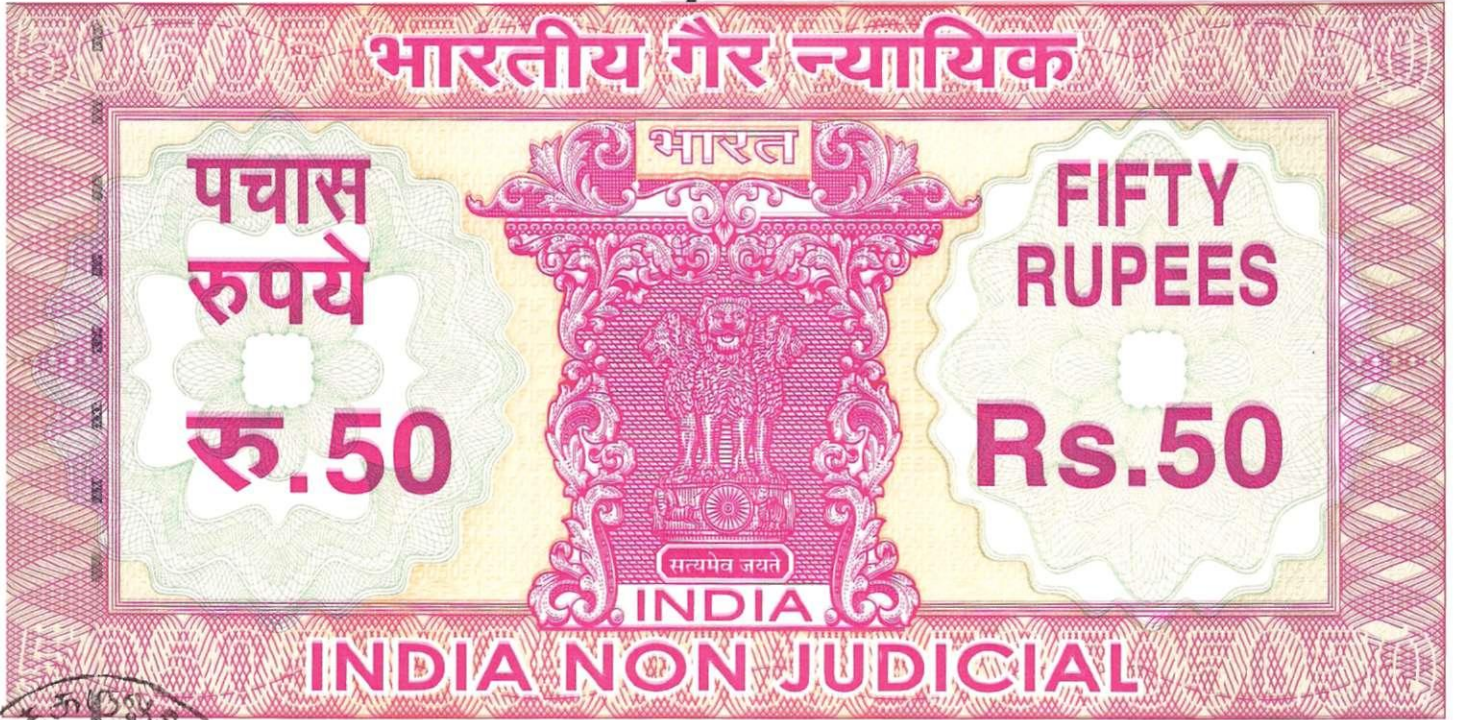
Complainant

Vs.

Riguo Ding
Netlon Inc.
3F, No.199 Shifu Road
Taizhou, Zhejiang 318000
China
Domain.for.sale.tel.13819669399@gmail.com

Respondent





தமிழ்நாடு தீர்ப்பாயம் TAMILNADU

26814
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The Parties:

The complainant is Volvo Trademark Holding AB, C/O AB Volvo, SE-405 08 Goteborg Sweden, Rep. by its Authorised Representatives Anand & Anand.

The respondent is Riguo Ding, Netlon Inc., 3F, No.199 Shifu Road, Taizhou, Zhejiang 318000, China.

2. The Domain Name and Registrar:

The disputed domain name:

www.volvoce.co.in

The domain name registered with .IN REGISTRY



3. Procedural History:

- May 30,2011 : The .IN REGISTRY appointed D.SARAVANAN as Sole Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of Procedure.
- June 06,2011 : Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per Paragraph 4(c) of INDRP Rules of Procedure, marking a copy of the same to Complainant, Complainant's authorized representative and .INREGISTRY.
- June 13, 2011 : Due date for filing Response by Respondent.
- June 20,2011 : Arbitrator sent an e-mail to Respondent notifying default, a copy of which marked to Complainant's authorised representative and the .INREGISTRY.
- : The language of the proceedings in English.

4. Factual Background:

4.1 The Complainant:

The complainant is Volvo Trademark Holding AB, C/O AB Volvo, SE-405 08 Goteborg, Sweden, Rep. by its Authorised Representatives Anand & Anand.

4.2 Complainant's Activities:

The Complainant states inter-alia that Volvo Trademark Holding AB is a company organized under the laws of Sweden and having its registered office at c/o AB Volvo SE - 405 08 GOTEBOURG, Sweden; the complainant is equally owned by Aktiebolaget Volvo and Volvo Car Corporation; Aktiebolaget Volvo is a Swedish builder of commercial vehicles, including trucks, buses, construction equipment, marine and industrial drive systems, aerospace components and financial services, Aktiebolaget



Volvo owns and controls shares in various corporations and companies, which are together referred to as the "Volvo Group of Companies"; Volvo Car Corporation is a Swedish automobile manufacturer which exists as a separate and distinct corporate entity, concerned solely with the business of manufacture, distribution and sale of cars along with various services relating thereto under the trade mark VOLVO and its variants; Volvo Car Corporation owns and controls shares in various corporation and companies, which are together referred to as the "Volvo Car Companies"; the 'Volvo Group Companies' and the 'Volvo Car Companies' will together be referred to as the "the VOLVO TM Companies"; the VOLVO TM Companies is an international automotive and transport vehicle group, with more than 70,000 employees worldwide; the VOLVO TM Companies provide a wide spectrum of transportation - related products and services, with superior quality and high standards of safety and environmental care, to demanding customers in selected segments; the Complainant's main activity is to own, maintain, protect and preserve the Volvo trademarks on behalf of its owners and to license these rights to its owners; the day-to-day work is focused upon maintaining the global portfolio of trademark registrations and to extend sufficiently the scope of the registered protection for the Volvo trademarks; and the main business of the complainant is also to act against unauthorized registration and use (including counterfeiting) of trademarks which are identical or similar to the Volvo trademarks on a global basis.

4.3 Complainant's Trading Name:

(i) The complainant states that on 26th February, 1999, Aktiebolaget Volvo, assigned by way of a Global Deed of Assignment the rights, interests and title held by it in the trade marks that consist of or contain the word VOLVO along with all such goodwill as was necessary to effect a valid and effective transfer of the trade marks to the Complainant; in order to conform and comply with the requirements of the Indian Trade and Merchandise Marks Act, 1958, Aktiebolaget Volvo and the complainant entered into a supplementary Deed of Assignment dated 23rd March, 2001 whereunder Aktiebolaget Volvo assigned its trademark



registrations and pending trade mark applications in India to the complainant; therefore, the complainant owns, maintains and manages the trademarks assigned to it and has the right to license the same to any third parties; in pursuance thereof, the complainant on 28th February, 1999 entered into a Global License Agreement with Aktiebolgaet Volvo and Volvo Car Corporation by virtue of which it licensed to them the use of the VOLVO trademarks within their respective business; the Complainant also has the further right to monitor and control the quality of the goods and services of its licensees; the Complainant is the exclusive and sole beneficial owner of the trade mark VOLVO, which has acquired the status of a well-known and famous trade mark; the Complainant entered into a Confirmatory License Agreements dated 30th May, 2001 for the territory of India with Aktiebolaget Volvo and Volvo Car Corporation in order to comply with the requirements of the Trade and Merchandise Marks Act, 1958; that necessary steps have been taken to record the Assignment of the trade marks from Aktiebolaget Volvo to the complainant before the Registrar of Trade Marks and the subsequent licensing of the use of the marks from the complainant to Aktienbolaget Volvo and Volvo Car Corporation by filing requests on form TM-24 and TM-28 respectively; that the application on Form TM 24 for assignment of the trademarks in favor of the complainant has been allowed; that the application on form TM-24 and TM-28 are filed as Annexure A & B respectively; that the complainant, its licensees and affiliated companies adopted VOLVO, a rare Latin word, both as a trademark and a trade/corporate name; as a trademark, VOLVO has all the trappings of an invented mark, as it has no obvious meaning and is not found in any of the authoritative dictionaries of the English language; it is in that sense a meaningless word and is therefore, inherently distinctive as a trademark; the word VOLVO does not convey anything in its ordinary significance, and is neither a geographical indication, nor a surname; the trademark VOLVO enjoys the highest degree of inherent distinctiveness and is by virtue of the same associated exclusively and solely with the complainant and the Volvo TM Companies and their affiliated companies; the trademark word "VOLVO" forms a key, essential and dominant part of the



corporate name and trading style of the majority of the Volvo TM Companies; the Volvo TM Companies include subsidiary companies in various countries *inter alia*, in India, United States of America, Belgium, France, Norway, Singapore, Hong Kong, Ireland, Luxembourg, Mexico, Netherlands, Germany, Switzerland, Spain, Italy, United Kingdom, Poland, Peru, Brazil, Thailand, Japan etc.; that each of the subsidiary companies in the VOLVO TM Companies, contain VOLVO as a key, essential and dominant part of their corporate name, hence people the world over, recognize and associate the word VOLVO when occurring in the corporate name/trading style/trade name of any company as belonging to the VOLVO TM Companies, a list of VOLVO TM Companies is filed as **Annexure C** ; the Complainant's trademark 'VOLVO' belongs to the category of well-known, well-reputed and famous trademarks; it is instantly identifiable and recognizable by both the members of trade and public as being exclusively associated with the goods and business of the VOLVO TM Companies and their affiliated companies; the trademark and trade name 'VOLVO' acts as a source identifier in as much as it stands for the high standards and superior quality of goods manufactured by the VOLVO TM companies and their affiliated companies and sold the world over; so much so that the two reputed authorities on brands i.e., *The World's Greatest Brands* edited by Nicholas Kocham and published by Interbrand plc. And *'Brands, An International Review'* by Interbrand plc, rank the complainant's trademark 'VOLVO' amongst the few well known trademarks of the world, a copies of relevant extracts from the authorities of Brands are filed as **Annexure D & E** respectively; the complainant's trademark VOLVO has, as a cumulative result of its innate distinctiveness, wide-ranging business activities, extensive sales network, widespread promotion and publicity given thereto, acquired the status of a well known, well-recognized and famous trade mark, the reputation of which pervades to goods and services beyond those actually manufactured and provided respectively, by the VOLVO TM Companies; the Complainant and the VOLVO TM Companies are the owners of the said goodwill and reputation and are entitled, to the exclusion of all others, to the benefit from the same on account of the labour,



efforts and investment devoted by them to build up the said trademark and trade/corporate name over a period of more than eight years; the Complainant has set out their trade mark "VOLVO" has been registered in India under various classes for the period between 10.09.1975 and 20.06.1997 which trademarks are duly renewed and subsisting and are, therefore, in full legal force; by virtue of the said registrations, the complainant including its assignees and licensees have the exclusive right to use the trademark VOLVO in relation to the goods in respect of which the trademark is registered and to obtain relief in respect of the infringement of the registered trademark as provided by the Trade Marks Act, 1999, copies of certificates of the trademark registrations and latest renewal certificates are filed as **Annexure F**; in fact, the Trade Marks Registry of India has very recently published a list of well known trademarks in India wherein the mark Volvo has been mentioned and hence it is beyond doubt that the Complainant's trademark Volvo has become a well known trademark in India and is associated solely and exclusively with the complainant, a copy of the list downloaded from the Trade Marks Registry of India evidencing the same is filed under **Annexure G**; the Complainant is also the registered proprietor of the trademark VOLVO in various jurisdictions, a list of countries where the Complainant's trade mark has been registered is filed under **Annexure H** and copies of some of the International registrations of complainant are filed under **Annexure I**; the VOLVO TM Companies and their affiliated companies have widespread business activities all over the world including in India; as a result of the painstaking efforts and the superior quality of goods and services provided by them, which has now become synonymous with them, the trade mark and trade name VOLVO is associated solely and exclusively with the complainant and the VOLVO TM Companies and their affiliated companies by the members of trade and public; that Aktiebolaget Volvo has been awarded the '*Commercial Vehicle Manufacturer*' of the Year Award by a well-known Indian business magazine Auto Monitor for the automotive segment; the latest coach/bus, VOLVO 9700, had won the International Coach of the Year 2008 title and Copies of articles evidencing the same are filed under **Annexure J**; the trade mark VOLVO has been extensively



advertised and publicized both as a trade mark and a corporate name in various magazines, journals and newspapers of international repute such as the Business Week, the Time Magazine and The Financial Times of London and also Indian newspapers and magazines such as the Hindustan Times, the Times of India and the Hindu; the products bearing the trademark VOLVO are also advertised in specific journals which have a circulation in and are subscribed to by the worldwide mineral extraction and construction industries, photocopies of some such advertisements of the products bearing the trademark, corporate and trade name 'VOLVO', appearing in such publications, are filed under Annexure K; a wide of range of goods bearing VOLVO as a trade mark have also been extensively advertised through the electronic media having large scale viewer ship in India; therefore, the trade mark VOLVO has achieved a strong identity and is instantly recognizable all over the world including in India as emanating from the complaint, the VOLVO TM Companies and their affiliated companies; the VOLVO TM Companies and their affiliated companies have been sponsoring the Volvo International Tennis Competition, which has been widely advertised in various countries including in India; in fact, in 1973, the first year in which the Tennis Corporation was sponsored by Aktiebolaget Volvo and known as the 'Volvo International Tennis' it was won by Vijay Amirtraj an Indian Tennis Player; he was awarded in addition to the prize money, a VOLVO Car which made VOLVO, both a trade mark and a corporate name, instantly very well known in India as the said fact was widely reported and published in various newspapers in India including in the leading nationality daily, The Times of India, internet extract evidencing the same is filed under Annexure L; moreover, the VOLVO TM Companies and their affiliated companies also recognize the Volvo Ocean Race (formerly the Whitbread Round the World Race) that is a marathon yacht race wherein world-class racers battle each other around the globe over some 32,700 miles; Aktiebolaget Volvo purchased the rights in the Whitebread Round the World Race in 1998 and renamed it The Volvo Ocean Race; the VOLVO TM Companies and their affiliated companies also publish a magazine, The Volvo Ocean Race Magazine to provide information about the race, photocopies of the Volvo Ocean Race



Magazines are filed under **Annexure M**; for the Volvo Ocean Race, Round the World 2001-2002, the VOLVO TM Companies and their affiliated companies, had teamed up with the National Geographic Society to provide global, multimedia coverage of the Volvo Ocean Race; on the National Geographic Television Channel the coverage of the Volvo Ocean Race beamed into at least 129 countries reaching more than 100 million households; in the year 2005-2006, a new design of a boat, the Volvo Open 70 was also used for the first time in the aforesaid race; the Volvo Ocean Race 2008-2009 started 11th October 2008 from Alicante, Spain and for the first time there were stopovers at port in Asia; the Volvo Ocean Race also came to India for the very first time at the port at Kochi in December 2008; the route for the said race covered over 37,000 nautical miles which took over nine months to complete and was expected to reach a cumulative television audience of 2 billion worldwide.

(ii) The Complainant further states that after **liberalization** of the Industrial Policy in 1991, the Volvo India Private Limited was established in India and apart from the Volvo India Private Limited being flagship company, five other subsidiaries viz., 1) Volvo Car India Private Limited; 2) Volvo Construction Equipments India Pvt. Limited, 3) Volvo Bus India Private Limited; 4) Volvo Truck India Private Limited; and 5) Volvo Penta India Private Limited have been registered in India; the mark VOLVO continues to be the essential and conspicuous part of the corporate name of the Volvo Group's flagship company in India, Volvo India Private Limited; the overall objective of the Volvo Group is to develop the India operations into a cornerstone of the global productions and distributions system; the Volvo Group would then source vehicles, components and services from India.

(iii) The Complainant further states that the VOLVO TM Companies through the website www.volvo.com provides information of products or services offered by the VOLVO TM Companies and their affiliates worldwide which website was created on 9th December, 1995; the said website showcases via various internet links, the widespread activities of the VOLVO TM Companies and their affiliate companies



and allows the customers to buy products of the VOLVO TM Companies and their affiliate companies online, printouts from the website www.volvo.com are filed under **Annexure N**; the VOLVO TM Companies through other websites including but not limited to being www.volvoce.com; www.volvoce.co.uk; www.volvoce.us also provides information about construction equipment products and services that are offered by the company being Volvo Construction Equipment in more than 125 countries worldwide; the said website being www.volvoce.com was created on 4th March 2000, printouts from the internet of the website www.vorvoce.com are filed under **Annexure O** and printouts from the internet of the websites being www.volvoce.co.uk and www.volvoce.us are filed under **Annexure P** collectively; apart from the above, the VOLVO TM Companies also own several other websites like www.volvobusues.com; www.volvocars.com; www.volvotrucks.com etc., where information about the Volvo TM Companies' various products is provided, printouts of these websites are filed under **Annexure Q**.

(iv) The Complainant further states that from time to time, there have been efforts made by various parties to cash in on the reputation of the complainant, the VOLVO TM Companies and their affiliated companies by adopting their marks, and appropriate proceedings have been initiated by the complainant and VOLVO TM Companies to defend its statutory and common law rights in the said marks and the Courts have repeatedly passed orders in favour of the complainant and its affiliated companies, photocopies of the orders passed in favour of the Complainant, VOLVO TM Companies and its affiliated companies are filed under **Annexure R**; the Complainant has also been successful in protecting its trademark from being misused as a domain name, copies of WIPO decisions where the trademark VOLVO has been held to be a famous and well-known trademark is filed **under Annexure S**; additionally, several parties have given undertaking in favour of the complainant and the same are filed under **Annexure T**.



4.4 Respondent's Identity and activities:

The Respondent is the registrant of the Domain Name <volvoce.co.in> which is registered with .IN REGISTRY, National Internet Exchange of India, New Delhi. The name of the registrant is referred to as Riguo Ding, Netlon Inc., 3F, No.199 Shifu Road, Taizhou, Zhejiang 318000, China. The Complainant further states **that** the Respondent in the present dispute has registered the domain <volvoce.co.in> thereby misappropriating illegally and without authority the trademark VOLVO which is the exclusive property of the Complainant, an extract from www.whois.com and extracts from the respondent's website are filed under **Annexure U** and **Annexure V** respectively; the respondent's *malafide* and dishonest intention is evident from the fact that it has been very clearly mentioned on the impugned website that the said "domain name is for sale" and the said website does not have anything to do and/or talk about the Respondent's activities/business, extracts from the Respondent's website evidencing the aforesaid are filed under **Annexure W**; hence, it is apparent that the Respondent has fraudulently and illegally registered the impugned domain name in order to make quick money and encash upon the goodwill associated with the Complainant's well known and registered trademark.

Neither the Respondent represented himself nor represented by any one.

5. Parties contentions:

A. Complainant:

(a) The Domain Name is identical or confusingly similar to a Trademark or service mark of the Complainant has rights:

The Complainant states that the disputed domain name <volvoce.co.in> is identical to the domain names including but not limited to <volvo.com>, <volvoce.com>, www.volvoce.co.uk>, www.volvoce.us which are owned by the Aktiebolaget Volvo and Volvo Construction Equipment SA respectively and which domain names include the complainant's well known and famous trade mark VOLVO; furthermore,



due to the above mentioned factors, the complainant's trademark VOLVO has acquired immense fame and is exclusively identified with the VOLVO TM Companies' goods and services; as such, the use of the word VOLVO in the domain name would be understood as a reference to the Complainant and the VOLVO TM Companies, thus perpetuating confusion among consumers who wish to access the VOLVO TM Companies' web pages; the Complainant places reliance on *KFC Corporation v. Webmaster Casinos Ltd.*, (L-2/6/R4), wherein the Domain name kfc.co.in was transferred to the complainant as it incorporated the KFC Trademark in whole, a copy of the decision is filed under Annexure X; the VOLVO TM Companies and its affiliated companies have spent substantial time, effort and money advertising and promoting the VOLVO trademark throughout the world; as a result, the VOLVO trade mark has become famous and well-known, and the Complainant, VOLVO TM Companies and its affiliated companies has developed an enormous amount of goodwill in the mark, which goodwill has been recognized by Courts and Tribunals throughout the world.

(b) Respondent has no rights or legitimate interests in the domain name:

The complainant states that the disputed domain name comprise the well-known and famous trademark VOLVO, it is evident that the Respondent can have no right or legitimate interest in the domain name; further, it is apparent that the sole purpose of registering the domain name is to misappropriate the reputation associated with the Complainant's famous trademark VOLVO and to encash on the goodwill attached to the Complainant's trademark/name by selling the domain name for profit and preventing the Complainant from registering a domain name in which it has full legal rights; further, the Respondent is not commonly known by the domain name nor has he made any demonstrable preparation to use the disputed domain name <volvoce.co.in> in connection with a commercial bona fide purpose; further, the said website does not provide any information about the Respondent and/or its business or services whatsoever; hence, it is obvious that the Respondents have registered the impugned domain name fraudulently and malafidely to ride



upon the reputation and goodwill associated with the complainant's name and to gain monetary benefits from the complainant; it is thus, the Respondent has no rights or legitimate interest in the domain name as (a) the Respondent is not a licensee of the Complainant and neither has the Complainant granted any permission or consent to the Respondent to use the trademark VOLVO in any manner or to incorporate the same in a domain name; (b) the Respondent has not shown any demonstrable preparation to use the domain name in connection with the bona fide offering of goods and services; and (c) the Respondent has not been engaged in any activity to show it has legitimate rights or interest in the impugned domain name; the Respondent has no bona fide intention to use the impugned domain name and the same has been registered only for the purpose of trafficking and monetary gains and for the sole purpose of causing irreparable damage and injury to the Complainant's goodwill and reputation, resulting in dilution of the Complainant's trademark; thus, it is very clear from the conduct of the Respondent that he has been trying to reap unfair rewards by registering the domain name <volvoce.co.in>; the Respondent has failed to demonstrated any bona fide use of the <volvoce.co.in> domain name; hence, the Respondent has no rights or legitimate interest in the domain name.

(c) Respondent has registered and is using the domain name in bad faith:

The complainant states that the Respondent is not engaged in any activity of its own to show that it has legitimate rights or interest in the impugned domain name; the Respondent has no bona fide intention to use the impugned domain name and the same has been registered only for the purpose of trafficking and to extract money; in fact, the Respondent has registered the domain <volvoce.co.in> solely with a view to sell the same and this is evident from the fact that it has been very clearly mentioned on the impugned website that the said "**domain name is for sale**"; the Respondent has laid bare his intent to commercially exploit the Complainant's trademark/trade name and for the sole purpose of causing irreparable damage and injury to the



Complainant's goodwill and reputation; resulting in dilution of the Complainant's trademark and/or service mark; in fact by acquiring the domain name <volvoce.co.in> he has shown crass opportunism in encashing the popularity of the goods and services provided by the VOLVO TM Companies' goods and services, which are available to the Internet users; the Complainant's mark VOLVO is a well-known mark, and the Respondent is presumed to have had knowledge of Complainant's mark at the time it registered the identical domain name; thus, it is prima facie evidence of the Respondent's bad faith use and registration; therefore, the domain name has only been registered in bad faith for monetary gains; registration of a famous trademark without legitimate commercial interests in the same is prima facie evidence that the Respondent was well aware of the reputation and goodwill attached to the Complainant's trademark/name; the Complainant places reliance on Rediff.com India Limited V. Mr.Abhishek Verma & Others (L-1/1/R1) wherein the disputed Domain Name <rediff.in> was ordered to be transferred to the complainants in which the panel held that "*the Respondent has registered domain name before the Complainant, for selling, renting, or otherwise transferring the same for monetary gains...*" , a copy of the said award is filed under Annexure Y; therefore, the disputed domain name www.volvoce.co.in has only been registered in bad faith for monetary gains; the proposition that the registration of a domain name incorporating a well-known trademark of the Complainant is bound to be in bad faith has been upheld by numerous UDRP decisions; the Complainant also places reliance on said proposition under *Marie Claire Album v. Maire-Claire Apparel Inc (WIPO Case No.D2003-0767; Veuve Vonsardin, Maison Fondée en 1772 v. The Polygenix Group Co.(WIPO Case No.D2000-0776); Adidas Saloman AG v. Domain Locations (WIPO Case No.D2003-0489)*, wherein it has been held that registration of a well-known trademark of which the Respondent must reasonably have been aware is in itself sufficient to amount to bad faith, which references are filed under Annexure Z (colly). By stating so, the Complainant has sought for a relief to transfer the domain name registration to the Complainant with costs.



B. Respondent:

The Respondent did not submit any response.

6. Discussion and Findings:

It has to be asserted as to whether the Constitution of Arbitral Tribunal was proper? And Whether the Respondent has received the notice of this Arbitral Tribunal?

Having gone through the procedural history, this Tribunal comes to the irresistible conclusion that the Arbitral Tribunal was properly constituted and Respondent has been notified of the complaint of the Complainant. However, the Respondent did not choose to submit any response, and that non-submission of the Response by the Respondent had also been notified to the Respondent on June 20, 2011.

Under paragraph 4 of the IN Domain Name Dispute Resolution Policy (INDRP), the Complainant must prove each of the following three elements of its case:

- (i) The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The Respondent has no rights or legitimate interest in respect of the domain name; and
- (iii) The Respondent's domain name has been registered or is being used in bad faith.



(a) Identical or confusing similarity:

i) The Arbitral Tribunal finds that the Complainant has provided evidences that it possesses registered Trade / Service Marks "VOLVO" and also possesses registered domain names www.volvo.com, www.volvoce.com, www.volvoce.co.uk, www.volvoce.us. The Respondent's domain name, <volvoce.co.in>, consists of entirely Complainant's trademark, except ccTLD. Thus, this Arbitral Tribunal comes to the irresistible conclusion that the disputed domain name <volvoce.co.in> is confusingly similar or identical to the Complainant's marks.

ii) The Arbitral Tribunal concludes that the Complainant has established paragraph 4(i) of the IN Domain Name Dispute Resolution Policy.

(b) Respondent's Rights or Legitimate Interests:

i) The Complainant contends that the Respondent has no legitimate interest in the disputed domain name. Paragraph 7 of the IN Dispute Resolution Policy sets out three elements, any of which shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(ii) of the Policy. The Respondent had been given the opportunity to respond and to present evidence in support of the elements in paragraph 7 of the INDRP. The Respondent has not chosen to do so and has not filed any response in this proceedings to establish any circumstances that could assist it in demonstrating, any rights or legitimate interests in the disputed domain name. Although, the Complainant is not entitled to relief simply by default of the Respondent to submit a Response, the Arbitral Tribunal can however and does draw evidentiary inferences from the failure of the Respondent to respond. The Complainant has established a prima facie case of lack of rights and legitimate interest and the Respondent has failed to rebut the presumption of absence of rights or legitimate interests.



ii) On a careful consideration, it is established that the respondent has registered the impugned domain <volvoce.co.in> solely with a view to sell the same which is evident from the fact that it has been very clearly mentioned on the impugned website that the said "domain name **is for sale**". Considering the above, and based on the record, the Respondent does not have rights or legitimate interests in the disputed domain name as the Respondent's current use is neither an example of a bona fide offering of goods or services as required under paragraph 7(i) of the Policy nor is there any legitimate non-commercial or fair use of the disputed domain name and as such there is no evidence that paragraphs 7(ii) or 7(iii) of the Policy apply. The Complainant asserts that they have not licensed or otherwise authorized the Respondent to use their trademark.

iii) The Arbitral Tribunal is satisfied that the Respondent has no rights or legitimate interests in respect of the disputed domain name and, accordingly paragraph 4(ii) of the Policy is satisfied.

(c) Registration and Use in Bad faith:

i) Paragraph 6 of the Policy provides the circumstances evidencing registration and use of a domain name in bad faith are that, by using the same, the Respondent has intentionally attempted to attract, for commercial gain, internet users to the Respondent's web site or other online locations, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's web site or location.

ii) The Respondent has registered the domain name which appears to have been selected precisely for the reason that it is identical or confusingly similar to registered trademarks and trade names of the Complainant. The Respondent has no affiliation with the Complainant. Registration of a domain name that is confusingly similar or identical to a famous trademark by any entity, which



has no relationship to that mark, is itself sufficient evidence of bad faith registration and use.

iii) In view of the submitted evidence and in the specific circumstances of this case, this Arbitral Tribunal draws the inference that Respondent's purpose of registering the domain name was in bad faith within the meaning of the Policy. The Respondent has no legitimate rights or interests in the disputed domain name and there was no real purpose for registering the disputed domain name other than for commercial gains, and that the intention of the Respondent was simply to reap unfair rewards through the sale of the disputed domain name to a competitor or any other person that has the potential to cause damage to the ability of the Complainant to have peaceful usage of the Complainant's legitimate interest in using their own trade names.

In the light of the above, this Arbitral Tribunal finds that the Complainant has established that the disputed domain name was registered and is being used in bad faith.

7. Decision:

For all the foregoing reasons, in accordance with paragraph 10 of the Policy, the Arbitral Tribunal orders that the disputed domain name <volvoce.co.in> be transferred to the Complainant.

Dated at Chennai (India) on this 20th day of July, 2011.


(D.SARAVANAN)
Sole Arbitrator