



**IN THE MATTER OF DISPUTED DOMAIN NAME: - 'JAGUAR.CO.IN'  
BEFORE MR.S.C.INAMDAR, B.COM. LL.B., F.C.S.**

**SOLE ARBITRATOR**

**DELIVERED ON THIS 24<sup>th</sup> DAY OF MARCH TWO THOUSAND FIFTEEN  
AT PUNE, INDIA.**

**SUMMARISED INFORMATION ABOUT THE DISPUTE: -**

**01. Names and addresses  
of the Complainants: -**

**Jaguar Land Rover Ltd.**  
Abbey Road, Whitley, Coventry  
CV3 4LF, England, United Kingdom

Through its authorized  
representative

Revanta Mathur  
Anand & Anand  
First Channel, Plot No.17A,  
Sector 16A, Film City  
Noida. India.

**02. Name and address of  
The Respondent: -**

**F.C.Hung**  
Eternal Industrial Co. Ltd.  
Duhui 100B, Hauling North Road,  
Shenzhen, Guangdong  
China.

**03. Calendar of Major events:**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Date (Communications in electronic mode)</b>
01	Arbitration case referred to me & acceptance given by me	06.02.2015
02	Acceptance given by me	09.02.2015
03	Hard copy of complaint received & Notice of Arbitration issued with the instructions to the Respondent to file reply latest by 28.02.2015	18.02.2015
04	Due to non-response of the Registrant / Respondent, date extended suo-motu till 05.03.2015	02.03.2015
05	Since courier containing Notice and Complaint could not be delivered due to wrong address to the Respondent, NIXI sent the same by email on his registered email id	12.03.2015
04	Notice of closure of arbitration	16.03.2015
06	Award passed	24.03.2015

## **I] PRELIMINARY: -**

01. Jaguar Land Rover Ltd. (formerly known as Jaguar Cars Limited and presently a subsidiary of Tata Motors Ltd.) is a British company, which is a leading and highly respected UK based manufacturer of automobiles vehicles including sports utility and four wheel drive vehicles, apart from automobile parts, accessories for automobiles and other non-automotive products such as footwear, clothing, glassware, bottles, pens, pencils, stationery items, sunglasses, umbrellas, mugs, fragrances and a whole range of diverse products and services under its well known trade mark JAGUAR. It was acquired by Tata Motors Ltd. in 2008. **(THE COMPLAINANT)**. The Complainant has filed complaint with National Internet Exchange of India (NIXI) disputing the registration of domain name **JAGUAR.CO.IN (the disputed domain name / domain name)**, through its authorized representative **Revanta Mathur, Anand & Anand, First Channel, Plot NO.17A, Sector 16A, Film City, NOIDA.**

02. The Complainant has disputed registration of domain name 'JAGUAR.CO.IN' in the name of **F.C.Huang, Eternal Industrial Co. Ltd., Duhui 100B, Hauling North Road, Shenzhen, Guangdong, China. (The Respondent / Registrant).**

03. Major events took place as enumerated in the above table.

## **II] PROCEDURE FOLLOWED IN ARBITRAION PROCEEDINGS: -**

01. In accordance with INDRP read with INDRP Rules of Procedure, notice of arbitration, notice of extension for filing reply / say and notice of closure of arbitration proceedings were sent to the Respondent's registered email address.

02. Copies of each communication were marked to other party and also to NIXI.

03. No personal hearing was requested / granted / held.

## **III] BRIEF BACKGROUND OF THE COMPLAINANT: -**

The Complaint is based on the following points / issues in brief: - -

01. The Complainant states that the domain name registered by the Respondent includes the word JAGUAR which is both similar and identical to 'JAGUAR MARKS', registered in several countries all over the world and particularly in India, of which it is the registered owner. A list of such registered trademarks is provided in Annexure to the Complaint, by the Complainant.

02. The Complainant is one of the renowned and leading manufacturer and seller in the areas of automobiles, automobile parts, accessories for automobiles, footwear, clothing, glassware, bottles, pens, pencils, stationery items, sunglasses, umbrellas, mugs, fragrances and a whole range of diverse products and services. The Complainant has global presence with its headquarters in London.

03. The total revenue of the group in the year 2012-2013 was about GBP 13511.7 M.

04. It has its official website [www.jaguar.com](http://www.jaguar.com) and [www.jaguar.in](http://www.jaguar.in) amongst others which include [www.jaguarlandrover.in](http://www.jaguarlandrover.in), [www.jaguarlandrover.com](http://www.jaguarlandrover.com). The

Complainant has online presence in approximately 140 countries and is also the owner of several other country code top level domain names like [www.jaguar.co.uk](http://www.jaguar.co.uk), [www.jaguar.com.au](http://www.jaguar.com.au), [www.jaguar.com.usa](http://www.jaguar.com.usa) etc.

#### **IV) GROUNDS OF COMPLAINT ACCORDING TO INDRP RULES: -**

1. The domain name [www.jaguar.co.in](http://www.jaguar.co.in) is confusingly similar to the Complainant's mark **JAGUAR**. The Registrant's domain name contains the word **JAGUAR** which is an integral part of the brand and its **registered trade / service mark** and which is also identical to that of the Complainant's name and several domain names registered in various countries all over the world, in which the Complainant has rights. It would confuse the customers in India due to this similarity. The Trademark 'JAGUAR' has acquired tremendous fame, recognition and goodwill worldwide and is exclusively associated with the Complainant only. The Complainant is also lawful owner of the website [www.jaguar.com](http://www.jaguar.com) and [www.jaguar.in](http://www.jaguar.in) therefore it is more likely that the disputed domain name would confuse the internet users. It is now well established principle that mere addition / change in the suffix such as .in, .co.in, .org etc. would not differentiate the domain name.
2. The term **JAGUAR** has been used by the Complainant continuously for a number of years as it is associated exclusively with the complainant.
3. The Registrant / Respondent has no rights or legitimate interests in respect of the domain name [www.jaguar.co.in](http://www.jaguar.co.in). The Respondent has no proprietary or contractual rights in whole or in part to the disputed domain name. The Complainant has never authorised the Registrant to use its name partly or fully. The name of the Respondent is F.C.Huang which is not similar to the disputed domain name.
4. The Complainant became aware about the disputed domain name in or around September 2014. The Complainant therefore sent a demand letter dated November 03, 2014 to Mr.Anand Saraf of Beyondinfinite.com, Semiconductor Pvt. Ltd. at the address indicated at the Domain Registry since his details were appearing in the Registrant Details for the domain name. Mr.Saraf informed the Complainant that they own a dedicated server and have many private clients for whom they register websites and hosting services and have asked their client to change the Whois details with email id and phone number so that they could be contacted directly about this matter.

The Whois details were updated on 10th November 2014 and 6th January, 2015. Accordingly demand letter was sent by the Complainant to F.C.Huang via courier and email at the address mentioned in the Whois records updated on 10th November 2014. The letter sent to F.C.Huang via courier was returned undeliverable with a marking that the address is incomplete. Email and subsequent electronic reminders were not responded by F.C.Huang.

5. The Respondent is not making a legitimate non-commercial use of the domain name. The Respondent is not engaged in any such activity to show that it has legitimate interest in the impugned domain name. The Respondent is merely

blocking the website of the Complainant as the same remains inactive by not making a legitimate non-commercial or fair use of it.

6. The Respondent has registered the disputed domain name in bad faith. It can be reasonably inferred that the Respondent had knowledge of the Complainant's trademark at the time it registered the impugned domain name on 25th February 2005.

**VI] REMEDIES SOUGHT BY THE COMPLAINANT: -**

On the background of the Complaint and reasons described therein the Complainant has requested for transfer of the Registrant's domain name to it and heavy costs of the proceedings.

**VII] REPLY TO THE COMPLAINT / STATEMENT OF DEFENSE: -**

The Respondent / Registrant has failed / neglected to file any reply / say to the Complaint / Notice of Arbitration.

**VIII] REJOINDERS OF THE PARTIES: -**

In view of non-filing of any reply by the Registrant no rejoinders were called for.

**IX] ISSUES & FINDINGS: -**

On the basis of the policies and rules framed by NIXI in respect of dispute resolution as also on the basis of submissions of both the parties I have framed following issues. My finding on each issue is also mentioned against it respectively.

S. NO.	ISSUE	FINDING
01	Does the Complainant have trade mark or service mark directly related to the disputed domain name?	Yes
02	Whether the Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights?	Yes
03	Whether the Registrant is owner of trade mark or service mark corresponding to the disputed domain name?	No
04	Whether the Registrant has commonly been known by the domain name?	No
05	Whether the Registrant has any legitimate interests in the disputed domain name?	No
06	Whether the Registrant's domain name has been registered or is being used in bad faith?	Yes
07	Has the Registrant 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?	Yes
08	Whether the Registrant has intentionally attempted to attract internet users to the Registrant's website or other online location by creating likelihood of confusion with the Complainant's name or	Yes

	mark?	
09	Whether the Registrant has registered the disputed domain name for selling or otherwise transferring it for valuable consideration?	Yes

**IX] BASIS OF FINDINGS: -**

**The Registrant / Respondent has not bothered or has neglected / failed to file any say / reply to the Notice of Arbitration and other communications. Any prudent person, having legitimate interests and rights in the disputed domain name, would have come forward to defend his case and protect his rights / interests. It is also a well settled legal principle that silence amounts to acceptance of the allegations. The mere act of the Registrant of not responding at all, in itself, is evident of the fact that he is well aware that he has no legitimate rights in the disputed domain name.**

**The above findings are based on the complaint filed by the Complainant and its annexures: -**

1. Does the Complainant have trade mark or service mark directly related to the disputed domain name?

The Complainant has stated that it owns the brand JAGUAR and its subsidiary / affiliate companies. It has attached copies of the said trade / service marks registered in its name, including in India.

*Therefore my finding on this issue is in affirmative.*

2. Whether the Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights?

The word 'JAGUAR' is an integral / prominent component of subject domain name which is also an integral / prominent component of the registered Trademarks of the Complainant. It is well established beyond doubt by several arbitral decisions in India as also WIPO cases that mere addition of suffix like .in / .org does not differentiate the domain name from the registered trade / service marks or rights therein. Looking at the stature of the Complainant, its global presence as also its strong presence on the internet it is very hard to believe that the Registrant was not aware of the same.

Against this the Respondent has not claimed having any registered trade mark or service mark consisting of the word 'JAGUAR'.

*Therefore my finding on the first issue is affirmative.*

3. Whether the Registrant is owner of trade mark or service mark corresponding to the disputed domain name?

The Registrant has not filed any reply / say to the Notice of Arbitration / Complaint. It is therefore required to be presumed that the Registrant has no trade mark or service mark corresponding to the disputed domain name.

***Therefore my finding on this issue is in negative.***

4. Whether the Registrant has commonly been known by the domain name?

The name of the Present Registrant, as available on the Whois records is F.C.Huang. As such, there is no possibility of his being known with the name JAUGAR contained in the disputed domain name.

***Therefore my finding on this issue is in negative.***

5. Whether the Registrant has any legitimate interest in the disputed domain name?

The Registrant has no registered trademark or service mark which includes the words 'JAGUAR'. He is not commonly known by that name or any variation or combination thereof. He has not established that he has been using the registered domain name for bona fide business activities or for non-commercial purpose. He is not authorised / permitted by the Complainant to use the said name. He has not shown any other nexus with the disputed domain name or any authority by the Complainant in this behalf.

***Therefore my finding on this issue is negative.***

6. Whether the Registrant's domain name has been registered or is being used in bad faith?

The domain name is registered by the Registrant, without any authority, agreement or arrangement between the Complainant and the Registrant. Upon attempting to go to the website, the message is flagged as webpage is not available. Therefore there is strong room to believe that the Registrant has registered the disputed domain name in order to make money illegally.

***Therefore my finding on this issue is affirmative.***

7. Has the Registrant 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?

The act of the Registrant or registering the disputed domain name without any authority, similar trade mark or service mark registered in its name has automatically resulted into denial to the Complainant of its lawful rights to register and use the disputed domain name for its legitimate business purposes.

***Therefore my finding on this issue is in affirmative.***



8. Whether the Registrant has intentionally attempted to attract internet users to the Registrant's website or other online location by creating likelihood of confusion with the Complainant's name or mark?

The website is not functional and while making attempt to visit it a message appears that the webpage is not available. It is an act of mere blocking the disputed domain name and to make money illegally, either by selling it to the Complainant or to some other prospective buyer.

*Therefore my finding on this issue is affirmative.*

9. Whether the Registrant has registered the disputed domain name for selling or otherwise transferring it for valuable consideration?

The Complainant has not claimed that there was any express demand of money made by the Registrant to the Complainant. However it is very likely that this might happen in future if the Complainant does not preventive steps.

*Therefore my finding on this issue is positive.*

#### **XI] CONCLUSION AND BASIS OF AWARD: -**

From above discussion this panel has reached the conclusion that: -

1. The disputed domain name includes the word JAGUAR which is an integral part of the registered trade-marks and registered domain names of the Complainant. It means the Complainant's rights, interests and reputation are at stake in the disputed domain name.
2. The Registrant / Respondent does not have any registered trade mark / service mark in his name containing the words 'JAGUAR '. There is no authority given by the Complainant to the Registrant to use the disputed domain name. Hence the Registrant does not have any legitimate interest in the same.
3. The Registrant is not commonly known by the disputed domain name.
4. The Registrant is not making bona fide and fair use of the disputed domain name, much less for non-commercial purpose.
5. The Respondent / Registrant has failed to establish any nexus, rights or interests in or with the disputed domain name in any way.

From all findings on the issues framed, it can be concluded that the Registrant has registered domain name without any right or legitimate interest in it.

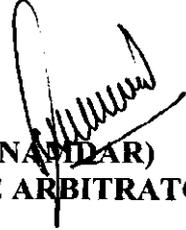


**XIJ AWARD: -**

On the basis of my findings on issues framed as above and foregoing discussion I pass the following award: -

- 01. The Complainant is entitled to the disputed domain name – 'JAGUAR.CO.IN' and hence the same be transferred to the Complainant.**
- 02. The Registrant / Respondent shall pay to the Complainant, all costs of these proceedings and relevant expenses.**

Dated: - 24.03.2015  
Place: - Pune

  
**(S.C. INADAR)**  
**SOLE ARBITRATOR**