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(NATIONAL INTERNET EXCHANGE OF INDIA)
ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: SUDARSHAN KUMAR BANSAL
INDRP Case No. 1064

COMPLAINANT
Volvo Trademark Holding AB,
C/o AB Volvo

VERSUS

RESPONDENTS
Yang Xiaobo
Organization : NFLG
And
China SUNIGHT Development Company

ARBITRATION AWARD

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SK Bansal

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ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: SUDARSHAN KUMAR BANSAL

INDRP Case No. 1064

COMPLAINANT

Volvo Trademark Holding AB,
C/o AB Volvo
SE-405 08 Goteborg
Sweden

Through Authorized Representative

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VERSUS

RESPONDENTS

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S.K. Bansal

ARBITRATION AWARD

1. The Complainant is aggrieved by the domain www.volvobus.in registered with sponsoring Registrar GoDaddy.com.LLC in the name of Respondent No.1 and has accordingly made this Complaint seeking the relief that this disputed domain www.volvobus.in be transferred to the Complainant.

2. The Complainant has preferred this Complaint on the basis of its claimed proprietary rights in the trade mark/trade name VOLVO in gist on the following averments :-

2.1 The Complainant is a corporation organized under the laws of Sweden and is involved in maintaining owning protecting and preserving the trade mark/trade name VOLVO and various VOLVO formative trade marks (Collectively VOLVO trade mark/trade name and/or VOLVO trade marks) on behalf of the respective owners and to license these rights to the various companies forming part of the VOLVO Group of companies which include Aktiebolaget Volvo and Volvo Car Corporation which companies are also organized under the laws of Sweden. The functioning of the Complainant is to ensure the global international portfolio of the trade mark registrations secured by such companies forming part of the Volvo Group of companies and which function includes the authority to act against unauthorized registrations, use, counterfeiting of trade marks identical with or similar to the trade mark/trade name VOLVO.

2.2 The Complainant claims to have acquired the VOLVO trade marks through a global deed of assignment from Aktiebolaget Volvo and has become its subsequent proprietor and thereafter has licensed these VOLVO trade marks to the aforesaid two companies of Aktiebolaget

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Volvo and Volvo Car Corporation in relation to their respective businesses.

2.3 According to the Complainant its licensee Aktiebolaget Volvo was incorporated on 5th May, 1915 and which is engaged in the manufacture and trade of a wide range of transportation related products and services which include production distribution of trucks, buses and construction equipment being its core business and in addition is also involved in marine and industrial drive systems and financial services while the company under the name Volvo Car Corporation is engaged in the business of manufacture and trade of cars. In addition thereto the Complainant and its licensees business stretch to a wide range of ancillary products, services and businesses to the aforesaid business. The Complainant and its said licensees (collectively the Complainant and a term that includes its predecessors in-title and interest) is a world leader in heavy commercial vehicles and their business is well acclaimed and well established world over maintaining high standards of safety and quality.

2.4 The Complainant claims to be the owner/proprietor of the trade mark/trade name VOLVO and which VOLVO trade mark/trade name was adopted in the year 1915 by Aktiebolaget Volvo and so used by it and thereafter by various companies forming part of the Volvo Group of companies including by the company under the name of Volvo India Private Limited which is the flagship company of Aktiebolaget Volvo in India in relation to its afore noticed goods and business.

2.5 According to the Complainant its VOLVO trade marks are duly registered in numerous countries of the world including in India under various numbers stretching across numerous classes.

J. K. B. [Signature]

2.6 In addition to its statutory rights in the VOLVO trade mark/trade name the Complainant has claimed to have built up a worldwide valuable trade under its said VOLVO trade mark/trade name and to have acquired immense goodwill and reputation therein and consequently enjoys statutory and common law rights in its VOLVO trade mark/trade name. According to the Complainant its said VOLVO trade mark/trade name and its rights therein have received judicial recognition in India and the said VOLVO trade mark/trade name is a source and quality identifier of its goods and business and is recognized with and as that of the Complainant. The Complainant claims to be successfully protecting and enforcing its said VOLVO trade mark/trade name against third party violative unauthorized use thereof.

2.7 The Complainant including the companies forming part of the Volvo Group have been carrying on the business activities globally and in India in the physical markets as well as through their websites under various domains bearing the VOLVO marks and some such domains are www.volvo.com which was created in the year 1995 and www.volvobuses.in, www.volvobuses.com, www.volvocars.com, www.volvotrucks.com etc. These websites according to the Complainant provide consumers with information and products of the Complainant and the Volvo Group of Companies. The Complainant claims rights in these domains.

2.8 According to the Complainant the Respondent No.1 has registered in its name the disputed domain www.volvobus.in (impugned domain) and the website accessible from the impugned domain reveals Respondent No.2 to be carrying on the business of a wide range of heavy duty construction and industrial machines and equipments including but not limited to Excavators, Bulldozers, Loaders, Rollers & Graders, Forklift, Used Trucks, Used Cranes and other goods and

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services and which business includes marketing advertising and providing information and related services thereon. The impugned domain, the impugned website accessible therefrom and the impugned activities thereon of Respondent No.1 and Respondent No.2 (the Respondent/Respondents) respectively are without the leave and consent of the Complainant, is actuated by bad faith to derive unjust benefit at the expense of the Complainant and thereby resulting in consumer deception and confusion in as much as the impugned domain bears the word/mark VOLVO which is the proprietary trade mark/trade name of the Complainant in its entirety and resultantly making the impugned domain identical with and deceptively similar to the Complainants VOLVO trade mark/trade name and that to in relation to the same/similar/allied/cognate goods and business to that of the goodwill. In gist the Complainant alleges the impugned domain to be in violation of the Complainants statutory and common law rights in the Complainants trade mark/trade name VOLVO.

2.9 By the Respondent impugned domain and activities thereunder loss and injury is being caused to the Complainant and to the Complainants well established VOLVO trade mark/trade name and to the market and trade which is being deceived. According to the Complainant the Respondent has no legitimate rights and interest in the impugned domain which has been malafide adopted by the Respondent and so used by it from the Complainants worldwide prior in use and distinctive VOLVO trade mark/trade name and of which rights of the Complainant the Respondent was always aware of at the time of its impugned adoption and use. According to the Complainant the Respondents impugned adoption and use are solely motivated by malafide intentions of capitalizing upon the goodwill and reputation vested in the Complainants VOLVO trade mark/trade name and Respondent has registered the impugned domain name only for the purposes of

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trafficking and for the sole purpose of causing irreparable damage and injury to the Complainants goodwill and reputation resulting in dilution of the Complainants VOLVO trade mark/trade name.

4. In the Complaint the Complainant has made numerous pleadings in support of its case and in contest of the Respondents impugned domain and activities thereunder as also the Complainant has filed numerous documents being Annexures-A to T all collectively comprising of 816 documents. These pleadings and documents of the Complainant in so far as they are applicable would be dealt in the course of this Award.

5. The .IN Registry appointed me as a Sole Arbitrator to adjudicate this Complaint in accordance with the Arbitration and Conciliation Act, 1996; .IN Domain Name Dispute Resolution Policy; Rules of Procedure and/or bye-laws; rules and guidelines made therein and notified the factum thereof to the Complainant through its authorized representatives as well as to the Respondent No.1 & 2. The .IN Registry appointed me as the sole Arbitrator of this case on 15.01.2019 and served upon me (the sole Arbitrator) Complaint paper book, both in physical set as well as electronically.

6. Thereafter I (Arbitral Tribunal) issued a notice through E-mail dated 18.01.2019 upon the Respondent No.1 & 2, with copy to the Complainant, informing them of my appointment as an Arbitrator and serving upon the Respondent No.1 & 2 therewith the complete set of the Complaint alongwith Annexures A to T all collectively. Vide this notice an opportunity was given to the Respondent No.1 & 2 to file their reply and defences with documents supporting their position within a period of ten (10) days. In this Notice it was also stated that in the event of default

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by the Respondents the Complaint would be decided in accordance with law.

7. The Respondents did not answer the notice dated 18.01.2019 and nor did they submit any response or defence in their support.

8. Thereafter in the interest of justice I (the Arbitral Tribunal) served another notice through E-mail dated 06.02.2019 upon the Respondent No.1 & 2 giving upon them another opportunity of ten (10) days to file their reply and defence with documents, if any, in support of their position. In this notice of 06.02.2019 it was clearly indicated that no further time would be granted and in the event of default I (the Arbitral Tribunal) shall proceed to decide the Complaint in accordance with law.

9. The Respondents did not even respond to this notice dated 06.02.2019 and nor did they submit any reply or response in support of their position.

10. In the aforesaid facts and circumstances and in light of the pleadings and material on record I (the Arbitral Tribunal) now proceed to adjudicate this Complaint.

11. The Complainant has filed vide Annexure-B Colly., a list of 41 VOLVO and VOLVO formative trade marks to be registered in India under the now applicable Trade Marks Act, 1999 and copies of the registration certificates and/or the status reports obtain from the e-records of the Indian Trade Mark Registry. These registrations cover a wide range of goods and services falling in classes 1, 3, 4, 5, 6, 7, 8, 9, 11, 12, 18, 20, 21, 22, 25, 26, 27, 34, 35, 36, 37, 38, 39, 40, 41, 42 and stretch across the years 1975 to 2015.

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11.1 Suffice is to notice the earliest registration which is dated 10.09.1975 for the mark VOLVO under Trade Mark No.308314 in class 7 which is valid/renewed upto 10.09.2020.

11.2 Another registration which can be noticed is dated 15.05.1980 for the word mark VOLVO under trade mark number 361886 in class 12 for the goods land vehicles and parts thereof included in class 12 and valid/renewed till 15.05.2028.

12. These registrations have a presumption of proprietary rights and of validity and the rights conferred thereby have to be upheld and protected [See American Home Products Corporation Vs. Mac Laboratories Pvt. Ltd. & Anr. reported in AIR 1986 SC 137; National Bell Co. Vs. Metal Goods Mfg. Co (P) Ltd. & Anr. reported in AIR 1971 SC 898; Section 2(i) (v), 28 and 29 of the Act].

13. The Complainant's rights title and interests in the Trade Mark VOLVO have been recognized and upheld by the Hon'ble High Court of Bombay and in the Case titled Aktiebolaget Volvo Vs. Volvo Steels Limited reported in 1998 PTC (18) Page 47 (DB) and by the Hon'ble High Court of Delhi in the case titled Aktiebolaget Volvo and Ors versus Malaram Choudhary under Case No. CS (OS) 2177/2008 and I.As 12562, 12564/2008.

13.1 The Hon'ble High Court of Bombay in the afore noticed case has categorically held, inlight of the pleadings and documents placed on record by Aktiebolaget Volvo being the plaintiff in the said proceedings, the Volvo brand name to have acquired a very large reputation and goodwill throughout the world and of the said VOLVO trade mark to be recognized as a distinctive trade mark in India and to have presence in India. The Hon'ble High Court in its very same decision also held the

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word/mark VOLVO to be an invented and a fancy word in the Indian context as to an average Indian the word VOLVO would not mean anything and to whom the said word would not be descriptive word even though the word VOLVO may be a Latin word. In addition the Hon'ble High Court in its said decision also noticed the various trade mark registration for the word VOLVO with the plaintiff including those in class 7 and in class 12 of the then applicable Trade and Merchandise Marks Act, 1958 and one such registration to be of the year 1975. The Hon'ble High Court in the very same decision also noticed the plaintiff therein to be carrying on its business in various corporations and companies called the VOLVO Group of Companies.

13.2. The Hon'ble High Court of Delhi in its decision dated 12.01.2011 in the afore noticed case held the trade mark VOLVO to be well known, well reputed and to be recognized by the members of trade and public to be exclusively associated with the goods and business of the plaintiff therein and of the plaintiff to be the owner of the goodwill and reputation attached to this trade mark. In its said decision the Hon'ble High Court of Delhi also noticed the pronouncement of the Hon'ble High Court of Bombay in the aforesaid decision of Aktiebolaget Volvo Vs. Volvo Steels Limited reported in 1998 PTC (18) Page 47 (DB).

14. The Complainant in the instant complaint has categorically averred to have acquired the VOLVO trade marks through a global Deed of Assignment from Aktiebolaget Volvo and to have thereby become the subsequent proprietor thereof. In some of the Indian trade mark registrations for the word/mark VOLVO the Complainant has been recorded as the subsequent proprietor of the respective registered trade marks by the Registrar of Trade Marks. Some such registrations are under No.308314 in class 7, 361886 in class 12 and as per their e-status obtained from the official website of the Trade Mark Registry and placed

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on record as part of **Annexure-B Colly.** Many of the registrations for the word/mark VOLVO are directly in the name of the Complainant and some such registrations being under No.763288 in class 1, 763291 in class 4, 763296 in class 9, 1240074 in class 35, 1240071 in class 37, 1404133 in classes 1, 2, 3, 4, 6 & 7. The copies of the registration certificates and/or e-status reports in respect of these registrations have also been placed on record as part of **Annexure-B Colly.** Even otherwise these contentions of the Complainant have not been challenged by the Respondent and consequently have to be taken against the Respondent. Consequently the aforesaid two decisions can enure to the Complainants benefits being a successor in-title of Aktiebolaget Volvo.

15. The Complainant has placed on record as **ANNEXURE-J Colly.,** its sale figures generated by its group in India as also all over the world from the year 1992 till 2017 ; its details of publicity expenses incurred globally since the year 2001 and in India since 2007 as **Annexure K & L** respectively. These sales and advertisement figures run into millions of Swedish Kroner. The Complainant has also placed on record as **Annexures-G Colly., Annexure-H Colly., and Annexure-I Colly., Annexure-Q Colly.,** its business literatures extracted from its website/weblink websites www.volvobuses.in , www.volvocars.com and www.volvotrucks.com <https://www.volvotrucks.in/en-in/trucks.html> evidencing its range of products and business, technological advance systems, warranties, its activities including of its activities in India. The Complainant has also placed on record extracts from the WhoIS data base website as **Annexures G, H & I Colly.,** showing the registration pertaining to its various domains bearing the word/mark VOLVO.

16. In light of the aforesaid the findings of the Hon'ble High Court of Bombay and the Hon'ble High Court of Delhi in the afore noticed

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decisions and the afore noticed documents placed on record in these proceedings it can safely be held that the Complainant has been in active business under its trade mark/trade name VOLVO in India as well as in the International markets and enjoys noticeable commercial visibility market presence standing goodwill and reputation in India and in Overseas countries. The Complainant has a huge presence on the internet whereon it has been carrying on its business activities. The Complainants website accessible from its various VOLVO formative domains are easily reached in India. The Complainants said trade mark/trade name VOLVO and activities thereunder satisfies the territoriality test mandated by the Hon'ble Supreme Court of India in its decision of Toyota Jidosha Kabushiki Kaisha vs M/S Prius Auto Industries Limited reported in AIR 2018 SC 167.

17. As per the WhoIS data base search report filed as Annexure-O to the Complaint the disputed/impugned domain name is registered in the name of Respondent No.1 with the sponsoring Registrar with the creation date of 20.07.2018. This impugned domain name registration with the sponsoring Registrar is much subsequent to the various VOLVO trade mark registrations of the Complainant and as noticed above. This is even much subsequent to the Complainant's use of the VOLVO trade mark/trade name as found by the Hon'ble High Court of Bombay and Hon'ble High Court of Delhi in the aforesaid decisions. Resultantly the Complainants VOLVO trade mark/trade name can safely be held to be prior and senior trade marks in its factum existence and use compared to the rival disputed domain.

18. Being an invented and/or fancy trade mark as found by the Hon'ble Bombay High Court in its aforesaid decision the Complainant's VOLVO trade mark even otherwise enjoys inherent distinctiveness and is to be given an expansive scope of protection as the inherent novelty

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attached to a invented/fancy trade mark creates a substantial impact on the consumers mind significance [See Three-n-Products Pvt. Ltd., Vs. Yashwant and Ors., reported in 2002 (24) PTC 518 (Del)] and [See Stork Restaurant Vs. Sahati 166 F.2d 348, 76 USPQ 374 ; Aveda Corp. Vs. Evota Marketing Inc., 706 F. Supp. 1419, 12 USPQ2d 1091].

19. In view of the aforesaid the Complainant in my view has been able to establish its rights and interest in its VOLVO trade mark/trade name and can base successful, cogent and enforceable cause thereon. This is more so as the Respondents have not contested the Complainants said rights and interests.

20. The word/mark VOLVO forms a dominant essential and distinguishing feature of the Respondent's impugned domain and with reference to which it would be accessed or remembered to by an ordinary consumer exercising average caution and such dominant feature is not offset by the suffix "bus" attached to it. In fact the suffix "bus" affixed to the VOLVO mark in the impugned domain only qualifies the nature of the business attached to the VOLVO mark. The Complainant itself owns a domain volvobuses.in registered with the sponsoring Registrar CSC Corporate Domains, Inc., with the creation date of 18.08.2005 and as per the extract from the WhoIS data base search report filed as part of Annexure-G (Colly.) on record. The impugned domain bears the Complainants trade mark VOLVO in its entirety and there being not even a one letter difference. Consequently the impugned domain is identical with and/or deceptively similar to the Complainants trade mark/trade name VOLVO and the Complainants various VOLVO formative domains in each and every manner including phonetically, visually, structurally, conceptually and in its essential features [See B.K. Engineering Company Vs. U.B.H.I. Enterprises

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AIR 1985 Delhi 210 (DB); Kirorimal Kashiram Mktg & Agencies Pvt.Ltd., Vs Shree Sita Chawal Udyog Mill 2010 (44) PTC 293 (Del) (DB); South India Beverages Pvt. Ltd., vs. General Mills Marketing Inc., 2015 (61) PTC 231 (Del) (DB)].

21. The impugned domain in the name of Respondent No.1 is being used in respect of a website of Respondent No.2 whereon Respondent No.2 is carrying on its goods and business of heavy duty construction and industrial machines and equipments including but not limited to Excavators, Bulldozers, Loaders, Rollers & Graders, Forklift, Used Trucks, Used Cranes including their sales and service and which is apparent from the printouts extracted from this website accessible from the impugned domain and filed on record as Annexure-M to the Complaint. The said printouts/extracts also incorporate thereon the pictures of such machines and equipments and the various activities being carried on thereunder. As the impugned website can be actuated by the impugned domain of Respondent No.1 there is a nexus between Respondent No.1 & 2. Respondent No.1 & 2 are referred to as the Respondent/Respondents.

22. In my considered opinion the impugned goods and business of the Respondent is of the same/similar nature to the goods and business of the Complainant in as much as both the competing businesses deal with vehicles and construction equipments and/or can be so used as such. The Respondents impugned goods are covered by the Complainants trade mark registrations for the word/mark VOLVO in class 12 under No.361886 for land vehicles and parts thereof and under No.763280 for cars, buses, trucks, tractor units/prime movers, on and off road vehicles/dump trucks and parts, including components, and accessories to these items which do not pertain to other classis, including vehicles, chassis, engines, starter motors, silencers/mufflers,

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spark eliminators, power transmissions, gearboxes/transmissions, axles, shafts and couplings as well as component parts of these items, all for land vehicles, anti-pollution devices, air pumps, anti-dazzle devices.

23. Such a use by the Respondent would/ could cause deception and confusion in the market and trade which include ordinary users and consumers and can adversely affect the Complainant's rights and standing in the VOLVO Trade Mark-

- (a) Having regard to the close similarity between the rival and competing Trade Mark and domain a mental image would be formed in the minds of an ordinary consumer and to the market and trade suggesting to them the Respondent's impugned domain and the website triggered thereby and the goods and business being carried on thereunder to be that of the Complainant or to be associated, sponsored, affiliated or in some way connected with the Complainant or to be an extension of the Complainant's business or to be licensed by it. Thus the consumers and the market and trade would be deceived/ confused into believing the Respondent or its impugned domain and website and the activities thereunder to be from the source and origin of the Complainant resulting in consumer deception and leading to the formation of an unjust association between the Complainant and the Respondent. [See Montari Overseas Ltd., Vs. Montari Industries Ltd., 1996 (16) PTC 142 Del (DB) ; Ravenhead Brick Company Ltd., Vs. Ruaborn Brick & Tera Cotta Co. Ltd., (1937) 54 RPC 341 (Ch.D) ; Semigres TM (1979) RPC 330].

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- (b) Consumers seeking to access or reach the Complainant or the Complainant's goods or business under the VOLVO Trade Mark on the internet or through the e-commerce systems by use of the disputed domain name would not reach where they intended and instead would reach the Respondent. The Complainant would have no hold over the Respondent or to the nature of the business and activities being carried on by it and would always suffer by any inferior quality of services being offered by them or which do not match those of the Complainant. The Complainant's goodwill and reputation would be at the mercy of the Respondent over whom the Complainant would have no control. The Complainant would suffer by the transfer of traffic and business intended for it by its diversion to the Respondent. **[See Baker Hughes Limited Vs Hiroo Khushalani 1998 (18) PTC 580 (Del)]**.

24. All these violative acts of the Respondent through the disputed domain name would perpetually and irreparably not only tarnish the business of the Complainant but also dilute, diminish, erode and eclipse the goodwill, reputation, distinctiveness attached to the Complainant's prior and senior VOLVO Trade Mark and nullify or seriously interfere with the Complainant's afore-noticed Trade Mark Registrations protected under the Trade Marks Act, 1999. Not only that even the consumers would suffer as they would not get what they expected. By the disputed domain loss and injury would be caused to the Complainant, the Complainant's VOLVO Trade Mark and to the Complainant's business thereunder as also loss and injury would be caused to the innocent and unwary consumers and to the market and trade and all at the behest of the Respondent who by such misrepresentation and deceit would in the process unjustifiably enrich itself. It can safely be taken that the

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Respondent by its impugned domain seeks to earn commercial gains, profits and benefits to itself whether present or prospective to which it would not be entitled to but for the impugned domain.

25. There is a close relationship between Trade Marks and Domain Names. "Trade Marks" are source identifiers of goods or service from a particular source distinguishing them from those of others while "Domain Names" are source identifiers of the business of a particular entity. The basic principles of trade mark and passing off laws apply to domain name disputes [Satyam Infoway Ltd. Vs. Sifynet Solutions Pvt. Ltd., 2004 (28) PTC 566 (SC)]. A right in the Trade Mark and especially in the registered Trade Mark has to be protected even if it is being used as a material part of a rival domain name as a trade mark can be violated by its use as part of a rival domain name. [See Bharti Airtel Limited Vs. Rajiv Kumar-2013 (53) PTC 568(Del); Tata Sons Limited Vs. D. Sharma & Anr.-2011 (47) PTC 65(Del.); Dr. Reddy's Laboratories Limited Vs. Manu Kosuri & Anr.-2001 PTC 859 (Del); Mars Incorporated Vs. Kumar Krishna Mukherjee & Ors.- 2003 (26) PTC 60 (Del)]

26. In my considered view the very adoption of the rival disputed domain by the Respondent is in bad faith, fraudulent, malafide and an act in piracy and there are no elements of good faith or bonafide attached thereto and the Respondent has no right leave aside any legitimate rights or interest in the disputed domain which in addition is also apparent from the following:-

- (a) The Complainant's said VOLVO Trade Mark and its business and activities therein have been extensively written upon and enjoys commercial visibility and presence. The Complainant has huge presence over the internet. The

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Respondent who has registered the impugned domain with the sponsoring Registrar must be well aware of the e-system or why else would it invest in a domain and a website. As such the Respondent must be held to be well aware of the Complainant and the Complainants said VOLVO trade mark and its standing at the time of its impugned adoption of the impugned domain and its registration with it with the sponsoring Registrar.

- (b) The Complainant's said VOLVO Trade Mark is an invented, fancy trade mark, not forming part of the ordinary languages in India and otherwise enjoys global and Indian reputation and goodwill.
- (c) No explanation leave aside any plausible just cogent or credible explanation has been furnished by the Respondent as to how it came upon to adopt the disputed domain bearing the identical VOLVO Trade Mark of the Complainant.

27. As the very adoption of the impugned domain at inception is tainted it cannot be protected by any amount of subsequent use or dealings and it can be justifiably concluded that the Respondent by such an act wanted to encash upon the name and reputation of the Complainant which was the sole primary and real motive of the Respondent in adopting such a impugned violative domain. The Respondent cannot derive any benefit from its own wrong and must be deemed to be aware of the consequences which follow from such a wrongful adoption. **[See M/s Hindustan Pencils Pvt. Ltd. v/s M/s India Stationary Products Company & Anr. Reported in 1989 PTC 61].**

N.K. Jain

28. It can safely be held that the Respondents adoption and alleged use of the disputed domain is without the leave, license or approval of the Complainant. It is highly unlikely for the Complainant to have consented to the adoption and use by a rival business of its strong and well reputed trade mark as part of the rival impugned domain which would prejudice the Complainant itself. This is more so as the Complainant has been regularly and successfully protecting and enforcing its VOLVO trade mark/trade name against the rival third party(s) unauthorized use/applications thereof by way of Civil Suit actions, Complaints before the National Internet Exchange of India (NIXI) ; and through administrative actions in overseas jurisdictions.

28.1 Placed on record as Annexure-E Colly., are copies of interim orders passed by the Hon'ble High Court of Delhi in various different suit proceedings filed by the Aktiebolaget Volvo (predecessor in-title of the Complainant) against different defendants impugning the respective defendants use of the word/mark VOLVO or deceptive thereto in relation to a wide spectrum of goods/services. Some such decisions are those dated 29.10.2018 in C.S. (COMM) 1203/2018 ; dated 02.11.2018 in C.S. (COMM) 1221/2018 ; dated 21.12.2017 in C.S. (COMM) 881/2017 ; dated 15.03.2017 in C.S. (COMM) 196 of 2017 ; dated 30.05.2014 in C.S. (OS) 177/2014 ; dated 09.08.2011 in C.S.(OS) 1033 of 2011

28.2 The Complainant has placed on record as Annexure-F Colly copies of decisions dated 20th July, 2011, 28th November, 2016 and 29th March, 2017 passed in the Complaints filed by the Complainant before the NIXI where rival and violative domains bearing the word/mark VOLVO were ordered to be transferred to the Complainant.

29. In my considered view the Complainant has been able to discharge its onus/burden and has established its proprietary and

S.K. Banerjee

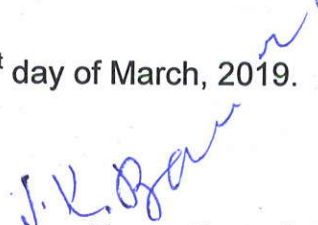
enforceable rights in the VOLVO trade mark/trade name. The Respondent has no legitimate rights or claims on the disputed domain name which is a bad faith domain and by which the rights and standing of the Complainants VOLVO trade mark/trade name are being violated and consumer and market deception ensuing or likely to so ensue.

30. Trade marks, trade names and domains have been accepted to be valuable business assets to be protected against their wrongful adoption and use as rival domains and such violations have to be removed in the interest of the right holder and consumers swiftly and effectively.

31. I have no reservation in holding that the Complaint must be allowed.

Accordingly, it is decided that the disputed domain name www.volvobus.in be transferred to the Complainant.

Signed at New Delhi, India on this 1st day of March, 2019.


Sudarshan Kumar Bansal
Sole Arbitrator