

Bond



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Haryana Government**



Date :04/07/2019

Certificate No. G0D2019G2385

GRN No. 49828968



Stamp Duty Paid : ₹ 101  
(Rs. Only)

Penalty : ₹ 0  
(Rs. Zero Only)

**Deponent**

Name: C A Brijesh

H.No/Floor : Na

City/Village : Gurugram

Phone : 0

Sector/Ward : 27

District : Gurugram

Landmark : Millenium plaza

State : Haryana

Purpose : AWARD to be submitted at Others



**BEFORE THE SOLE ARBITRATOR C.A. BRIJESH**

**.IN REGISTRY**

**C/o NIXI (NATIONAL INTERNET EXCHANGE OF INDIA)**

**NEW DELHI, INDIA**

**Société Anonyme des Galeries Lafayette**

40, boulevard Haussmann

75009- PARIS

France

**.... Complainant**

## Versus

### **Ding RiGuo**

Ding RiGuo

8F, No. 199 Shifu Road

Taizhou

Zhejiang

318000

China

.... Respondent

### **1. The Parties**

The Complainant is Société Anonyme des Galeries Lafayette, a French company, which has its registered office located 40 Boulevard Haussmann, 75009 Paris, France. (hereinafter collectively referred to as the **Complainants** or **Galeries Lafayette**).

The Respondent is **Ding RiGuo**, based in Zhejiang, China (hereinafter the **Respondent**).


### **2. The Domain Name and Registrar**

The disputed domain name is <galerieslafayette.co.in>. The Registrar with which the Domain Name is registered is **Endurance Domains Technology LLP**.

### **3. Procedural Timeline**

**April 29, 2019** The .IN Registry appointed Mr. C. A. Brijesh as Sole Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of Procedure.

**April 30, 2019** Arbitrator accorded his consent for nomination as Arbitrator and submitted Statement of Acceptance and Declaration of Impartiality and Independence to the .IN Registry.

- May 05, 2019** Parties to the dispute are informed of the constitution of the Arbitration panel and the effective date of handover.
- May 06- 07, 2019** NIXI forwarded a soft copy of the Complaint alongwith the annexures to the Respondent with a copy marked to the Complainant's Authorised Representative and Arbitral Tribunal.
- May 07, 2019** Arbitral Tribunal addressed an email to the Respondent, with a copy marked to the Complainant's Authorised Representative and NIXI, directing the Respondent to file its response, if any, in 10 days.
- May 09, 2019** NIXI informed the Arbitral Tribunal that the courier agency was unable to deliver the hard copy of Complaint to the Respondent and requested for alternative contact number.
- May 11, 2019** The Tribunal addressed an email to NIXI with the contact details of the Respondent as available in the WHOIS records as well as the complaint.
- May 16, 2019** NIXI informed the Arbitral Tribunal that the courier agency was unable to deliver the hard copy of Complaint to the Respondent since the Respondent refused to accept the consignment.
-  **May 17, 2019** NIXI confirmed that the emails of NIXI dated May 06, 2019 and May 07, 2019 did not bounce back nor any delivery failure intimation was received by them.




**May 18, 2019** Since the Respondent refused to accept the hard copy of the Complaint forwarded to it *via* courier and the electronic copy of the Complaint along with annexures forwarded to the Respondent at its email address mentioned in the WHOIS records on May 06, 2019 and May 07, 2019 were successfully delivered to the Respondent, the said emails were considered as deemed service to the Respondent. The Tribunal intimated the parties that an Award shall be passed on the basis of the material available on record.

The language of the proceedings shall be English.

#### **4. Factual Background**

##### **4.1. Complainant's Activities**



The Complainant states that it is the owner of famous fashion stores in particular in Paris, France in which it offers a wide range of products and services to customers including various kinds of clothes, shoes and accessories, wedding lists and birth lists. Further it is stated that, Galeries Lafayette continues to develop today, retaining strong family roots while cultivating the values that shaped its birth and still anchor its foundations. It is also claimed that the Galeries Lafayette Group promotes the French “art de vivre” through gastronomy and art, and is known throughout the world and all the way to India as “a high-end retailer”- to use the words of Hindustan Times- India’s second largest daily newspaper.

##### **4.2. Complainant's use of ‘GALERIES LAFAYETTE’**

It is stated that Theophile Bader and Alphonse Kahn founded Galeries Lafayette more than a century ago in 1895. For more than a century Galeries Lafayette has interpreted trends and mirrored lifestyles, proudly revealing new talents alongside

perennial favourites for fashion that is more alive than ever. It is claimed that the Group Galeries Lafayette owns 280 stores located in France and all over the world attracting 1 Million persons per day with the retail sales of 4.5 billion of Euro. Galeries Lafayette owns the website [www.galerieslafayette.com](http://www.galerieslafayette.com) through which Internet users can quickly and easily find its stores. Complainant mainly communicates through this website.

#### **4.3 Complainant's Trade Mark 'GALERIES LAFAYETTE'**

The Complainant claims to have registered its trade mark 'GALERIES LAFAYETTE' in numerous countries of the world including India. In European Union, the trade mark 'GALERIES LAFAYETTE' is claimed to be registered under No. 003798147 since May 19, 2006 with date of application going back to April 27, 2004 in Classes 3, 4, 5, 7, 8, 9, 11, 14, 15, 16, 18, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, 33, 35, 36, 37, 38, 39, 41, 42, 43, 44 and 45. Complainant also claims to hold International trademark registration for the mark "GALERIES LAFAYETTE" under no. 553543 since April 12, 1990 in classes 1 to 42, *inter alia* protected in China. In India, the Trade Mark 'GALERIES LAFAYETTE' is claimed to be registered under No. 3903335 since July 31, 2018 in Classes 3, 18, 25 and 35.

#### **4.4 Respondent's activities and its use of 'GALERIES LAFAYETTE'**

In 2012, the disputed domain name <[galerieslafayette.co.in](http://galerieslafayette.co.in)> was resolved to a parking page and was offered for sale on SEDO for USD 3000. Complainant addressed a cease-and-desist letter to Respondent (ANNEX 4) requesting the transfer of the disputed domain name to Complainant. The letter remained unanswered. Thereafter, the disputed domain name resolved to a Chinese website for adults. Online games were also offered on the aforementioned website



(ANNEX 1). On February 01, 2019, Complainant sent a cease and desist letter to the Registrar *via* registered letter and e-mail on the basis of its trademark rights (ANNEX 5). The cease and desist letter requested to Registrar the blocking of the disputed domain name. Despite several reminders, the letter remained unanswered. Complainant sent, on the same date, a cease-and-desist letter to Nobis Technology Group, LLC, the company hosting the IP address where the website was located. The cease and desist letter requested the deactivation of the website (ANNEX 6). After several reminders, Nobis Technology Group, LLC answered to acknowledge Complainant's request and informed Complainant about the beginning of the deactivation process (ANNEX 7). Hence, the disputed domain name currently resolves to an inactive page (ANNEX 1). Since Respondent could activate website through another hosting provider at any moment, Complainant initiated an INDRP procedure against Respondent in order to obtain the transfer of the disputed domain name.



Given that the Respondent has not furnished a response to the Complaint, no further information is available on its business activities and/or its use of the domain comprising the mark/name GALERIES LAFAYETTE.

## **5. Contentions of Parties as summarised in the pleadings**

### **5.1 Complainant**

a) The domain name registered by Respondent is identical to the trademarks of Complainant (para.4 (i); Rules, para. 3(b)(vi)(1) of the .IN Policy)

- i. Complainant and its trademark GALERIES LAFAYETTE enjoy a worldwide reputation. As mentioned above, Complainant owns

numerous GALERIES LAFAYETTE trademark registrations across the world (ANNEX 8). Details of few such registrations are as given below:

- In European Union, the trade mark 'GALERIES LAFAYETTE' is claimed to be registered under No. 003798147 since May 19, 2006 with date of application going back to April 27, 2004 in Classes 3, 4, 5, 7, 8, 9, 11, 14, 15, 16, 18, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, 33, 35, 36, 37, 38, 39, 41, 42, 43, 44 and 45.
- International trademark registration for the mark "GALERIES LAFAYETTE" under no. 553543 since April 12, 1990 in Classes 1 to 42, *inter alia* protected in China.
- In India, the Trade Mark 'GALERIES LAFAYETTE' is claimed to be registered under No. 3903335 since July 31, 2018 in classes in Class 3, 18, 25 and 35.



- ii. In addition, Complainant operates, among others, the domain name <galerieslafayette.com> reflecting its trademarks in order to promote its services (ANNEX 8).
- iii. The Complainant submits that disputed domain name is identical to Complainant's trademark GALERIES LAFAYETTE. Further, it is submitted by Complainant that the disputed domain name reproduces Complainant's trademark GALERIES LAFAYETTE in its entirety, which previous panels have considered to be well-known (WIPO Case No. D2010-1236, Societe Anonyme des Galeries Lafayette v. Charlie Kalopungi/ Moniker Privacy Services, Registrant [2997295], WIPO



Case No. D2005-0474, Société Anonyme des Galeries Lafayette v Anne-Isern-Gagniere, WIPO Case No. D2005-0236, Société Anonyme des Galeries Lafayette v SARL Impedance, WIPO Case No. D2009-0904, Société Anonyme des Galeries Lafayette and Galeries Lafayette Voyages v. Domains By Proxy, Inc./Reinhard Herrmann, WIPO Case No. DMA2010-0001, Société Anonyme Des Galeries Lafayette v Monsieur Abdesslam Mekouar). Complainant also submitted that in many WIPO decisions, Panels have considered that the incorporation of a trademark in its entirety may be sufficient to establish that a domain name is identical or confusingly similar to Complainant's registered mark (WIPO Case No. D2011-0800, ECCO Sko A/A v. Jacklee, WIPO Case No. 2010-0335, The Coca Cola company v. PrivacyProtect.org / Acosta Jose Julian and WIPO Case No. D2010-1059, RapidShare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin). It is further submitted by the Complainant that the domain name <galerieslafayette.co.in> is identical to Complainant's trademark GALERIES LAFAYETTE in so far that it is composed solely of the Complainant's trademark. Thus, the trademark GALERIES LAFAYETTE stands out in the disputed domain name. The disputed domain name <galerieslafayette.co.in> has been registered in the TLD ".co.in". The presence of the suffix "co.in" is not to be taken into account when assessing the likelihood of confusion between Complainant's trademark and the disputed domain name. Indeed, it is well established in domain name cases that the suffix to indicate the top level of the domain name, such as ".in" or ".co.in", has to be disregarded





for the purpose of determining whether the domain name is identical or confusingly similar to Complainant's trademark (INDRP Dispute Decision n°L-2/1/R1 <Pepsico.in> decided on April 24, 2006; INDRP Dispute Decision n°L-2/1/R4 <Mothercare.in> decided on April 27, 2008 ; INDRP Dispute Decision n°L-2/9/R4 <sensex.in> decided on August 17, 2008).

- iv. Complainant claims to have used the trademarks GALERIES LAFAYETTE in connection with a wide variety of products and services around the world (ANNEX 3). Consequently, the public has learnt to perceive the goods and services offered under these trademarks as being those of Complainant. It is submitted by Complainant that the public would reasonably assume that the disputed domain name belongs to Complainant or is at least, related to Complainant. Accordingly, with the registration of the disputed domain name, Respondent created a likelihood of confusion with Complainant's trademarks. It is likely that this domain name could mislead Internet users into thinking that this is, in some ways, associated with Complainant and thus may heighten the risk of confusion.
- v. For all of the above-mentioned reasons, the Complainant contends that the disputed domain name is identical to the trademarks GALERIES LAFAYETTE in which Complainant has rights, and therefore the condition of Paragraph 4(i) of the .IN Policy is fulfilled.




b) Respondent has no rights or legitimate interests in respect of the domain name (Paragraph 4 (ii) and Paragraph 7; Rules, paragraph 3(b)(vi)(2) of the .IN Policy)

- i. It is the contention of the Complainant that Respondent is neither affiliated with Complainant in any way nor has he been authorised or licensed by Complainant to use and register its trademarks, or to seek registration of any domain name incorporating the previously mentioned trademarks. In addition, Respondent is not known or have never known by the name GALERIES LAFAYETTE.
- ii. The Complainant contends that Respondent has no prior rights or legitimate interests in the disputed domain name. The registration of the GALERIES LAFAYETTE trademarks preceded the registration of the disputed domain name for years (ANNEXES 1 and 8).
- iii. It is further submitted by the Complainant that the domain name in dispute is identical to the famous GALERIES LAFAYETTE trademarks of Complainant. Therefore, Respondent cannot reasonably pretend that the registration of the disputed domain name is aimed to develop a legitimate activity.
- iv. The Complainant contends that in previous WIPO decisions, Panels found that in absence of any license or permission from the Complainant to use such widely known trademarks, no actual or contemplated *bona fide* or legitimate use of the domain name could reasonably be claimed (WIPO Case No. D2013-0188, *Groupe Auchan v. Gan Yu*; WIPO Case





No. D2010-0138, *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*).

- v. It is further submitted by the Complainant that Respondent did not demonstrate use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Further, the disputed domain name previously resolved to a Chinese website for adults. Currently, the domain name resolves to an inactive page (ANNEX 1). It is contended that the Respondent failed to show the bonafide intention or the fair use of the disputed domain name. It submitted by the Complainant that in all likelihood Respondent has no legitimate interest or rights in the disputed domain name.
- vi. It is further submitted by Complainant that the Respondent appears to be a cyber-squatter as he has been a Respondent in another INDRP Complaint evidencing that he lacks rights and legitimate interest in the disputed domain name (ANNEX 9).
- vii. The Complainant contends that for all of the above-cited reasons, Respondent has no rights or legitimate interests in respect to the domain name in dispute under Paragraph 4(a)(ii) of the Policy.
- c) The domain name has been registered or is being used in bad faith (Paragraph 4(iii) and Paragraph 6; ; Rules, paragraph 3(b)(vi)(3) of the .IN Policy)
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- i. The Complainant asserts that it is implausible that Respondent was unaware of Complainant when he registered the disputed domain name. Bad faith can be found where respondent “knew or should have known” of Complainant’s trademark rights and, nevertheless registered a domain name in which he had no rights or legitimate interests (WIPO Case No. D2009-0320, *Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*; WIPO Case No. D2009-0113, *The Gap, Inc. v. Deng Youqian*).
- ii. It is contended that the Complainant is well-known throughout the world (ANNEX 3). Further, in many WIPO decisions Panels considered that Complainant’s GALERIES LAFAYETTE trademark is also widely-known (ANNEX 8).
- iii. The Complainant submits that the disputed domain name reproduces entirely Complainant’s trademarks namely, GALERIES LAFAYETTE (ANNEXES 1 and 8). Therefore, it is impossible that Respondent was not aware of Complainant’s trademarks and activities at the time of the registration of the disputed domain name. It is further submitted that bad faith is present where a domain name is so obviously connected with a well-known trademark that its very use by someone with no connection to the trademark suggests opportunistic bad faith (WIPO Case No. D2010-0494, *LEGO Juris A/S v. Reiner Stotte*, WIPO Case No. D2006-0303 *Sanofi-Aventis v. Nevis Domains LLC*). Further, it is contended that a quick GALERIES LAFAYETTE trademark search would have revealed to Respondent the existence of Complainant and its trademarks. Respondent’s failure to do so is a contributory factor to its bad faith (WIPO Case No. D2008-0226, *Lancôme Parfums et Beauté & Cie, L’Oréal v. 10 Selling*). The Complainant contends that supposing that






Respondent was not aware of the possibility of searching trademarks online before registering a domain name, a simple search *via* Google or any other search engine using the keyword “GALERIES LAFAYETTE” would have demonstrated that all first results relate to Complainant’s field of activities or news (ANNEX 10). Further, it is contended that the domain name previously directed towards a Chinese website for adults (ANNEX 1), which does not constitute good faith use of the domain name (WIPO Case No. D2016-1100, AREVA Société Anonyme à Directoire et Conseil de Surveillance v. wangyongqiang). Therefore, it is more likely than not, that Respondent’s primary motive in registering and using the disputed domain name was to capitalise on or otherwise take advantage of Complainant’s trademark rights, through the creation of initial interest of confusion.

- iv. The Complainant asserts that the Domain Name was registered and is being used in bad faith in accordance with Paragraph 4(iii) of the .IN Policy and that in such cases the Panel must give close attention to all the circumstances of Respondent’s behaviour (WIPO Case n° D2000-0003, *Telstra Corporation Limited v. Nuclear Marshmallows*).

## 5.2 Respondent

As per the INDRP Rules of Procedure, NIXI has forwarded a copy of the Complaint alongwith all annexures to the Respondent on May 06- 07, 2019 with a copy marked to the Complainant and this Arbitral Tribunal.

 On May 07, 2019, this Tribunal issued a notice to the Respondent directing it to file a response within 10 days. However, no response was received from the Respondent.

Absent a response from the Respondent thereto or any intimation by the Respondent of its desire to furnish a response and its refusal to accept the hard copy of complaint, the matter has proceeded *ex-parte*.

## **6. Discussion and Findings**

As per paragraph 4 of the .IN Domain Name Dispute Resolution Policy (INDRP), any person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

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

Based upon the pleadings, it is required to be examined as to whether the parties have been able to justify/rebut the aforesaid premises:

### **6.1 Identical or confusingly similar trade/service mark**

As per the WHOIS records, the disputed domain name <gallerieslafayette.co.in> was registered on March 04, 2012.

The Complainant is the proprietor of the registered trade mark GALERIES LAFAYETTE in diverse classes and has applications/registrations for the mark GALERIES LAFAYETTE in various jurisdictions of the world. To substantiate the same, the Complainant has placed on record copies of registration certificates for the trade mark GALERIES LAFAYETTE in several countries across the



world. Details of trade mark registrations prior to the registration of the domain name by the Respondent are as given below:

- In European Union, the trade mark 'GALERIES LAFAYETTE' is claimed to be registered under No. 003798147 since May 19, 2006 with date of application going back to April 27, 2004 in Classes 3, 4, 5, 7, 8, 9, 11, 14, 15, 16, 18, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, 33, 35, 36, 37, 38, 39, 41, 42, 43, 44 and 45.
- International trademark registration for the mark "GALERIES LAFAYETTE" under no. 553543 since April 12, 1990 in Classes 1 to 42, *inter alia* protected in China.
- In India, the Trade Mark 'GALERIES LAFAYETTE' is claimed to be registered under No. 3903335 since July 31, 2018 in classes in Class 3, 18, 25 and 35.

Complainant has also filed a representative list of its trademark registrations obtained in numerous countries. Further, the Complainant also claims to own the domain name <galerieslafayette.com> which was registered on January 08, 1997. It claims to have been substantially and continuously using the mark/name GALERIES LAFAYETTE in relation to its business/products/services.

The disputed domain name incorporates the mark GALERIES LAFAYETTE in its entirety. It has been held in *Inter-Continental Hotels Corporation vs. Abdul Hameed* (INDRP/278) as well as in *Indian Hotels Company Limited vs. Mr. Sanjay Jha* (INDRP/148) that when a disputed domain name incorporates a mark in entirety, it is adequate to prove that the disputed domain name is either




identical or confusingly similar to the mark. Similarly, in case of *Farouk Systems Inc. vs. Yishi*, WIPO Case No. D2010-006, it has been held that the domain name wholly incorporating a Complainant's registered mark may be sufficient to establish identity or confusing similarity, despite the additions or deletions of other words to such marks.

As can be seen from above, the Complainant has registered the domain name <gallerieslafayette.com> since August 1, 1997 and is doing/operating business/website under the said domain name. The Respondent on the other hand registered the domain <gallerieslafayette.co.in> much subsequent to the Complainant.

In the view of the foregoing discussions, the Complainant has satisfied this Tribunal that:

- i. The domain name in question <gallerieslafayette.co.in> is phonetically as well as visually identical to the Complainant's prior registered trade mark GALERIES LAFAYETTE and that the ccTLD "co.in" does nothing materially to distinguish the same from Complainant's mark GALERIES LAFAYETTE; and
- ii. It has both prior statutory and proprietary rights in respect of the mark GALERIES LAFAYETTE.

## **6.2 Rights and legitimate interests**

 The Complainant has asserted that the Respondent has no rights or legitimate interests in the disputed domain name. Paragraph 7 of the INDRP enumerates three circumstances (in particular but without limitation) and if the Arbitrator



finds that the Registrant has proved any of the said circumstances, the same shall demonstrate its rights to or legitimate interest in the disputed domain name. The said paragraph is reproduced herein under:

***“Registrant's Rights to and Legitimate Interest in the Domain Name*** - Any of the following circumstances, in particular but without limitation, if found by the Arbitrator to be proved based on its evaluation of all evidence presented, shall demonstrate the Registrant's rights to or legitimate interest in the domain name for the purposes of Paragraph 4 (ii):

- i. Before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name with a bona fide offering of goods or services;
- ii. The Registrant (as an individual, business, or other organisation) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or
- iii. The Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Respondent ought to have been aware of the reputed mark/name GALERIES LAFAYETTE of the Complainant. There is no documentary evidence to suggest that the Respondent has used or made demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with bonafide offering of goods/services; or is commonly known by the disputed




domain name; or has made fair use of the domain name. On the other hand, Respondent's domain name <gallerieslafayette.co.in> redirects to Chinese website for adults. Screenshots evidencing the same have been filed by Complainant. Complainant has alleged that such redirecting of domain name to dynamic advertising websites is to clearly obtain financial gain.

Further, as observed by the panel in the case of *International Hotels v. Abdul Hameed* (INDRP/278), it is well established, that trade mark registration is recognised as *prima facie* evidence of rights in a mark. Complainant, in the instant case, is the owner of the registered trademark GALERIES LAFAYETTE in various jurisdictions in the world; has a '.com' registration for the same since 1997; and thus has sufficiently demonstrated its rights in the trade mark GALERIES LAFAYETTE.

Further, it is a settled position that if the Respondent does not have trade mark right in the word corresponding to the disputed domain name and in the absence of evidence that the respondent was commonly known by the disputed domain name, the Respondent can have no right or legitimate interest [See *Shulton Inc. vs. Mr. Bhaskar*, INDRP/483- <'oldspice.in'>].

In view of the foregoing, it is evident that Respondent has no rights or legitimate interests in the disputed domain name.

### 6.3 Bad faith



Paragraph 6 of the INDRP enumerates the circumstances evidencing registration and use of domain name in bad faith. The said paragraph is reproduced herein under:




*"Evidence of Registration and use of Domain Name in Bad Faith:* For the purposes of Paragraph 4(iii), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:

- i. Circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or
- ii. the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or
- iii. by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location."



The following clearly establishes bad faith:

- (i) From the records, it appears that by registering the impugned domain name, the Respondent has attempted to attract internet users thereby creating likelihood of confusion with the Complainant's mark/source of origin. See *Colgate – Palmolive Company and Colgate – Palmolive (India) Ltd. v. Zhaxia*, INDRP/887 (<colgate.in>).
- (ii) The Respondent appears to be a cyber-squatter as he has been the respondent in at least one other Dispute Resolution Procedure before. Such abusive domain name registrations, undoubtedly, is a strong indication of bad faith. See *Microsoft Corporation v. Gioacchino Zerbo*, WIPO Case No. D2005-0644 (<internetexplorer.com>); *Southern Communications Services, Inc. d/b/a Southern LINC v. Henry Chan* (WIPO Case No. D2004-0214)- “Cyberpirates may attempt to warehouse multiple domain names containing other's marks, sometimes hundreds or even thousands, and this factor permits a court to take such conduct into the consideration of whether a certain domain name was registered in bad faith.”
- (iii) In 2012, the disputed domain name <gallerieslafayette.co.in> was resolved to a parking page and offered for sale on SEDO for USD 3000 which clearly depicts Respondent's intent to sell the disputed domain name <gallerieslafayette.co.in> for valuable consideration in excess of the Registrant's out-of-pocket costs related to the registration of the domain name. See *Wacom Co. Ltd. v. Liheng*, INDRP/634 (<wacom.in>).
-  (iv) The disputed domain name previously resolved to a Chinese website for adults and currently, the domain name resolves to an inactive page. Thus,



Respondent use of the deputed domain name cannot be construed as a bona fide use.

In view of the foregoing, the panel is of the view that Respondent has registered the domain name <gallerieslafayette.co.in> in bad faith.

**7. Award**

From the foregoing findings, it is established beyond doubt that (1) the domain name is confusingly similar to the mark GALERIES LAFAYETTE which is proprietary to the Complainant, (2) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and (3) the domain name is registered in bad faith.

Thus, in accordance with the Policy and Rules, this Arbitral Tribunal directs the Respondent to immediately transfer the disputed domain name <gallerieslafayette.co.in> to the Complainant.

The parties shall bear their own cost.

**Dated:** July 05, 2019



**C.A. Brijesh**  
Sole Arbitrator