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Sl. No: 0149 Date: 02/02/2022
Sold to: Vedula Gopinath & VK Chennu
Whom: *[Signature]*

[Signature]
DA 014374
B. ARUN KUMAR
LICENCED STAMP VENDOR
No.03-13-002/2000, R.L.No.03-013-008/2021
-249, Vepagunta, Visakhapatnam-47
Cell : 9393174422

BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)
.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

Dr. Vedula Gopinath, Sole Arbitrator

Arbitration Award No. INDRP/1511 March 10, 2022

In the matter of Arbitration Between :

Saucony Inc.

500, Totten Pond Road, Waltham

Massachusetts-02351 USA

Complainant

And

Tong Hao

ZheJiangHangzhou,

Xihu, HangZhou Zhejiang 31000, CN Respondent



[Signature]
ARBITRAL TRIBUNAL
Dr. VEDULA GOPINATH
SOLE ARBITRATOR

I. THE PARTIES :

- a. Complainant Saucony.Inc's Authorised representative in this administrative proceedings is:

ALG India Law Offices LLP

244, Vedanta Apartments, Plot No. 6C
Sector 23, Dwarka
New Delhi - 110 077, India

II. DISPUTED DOMAIN NAME & REGISTRY:


- a) The following Domain name is the subject of this Complaint is
SAUCONY.CO.IN registered by Respondent on April 28,2019.
b)The Registry is the National Internet Exchange of India (NIXI).
c) The details of the sponsoring Registrar are given below :

Dynadot LLC 210 S Ellsworth Ave #345 San Mateo, CA 94401 USA

III. PROCEDURAL HISTORY / BACK GROUND :

25-02-2022	The .IN REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator
26-02-2022	Consent of the Sole Arbitrator along with declaration was given to the .IN REGISTRY
25-02-2022	.IN REGISTRY sent an email to all the concerned intimating the appointment of arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexure was sent to Respondent. Later Respondent also served complaint to Respondent
28-02-2022	Notice of Arbitration was sent to all concern by the Sole Arbitrator.
01-03-2022	Notice sent to Respondent directing him to file response within seen days.

All the pleadings are given in English language.


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IV. COMPLAINANT'S DETAILS

1. The Complainant is a wholly owned subsidiary of Wolverine World Wide, Inc. ("Wolverine"), which is claimed to be a leading designer and marketer of a broad range of quality casual footwear and apparel; performance outdoor and athletic footwear and apparel; kids' footwear; industrial work shoes, boots and apparel; and uniform shoes and boots
2. Complainant's SAUCONY brand was founded in 1898 in the USA. Under the SAUCONY Mark, Complainant is one of the world's leading and well known sellers of high-quality footwear. Complainant has focused on meeting the functional needs of runners while delivering on their style needs for the footwears under the SAUCONY Mark. Today, SAUCONY is the leader in performance running shoes, accessories, and apparel. The product line under the SAUCONY Mark is made up of hundreds of products including shoes, T-shirts, outerwear, pants, shorts, bags, and headgear along with other clothing accessories etc.

V. Complainant's Contentions

1. The Complainant is the prior adopter, sole owner, registered proprietor, and first and exclusive user across several countries worldwide, including in India, of the trademark SAUCONY and several other SAUCONY formative



marks including, but not limited to , ,

2. The Complainant owns over 280 trademark registrations and applications for the SAUCONY Mark across numerous jurisdictions worldwide. In India, the Complainant owns trademark registrations for the SAUCONY Mark since 1995. A list of the Complainant's select trademark registrations for the SAUCONY Mark in select jurisdictions, including in India (details of certificates given as per Annexure 5 of the complaint).




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2. Complainant markets and sells its products worldwide, including in India, through physical retail stores as well as online retail stores. The Complainant operates through a network of 40 active and pending distributors, to distribute its products under the SAUCONY Mark in approximately 70 countries and territories worldwide. For the year 2018, Complainant's global sales totalled over USD 300 million. The complainant spent sizeable amount on publicity and advertisements. The Complainant was conferred few awards and recognitions on its performance.

3 The disputed domain name <saucony.co.in> is identical to the Complainant's SAUCONY Mark, which is incorporated fully, as is, with the ccSLD '.co.in'. It is submitted that the ccSLD/ccTLD element of a domain name has no distinguishing capability and should be disregarded while considering whether a domain name is identical or confusingly similar to a trademark. It is contended that it is a well-established principle that the ccSLD/ccTLD suffix in a domain name (co.in) should be disregarded for the purpose of comparison and similarity since it is a technical requirement of registration of domain names. Therefore, disregarding the ccSLD ".co.in", the disputed domain name <saucony.co.in> is identical to the Complainant's mark SAUCONY.

4. it is submitted the disputed domain name is identical to the Complainant's SAUCONY Mark and the Complainant has fulfilled the requirements under the INDRP policy.

5. The Respondent has no rights or legitimate interest in either the trademark SAUCONY or in the disputed domain name <saucony.co.in>. The Complainant has never authorized or licensed the Respondent to use the SAUCONY Mark in any way or for any purpose. The Respondent does not have any association or affiliation with the Complainant and neither the Complainant has any past dealing with the Respondent.





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6. It was contended that the Complainant is a lawful proprietor the aforesaid trademarks. Further it was contended that the Complainant has the exclusive statutory right to use the trade mark SAUCONY in India and internationally.
7. The Complainant also owns over 200 domain name registrations featuring the SAUCONY Mark. Select list of some of these domain registrations (details given as per annexure 9 of complaint). Further it is contended that the Complainant is the Registrant of the domain name <saucony.com>, <sauconyindia.com> among many other domain names that incorporate the SAUCONY Mark as the significant part of the domain along with different Top Level Country Codes. This is bound to give rise to consumer confusion as to whether the impugned domain name <saucony.co.in> is associated with the Complainant.
8. It is contended that the Respondent webpage hosted at the disputed domain name with a view to get advertisements of competitors of Complainant which shows the mala fide intention of the Respondent.

VI . RESPONDENT'S HAS NO CONTENTIONS

Details of WHOIs data base has been checked. Respondent did not respond to any of the communications sent to him including complaint copy sent by National Internet Exchange of India and notices of Arbitral Tribunal. Further the Respondent did not respond to the complaint copy served by the Complainant Attorneys. Several emails containing the complaint copy and notices have been bounced back for the reasons best known to the Respondent. It is a matter of concern that the Respondent has not taken any action regarding the notice of Arbitral Tribunal. The Arbitral Tribunal believes that the Respondent has no answer or reply to the Complaint at all. There is no opposition or rebuttal on the contentions of Complainant.




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VIII DISCUSSION AND FINDINGs / REASONING:

(I) .IN Domain Name Dispute Resolution Policy (INDRP).

The Arbitral Tribunal after examination of the matter in details arrived the following conclusion of Complainant's Compliance under INDRP Policy. In order to obtain the transfer of the Disputed Domain Name, Complainant should, accordingly, prove all the three elements to paragraph 4 of the Policy. The complainant proved all the elements of Paragraphs 4 of the Policy. Further pursuant to paragraph 6 & 7 of INDRP Policy, the Respondent have no legitimate interest in the impugned disputed name.

(II) In the absence of reply or response from the Respondent, the Arbitral Tribunal is having choice to act as per the applicable laws and decide the matter.

(III) The allegations levelled by Complainant against Respondent on the evidential value of the documents submitted by complainant were considered by the Arbitral Tribunal.

(IV) The complainant has also quoted few precedents of decisions to support their case and the Arbitral Tribunal agrees with the decisions cited.




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IX. In view of the foregoing discussion, the Arbitral Tribunal arrives at a Logical conclusion of accepting the prayer of the Complainant.

X.DECISION: For all the foregoing reasons, in accordance with paragraph 10 of the .INDRP, the Arbitral Tribunal orders that the Respondent shall cease to use the mark SAUCONY and also the disputed Domain Name **SAUCONY.CO.IN** be transferred to the Complainant.


In case of any procedural difficulty is encountered due to the non-response of Respondent in the transfer of the impugned domain name, the Arbitral Tribunal orders that the disputed domain name SAUCONY.CO.IN be cancelled

National Internet Exchange of India (NIXI) and sponsoring Registrar(Dynadot LLC) are advised to take ancillary and incidental action required for implementation of the decision of the Arbitral Tribunal.

There is no order as to costs. This is adjudicated.

Visakhapatnam
Dated 10th March 2022




Dr. Vedula Gopinath
Sole Arbitrator

Dr. Vedula Gopinath
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