



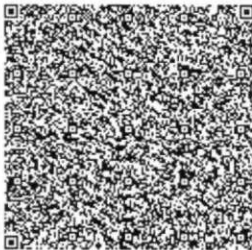
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL64970445056060L
Certificate Issued Date	: 08-Jan-2013 10:45 AM
Account Reference	: IMPACC (IV)/ dl851803/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL85180329728533738967L
Purchased by	: V K AGARWAL
Description of Document	: Article Others
Property Description	: NA
Consideration Price (Rs.)	: 0
	(Zero)
First Party	: V K AGARWAL
Second Party	: NA
Stamp Duty Paid By	: V K AGARWAL
Stamp Duty Amount(Rs.)	: 50
	(Fifty only)

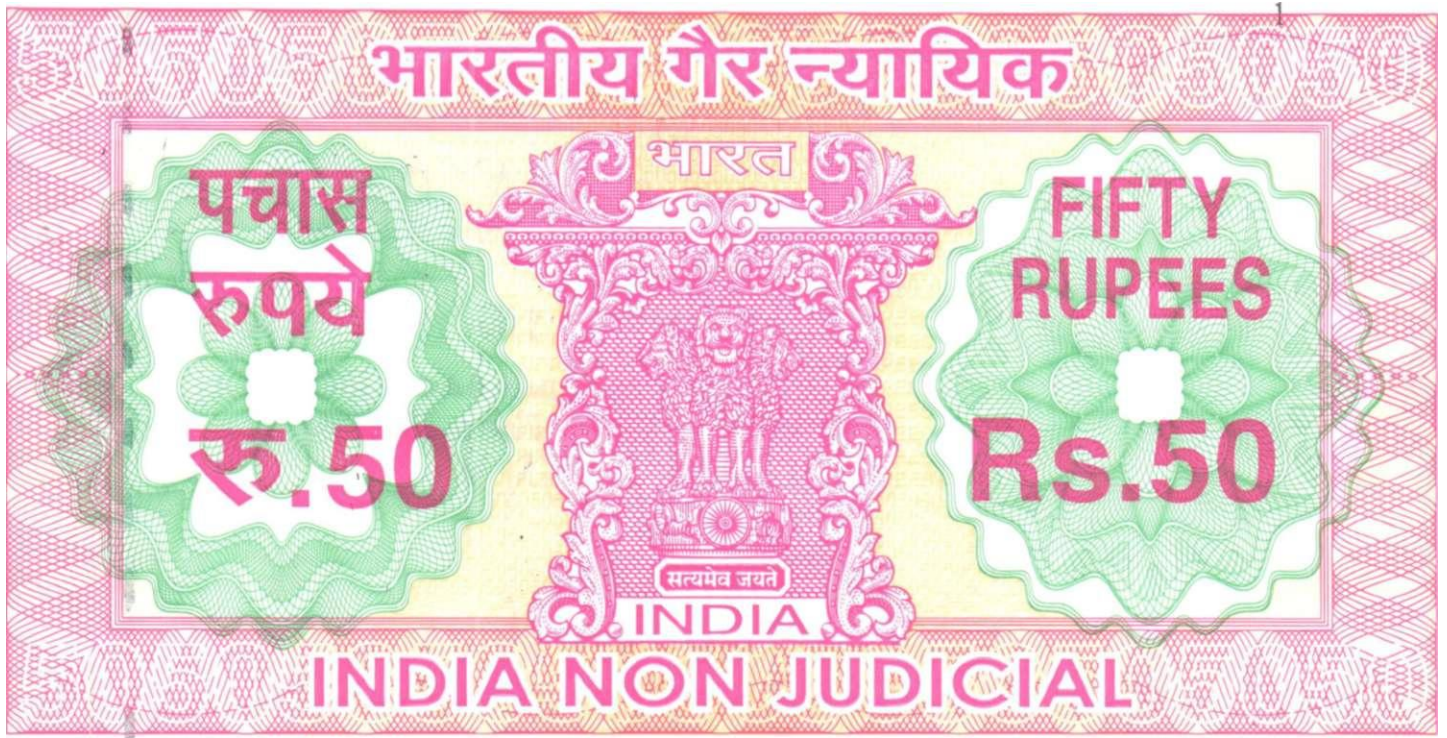


-----Please write or type below this line-----
NATIONAL INTERNET EXCHANGE OF INDIA

**Incube Business Centre, 5th Floor,
 18, Nehru Place,
 NEW DELHI – 110 019
 Christian Louboutin v. Anna Beaulieu**

AWARD

Kagawal



दिल्ली DELHI

AC 133908

NATIONAL INTERNET EXCHANGE OF INDIA
Incube Business Centre, 5th Floor,
18, Nehru Place,
NEW DELHI – 110 019

Christian Louboutin v. Anna Beaulieu

AWARD

1. The Parties

The Complainant is Christian Louboutin, C/o Christian Louboutin S A,
19, Rue Jean-Jacques Rousseau, Paris 75001, France.

The Respondent is Ms. Anna Beaulieu, C/o Overseas Investment Inc.,
77, Massachusetts Avenue, Cambridge, Massachusetts, MA 02139,
U.S.A.

2. The Domain Name and Registrar

The disputed domain name is <www.christian-louboutin.co.in>.

Kagawal

The particulars of registration of the disputed domain name are as follows:

- (a) Name of the Registrant : Anna Beaulieu, U.S.A.
- (b) Domain ID : D6159139-AFIN
- (c) Created n : 08 July 2012
- (d) Expiration date : 13 April 2013
- (e) Sponsoring Registrar : 1APi GmbH(R98-AFIN)
- (f) Registrant ID : ID;BAO8548635-SFQS

3. Procedural History

- (a) A Complaint dated November 14, 2012 has been filed with the National Internet Exchange of India. The Complainant has made the registrar verification in connection with the domain name at issue. It is confirmed that the Respondent is listed as the registrant and provided the contact details for the administrative, billing, and technical contact. The Exchange verified that the Complaint satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the "Policy") and the Rules framed thereunder.
- (b) The Exchange appointed Dr. Vinod K. Agarwal, Advocate and former Law Secretary to the Government of India as the sole arbitrator in this matter on November 20, 2012. The arbitrator received the Complaint on November 25, 2012. The arbitrator finds that he was properly appointed. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Exchange.
- (c) In accordance with the Rules, the Sole Arbitrator formally notified the Respondent of the Complaint on e mail address <corporatedomainportfolios@gmail.com> The Respondent was required to submit his defence within 21 days. The Respondent was

V. K. Agarwal

informed that if his response was not received within that period, he would be considered in default and the matter will proceed ex-parte. No response has been received from the Respondent.

4. Factual Background

From the Complaint and the various annexure to it, the Arbitrator has found the following facts:

Complainant's activities

In these proceedings the Complainant is Christian Louboutin of France. The Complainants have been doing business since 1992. The Complainant is stated to be a fashion designer. The Complainant has been making high fashion women's shoes with a bright red lacquered outsole and ladies bags. The Complainant sells these shoes and bags under the trademark CHRISTIAN LOUBOUTIN.

The Complainant has stated that shoes and bags bearing the trademark CHRISTIAN LOUBOUTIN are available in 58 countries of the world. The Complainant has set up a company in India known as Christian Louboutin Private Limited. Thus, the products of the Complainant are also available in India including Delhi.

Respondent's Identity and Activities

Respondent did not file any reply. Hence, the Respondent's activities are not known.

5. Parties Contentions

A. Complainant

The Complainant contends that each of the elements specified in the Policy are applicable to this dispute.

In relation to element (i), the Complainant contends that its name is CHRISTIAN LOUBOUTIN. The disputed domain name is <www.christian-louboutin.co.in>. Thus, the disputed domain name contains the complete name of the Complainant. The addition of a

Kagamal

hyphen (-) in between “Christian” and “louboutin” or the words “co” or “in” is insignificant.

In the cases of **Farouk Systems Inc., v. Yishi**, Case No. 02010-0006 it has been held that the domain name wholly incorporating a complainant’s registered trademark may be sufficient to establish identity or confusing similarity, despite the addition of other words to such marks. Further that, in the case of *Alta Vista Company v. Curtis Claard/b/a Tae Po Promotions*, FA 0009000095549 (NAF Oct. 24, 2000) it has been held that the domain name <altavistas.com>, irrespective of addition of the word “s” was confusingly similar to the ALTAVISTA trademark. See also *M/s Satyam Infoway Ltd., v. M/s Siffynet Solutions (P) Ltd.*, JT 2004 (5) SC 541.

The word “Christian louboutin” is a trademark of the Complainant adopted and used in many countries. Therefore, the Complainant is well known to its customers as well as in business circles as CHRISTIAN LOUBOUTIN all around the world.

The Complainant contends that it has several domain names containing its trademark CHRISTIAN LOUBOUTIN, such as, <www.christianlouboutin.com>; <www.christianlouboutin.in>; etc.

In relation to element (ii), the Complainant contends that the Respondent (as an individual, business, or other organization) has not been commonly known by the mark “Christian Louboutin”. Further, the Respondent is not making a legitimate or fair use of the said domain name for offering goods and services. The Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public.

In support of its contentions, the Complainants have relied on the decisions in the cases of *Morgan Stanley v. M/s Keep Guessing*, INDPR/024 (June 27, 2007); *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. D2000-0403; *Morgan Stanley v. Ding Riguo*, INDRP/370 (July 370 (July 28, 2012).

Regarding the element at (iii), the Complainant contends that the



main object of registering the domain name <www.christian-louboutin.co.in> by the Respondent is to mislead the general public and the customers of the Complainant. The Complainant has stated that the use of a domain name that appropriates a well known trademark or service mark to promote competing or infringing products cannot be considered a “*bona fide offering of goods and services*”.

In support of its contentions, the Complainants have relied on the decisions in the cases of *Kenneth Cole Productions Inc. v. Viswas Infomedia*, INDRP/93 (April 10, 2009); *Franklin Resources Inc. and Franklin Templeton Asset Management (India) Pvt. Ltd., v. Mr. David Dlugitch*, INDRP/076 (January 15, 2009); and *Giorgio Armani S.P.A., Milan, Swiss Branch, Mendrisio v. Xu Tao*, INDRP/351 (June 10, 2012).

B. Respondent

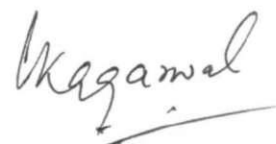
The Respondent did not submit any evidence or argument indicating his relation with the disputed domain name <www.christian-louboutin.co.in> or any trademark right, domain name right or contractual right. Therefore, the Respondent has no legal right or interest in the disputed domain name.

6. Discussion and Findings

The Rules instruct this arbitrator as to the principles to be used in rendering its decision. It says that, “a panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any rules and principles of law that it deems applicable”.

According to the Policy, the Complainant must prove that:

- (i) The 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 interests in respect of the domain name that is the subject of Complaint; and



- (iii) The domain name in question has been registered and is being used in bad faith and for the purposes of trafficking;

A. Identical or Confusingly Similar

The Complainant contends that since 1992 its trademark “CHRISTIAN LOUBOUTIN” is registered in many countries of the world including Canada, European Union, France, the United Kingdom and the United States of America, World Intellectual Property Organization, Paris and Madrid in various classes, such as, class 14, 18 and 25.

In India, the Complainant owns registration of the trademark “CHRISTIAN LOUBOUTIN” since 2008. It is registered in class 18 (Leather and imitation of leather namely leather bags, suitcases, and wallets, bags namely shopping leather bags, handbags, travelling bags, travelling set, vanity cases, not fitted, pocket wallets, purses being goods included in class 18) AND class 25 (Shoes, clothing shoes, (except orthopaedic footwear) headgear being goods included in class 25). By virtue of these registrations, the Complainant has the exclusive rights to use these trademarks in India.

The present dispute pertains to the domain name <www.christian-louboutin.co.in>. The Complainant possesses a number of other domain names, as mentioned above, with the word “christian-louboutin”. The Complainant is also the owner of trademark “CHRISTIAN-LOUBOUTIN” or “Christian-louboutin”. Most of these domain names and the trademarks/certification marks have been created by the Complainant much before the date of creation of the disputed domain name by the Respondent. The disputed domain name is very much similar or identical to these domain names and the trademarks/service marks of the Complainant.

Therefore, I hold that the domain name <www.christian-louboutin.co.in> is confusingly similar to the Complainant’s marks.

B. Rights or Legitimate Interests

The Respondent may demonstrate its rights to or legitimate interest in the domain name by proving any of the following circumstances:

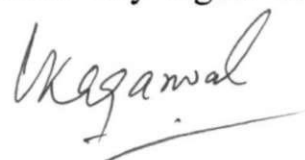


- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) The Respondent 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's response is not available in this case. There is no evidence to suggest that the Respondent has become known by the disputed domain name anywhere in the world. Based on the evidence adduced by the Complainant, it is concluded that the above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

Christian Louboutin is the name and mark of the Complainant. The trade mark "Christian Louboutin" has acquired unique importance and is associated with the Complainant. A mention of the said trademark establishes an identity and connection with the Complainant. The Respondent is known by the name of Ms. Ann Beaulieu. It is evident that the Respondent can have no legitimate interest in the domain name. Further, the Complainant has not licensed or otherwise permitted the Respondent to use its name or trademark or to apply for or use the domain name incorporating said name. The Complainant has no relationship whatsoever with the Respondent.

The decisions relied upon by the Complainant support its contentions that the use of domain name consisting of a trademark to divert users to another commercial websites is not a *bona fide* offering of goods or services and cannot confer any rights or



legitimate interests upon the Respondent.

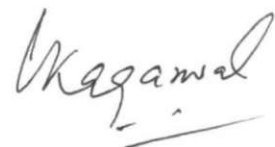
I, therefore, find that the Respondent has no rights or legitimate interests in the domain names.

C. Registered and Used in Bad Faith

Any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) Circumstances indicating that the Respondent 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 is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of documented out of pocket costs directly related to the domain name; or
- (ii) The Respondent 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 it has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website or other on-line location, 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 its website or location.

The contention of the Complainant is that the present case is covered by the above circumstances. There are circumstances indicating that the Respondent has intentionally attempted to attract, for commercial gain, internet users to the disputed website. The

A handwritten signature in black ink, appearing to read "K. Kagan", with a horizontal line underneath.

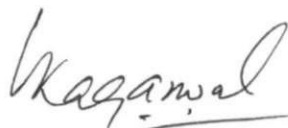
Complainant has further contended that, "The top right hand corner of the website states that the domain name is for sale. A screenshot of the website is annexed as Annexure 15" to the Complaint. Further that, a search for the disputed domain name on the website located at <www.domaintools.com> states that the domain name is for sale for US \$ 8,200.

The Respondent's registration of the domain name <www.christian-louboutin.co.in> is likely to cause immense confusion and deception and lead the general public into believing that the said domain name enjoys endorsement and/or originates from the Complainant.

The foregoing circumstances lead to the presumption that the domain name in dispute was registered and used by the Respondent in bad faith. Therefore, I conclude that the domain name was registered and used by the Respondent in bad faith.

7. Decision

In the light of the foregoing findings, namely, that the domain name is confusingly similar to a mark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the domain name, and that the domain name was registered in bad faith and is being used in bad faith, in accordance with the Policy and the Rules, the Arbitrator orders that the domain name <www.christian-louboutin.co.in> be transferred to the Complainant.



Vinod K. Agarwal
Sole Arbitrator

Date: January 7, 2013