



**BEFORE S SRIDHARAN, SOLE ARBITRATOR  
OF NATIONAL INTERNET EXCHANGE OF INDIA  
ARBITRATION AWARD**

**DATED: 10<sup>th</sup> September 2014**

**1. PJS International S.A  
Luxembourg**

**2. Ape & Partners SPA  
Segusino, Italy**

... **Complainants**

**Versus**

**Xiangwang  
Guangzhou**

... **Respondent**

**1. The Parties**

- 1.1 The first Complainant, PJS International S.A, a company organized and existing under the laws of Luxembourg, having its place of business at 18, Rue de l'Eau L – 1449, Luxembourg 12. The Second Complainant, Ape & Partners SPA, a company organized and existing under the laws of Italy, having its place of business at Viale Italia 33, 31040 Segusino (TV).
- 1.2 The Complainants are represented by Mr. Ranjan Narula, advocate of Ranjan Narula Associates, Vatika Towers, 10th floor, Block-B, Sector-54, Gurgaon 122002, National Capital Region, India.
- 1.3 Respondent is Xiangwang at Room 2115, Guangzhou -210000

**The Domain Name and Registrar**

- 1.4 The disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> created on 05.05.2014 is registered with Webiq Domains Solutions Pvt Ltd (R131-AFIN).

**2. Procedural History**

- 2.1 On 5<sup>th</sup> August 2014, NIXI asked me about my availability and consent to take up the Complaint for arbitration. On the same day, I informed my availability and consent. I also informed NIXI that I had no conflict of interest with either of the parties and could act independently and impartially.
- 2.2 On 6<sup>th</sup> August 2014, I received hardcopy of the Complaint.
- 2.3 On 6<sup>th</sup> August 2014, I issued by email a Notice to the Respondent setting forth the relief claimed in the Complaint and directing him to file his reply to the Complaint within 15 days. I also sent an email about my appointment to arbitrate the complaint to the Complainant and asked the Complainant to send a soft copy of the complaint to me.
- 2.4 On 4<sup>th</sup> October 2014, I received soft copy of the Complaint from the Complainant.
- 2.5 Respondent has not filed any response to the Complaint.





- 2.6 Email is the medium of communication of this arbitration and each email is copied to all, Complainant, Respondent and NIXI.

3. **Factual Background**

A **Complainant**

- 3.1 The Complainant no. 1 PJS International S.A is world renowned in the field of winter garments. The Complainant no.2 Ape & Partners S.p.A. is the exclusive licensee of the registered trademarks owned by the Complainant no.1 including "PARAJUMPERS" and "P.J.S. THAT OTHER MAY LIVE PARAJUMPERS".
- 3.2 The Complainants are well known in the field of winter garments, especially for coats and jackets, primarily due to the unquestionable high quality of such products. The Complainants product is an extremely innovative outerwear collection with highly technological components, designed above all else to be functional.
- 3.3 The Complainants' success, in particular, is due to their ability to produce innovative products, which are made of high-quality materials, suitable to protect the human body against freezing temperatures. The masterpiece of collection created by the Complainants is, indeed, a jacket characterized by neck closed with a hook used in skydiving.
- 3.4 The Complainants products under the mark/s "PARAJUMPERS" and "P.J.S. THAT OTHER MAY LIVE PARAJUMPERS" are used to denote winter coats and jackets for man, woman and children. Their products are currently commercialized in North America, Europe and Asia, with showrooms in New York, Toronto, Helsinki, London, Seoul, Tokyo and many other popular cities in the world.
- 3.5 The Complainants products are present in the most important international fashion events, such as the "Premium Fashion Trade Show" in Berlin, a famous trade platform for international designer collections, and "PittiUomo N. 83" in Florence, in which the most famous fashion companies of the world show the best of the next year's collection.
- 3.6 The Complainants' fame and reputation is clearly evident from the fact that several celebrities and VIPs from the international show business are photographed while they are wearing the "PARAJUMPERS" jackets. The complainants have attached the printouts of the photos of the Hollywood star Jennifer Garner, the popular disc-jockey David Guetta, the actress and fashion model Denise Richards, the TV actors John Hamm and Mario Lopez, wearing the jackets with P.J.S. Logo as Exhibit-B. Several articles evidencing the fame and reputation of the Complainants' PARAJUMPERS mark are attached at Exhibit – C.
- 3.7 The 2<sup>nd</sup> Complainant owns a number of domain names comprising of the mark PARAJUMPERS which support the Complainants several dedicated and official websites for its consumers and other visitors from different countries and jurisdictions. Some of these domain names are:

Domain name	Registration Date
PARAJUMPERS.IT	November 10, 2005
PARAJUMPERS.ORG	November 17, 2010
PRAJUMPERS.US	February 08, 2011
PARAJUMPERS.EE	December 09, 2013

- 3.8 As per whois data, the registration of the domain name [www.parajumpers.us](http://www.parajumpers.us) stands in the name of one "M.T.Imports Inc". It is not registered in the name of any of the Complainants and is therefore, not relevant for this Complaint.
- 3.9 The 1<sup>st</sup> Complainant has the following pending applications for registration in India.

*Indharams*

Trade Mark	Application No.	Date of Application / Registration	Class
PARAJUMPERS	2523467	01/05/2013	09, 18 and 25
PARAJUMPERS	IRDI- 2694918	23/09/2013	35
P.J.S. THAT OTHERS MAY LIVE PARAJUMPERS (DEVICE)	2523468	01/05/2013	09, 18 & 25

3.10 1<sup>st</sup> Complainant has several worldwide registrations for the marks PARAJUMPERS and P.J.S. THAT OTHERS MAY LIVE PARAJUMPERS. A list of worldwide trademark registrations and pending applications for PARAJUMPERS and P.J.S. THAT OTHERS MAY LIVE PARAJUMPERS are at Exhibit-F. The earliest registration/s for the PARAJUMPERS and "THAT OTHERS MAY LIVE PARAJUMPERS PJS & device" marks date back to February 13, 2006 and February 13, 2007 respectively.

3.11 The Complainants own the intellectual property in the trade mark and domain name PARAJUMPERS including its trade mark registrations and domain names registrations. The Complainants are the registrant and user of several domain names containing the PARAJUMPERS mark as mentioned in the preceding paragraphs.

#### **B Respondent**

3.12 The Respondent has not filed any reply to the Complainant's Compliant in this arbitration.

#### **4. Parties Contentions**

##### **A Complainant**

4.1 The disputed domain name incorporates the Complainants well-known, prior used mark PARAJUMPERS and prior registered domains such as [www.parajumpers.it](http://www.parajumpers.it), [www.parajumpers.org](http://www.parajumpers.org), [www.parajumpers.ee](http://www.parajumpers.ee), [www.prajumpers.us](http://www.prajumpers.us), etc.,. The Complainants have not licensed or otherwise authorized or given consent to the Respondent to use/utilize or commercially exploit the Complainants registered and well known trademark in any manner.

4.2 On account of extensive use and popularity of the domain name / trade mark across the world, the PARAJUMPERS mark is well recognized. Its use has been popularized by the Complainants, therefore the Respondent can have no plausible reason for adoption of a domain name phonetically, visually and conceptually identical to the Complainants well-known trade mark and domain name PARAJUMPERS. The Respondent's intention is clearly to take advantage of the goodwill and reputation enjoyed by the Complainants in its trade mark and domain name PARAJUMPERS.

4.3 The disputed domain name [parajumpers.co.in](http://parajumpers.co.in) resolves to a parked website which features 'sponsored links' pertaining to various goods and services including products from Complainants core area of business, i.e., jackets and winter wear. It is obvious intention of the Respondent is to leverage the strength of Complainants brand/domain name to divert traffic to such unrelated websites. Further monetize the disputed domain name [parajumpers.co.in](http://parajumpers.co.in) to make illegal profit. The Respondent has made no use of the disputed domain name in connection with a bona-fide offering of goods or services, and is holding on to the domain name in bad faith to derive monetary gains. The Respondent has registered the disputed domain name [parajumpers.co.in](http://parajumpers.co.in) for the purpose of reselling and not for carrying out any business. The Respondent should not be allowed to

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continue with the aforesaid illegal activities and the said domain name registration should be transferred to the Complainants.

- 4.4 The disputed domain name is identical to the Complainants registered trademark and domain name. There is strong likelihood that a web browser looking for Complainants goods/services in India would mistake the Respondent's website <[parajumpers.co.in](http://parajumpers.co.in)> for the Complainants India specific website which is absolutely false as the Complainants have not authorized or licensed the Respondent's to act on their behalf.
- 4.5 The Complainants submit that it will suffer incalculable harm and injury to its goodwill, reputation and business in general if the Respondent is allowed to maintain its domain name <[parajumpers.co.in](http://parajumpers.co.in)>. The loss and damage will not only be to the Complainants reputation but also result in confusion and deception among the trade and public who would assume Respondent's goods/services to be sourced, sponsored, affiliated, approved, authorized or endorsed by the Complainants. The trade and public may also assume that there exists connection between the Complainants and the Respondent which is likely to further harm the reputation enjoyed by the Complainants.
- 4.6 The disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> was registered by the Respondent on May 05, 2014. At this time, the Complainants had already made use of the PARAJUMPERS as a trade mark in several parts of the world. The Complainants had also registered the domain name [www.parajumpers.it](http://www.parajumpers.it) on November 10, 2005 and enjoyed considerable reputation in the PARAJUMPERS mark and domain name. In fact, the Complainants registration for the domain names [www.parajumpers.org](http://www.parajumpers.org), [www.parajumpers.us](http://www.parajumpers.us), [www.parajumpers.ee](http://www.parajumpers.ee), are much prior to the Respondent's registration for the domain [www.parajumpers.co.in](http://www.parajumpers.co.in). Therefore, it is obvious that the Respondent was aware of the Complainants prior trade mark rights and domain name rights in the PARAJUMPERS mark/name and its adoption of an identical domain [www.parajumpers.co.in](http://www.parajumpers.co.in) is in bad faith.
- 4.7 The Respondent is not and has never been known by the PARAJUMPERS name or by any similar name. The Respondent did not have any active business in the name of PARAJUMPERS. The registration of the disputed domain name by the Respondent is thus a typical example of "cybersquatting". The fact that the Respondent's website carries nothing but sponsored links of different products including Complainants' field of business (jackets and winter wear) further proves that the Respondent is just a cyber-squatter.
- 4.8 It is a settled proposition of law that where there is copying, dishonesty ought to be presumed. In the present case, copying by the Respondent is evident from its subsequent adoption of an identical domain name.
- 4.9 The intention of the Respondent is primarily to encash the goodwill and reputation enjoyed by the Complainants in its prior used domain name and trademark PARAJUMPERS. The Respondent was clearly aware of the existence of prior trade mark rights in favour of the Complainants when it registered the domain name <[parajumpers.co.in](http://parajumpers.co.in)> Thus, subsequent registration of an identical domain name by the Respondent cannot be a coincidence. Therefore, the registration of the identical domain name by the Respondent is in bad faith and intended to derive monetary and commercial gain. In the circumstances, the present case is clearly that of cyber-squatting. Further, use of an identical domain name by the Respondent is likely to mislead/divert consumers and also tarnish the reputation of the Complainants and their PARAJUMPERS mark.
- 4.10 The popularity and registration of PARAJUMPERS mark and domain name was a constructive notice to the Respondent of Complainants' rights in the PARAJUMPERS mark and domain name. Thus, the adoption of an identical mark/domain name by the Respondent is in bad faith.
- 4.11 The Respondent is not carrying out any business activities through the domain name [www.parajumpers.co.in](http://www.parajumpers.co.in) and has merely blocked/registered the said domain name for the purpose of

reselling. The Respondent has offered to sell the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> through [www.sedo.com](http://www.sedo.com) that deals in domain name sale/purchase and auction. The printout from [www.sedo.com](http://www.sedo.com) offering the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> for sale is at Exhibit-H. Thus, it is obvious that the registration of the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> by the Respondent is in bad faith.

- 4.12 The Complainant's efforts to resolve the matter amicably have also not been successful as the Respondent was not willing to comply with the requisitions.

**B. Respondent**

- 4.13 Respondent has not filed with any response to the Complainant's complaint.

**5. Discussion and Findings**

- 5.1 Respondent has not filed his response. I have not received any communication from him until the date of this award. Therefore, I am proceeding to determine this Complaint on the basis of the materials available on record.

- 5.2 The Complainant in order to succeed in the Complaint must establish under Paragraph 4 of .IN Domain Name Dispute Resolution Policy (INDRP) the following elements:

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

- 5.3 Each of the aforesaid three elements must be proved by a Complainant to warrant relief.

- 5.4 The 1<sup>st</sup> Complainant is the owner of the trademarks PARAJUMPERS and P.J.S. THAT OTHERS MAY LIVE PARAJUMPERS. The domain names are in the name of the 2<sup>nd</sup> Complainant. 2<sup>nd</sup> Complainant is the exclusive licensee of the 1<sup>st</sup> Complainant and has registered the domain names on behalf of and for the benefit of the 1<sup>st</sup> Complainant. Thus, 1<sup>st</sup> Complainant is the beneficial owner of the domain names created / registered by the 2<sup>nd</sup> Complainant.

- 5.5 Therefore, in the discussions below, I will proceed on the basis that 1<sup>st</sup> Complainant is the owner of the trademarks as well as the domain names. I will refer the 1<sup>st</sup> Complainant as the Complainant.

***Disputed domain name is identical or confusingly similar to a trade mark of the Complainant.***

- 5.6 The Complainant is the proprietor of the PARAJUMPERS and P.J.S. THAT OTHERS MAY LIVE PARAJUMPERS. Complainant has been using PARAJUMPER marks continuously since 2005. The Complainant owns several registrations for PARAJUMPER marks in numerous classes worldwide. The earliest registration dates back to 2006. The Complainant's Indian application no.252467 for PARAJUMPER filed on 1.5.2013 is pending for registration. The Complainant's domain name [www.parajumpers.it](http://www.parajumpers.it) was created on 10.11.2005. The disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> was created on 05.05.2014. Obviously, the Complainant is the prior adopter of PARAJUMPERS marks. The above facts have established that the Complainant has statutory and common law rights in respect of its PARAJUMPERS marks.

- 5.7 PARAJUMPERS is the predominant and distinctive part of the Complainant's web site [www.parajumpers.it](http://www.parajumpers.it) and the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)>. The expressions .it, .co and .in need to be discarded while comparing the marks with the domain names. Complainant's

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PARAJUMPERS marks are famous and well known all over the world including India. It is clearly seen that the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> wholly incorporates the prior PARAJUMPERS marks of the Complainant. The disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> is similar to the Complainant's domain name [www.parajumpers.it](http://www.parajumpers.it).

5.8 I, therefore, find that:

- (a) The Complaint has common law and statutory rights in respect of its PARAJUMPERS marks.
- (b) The disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> is:
  - (i) Similar to the Complainant's prior registered trade mark PARAJUMPERS, and
  - (ii) Confusingly similar to the Complainant's domain name [www.parajumpers.it](http://www.parajumpers.it).

***Respondent has no rights or legitimate interests in respect of the disputed domain name***

5.9 It is already seen that:

- (a) The Complainant is the prior adopter and user of the PARAJUMPERS marks. The Complainant's PARAJUMPERS marks are well known all over the world including India.
- (b) The Complainant's PARAJUMPERS mark was adopted in the year 2005. The first registration for the mark PARAJUMPERS was obtained in the year 2006. The Complainant's domain name [www.parajumpers.it](http://www.parajumpers.it) was created on 10.11.2005. The disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> was created on 05.05.2014.

5.10 Respondent did not register the disputed domain name until 5.05.2014. Complainant has adopted and used the PARAJUMPERS marks and a domain name containing the mark PARAJUMPERS before Respondent registered the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)>. It is unlikely that the Respondent was unaware of existence of Complainant's trademark and domain name rights before registering the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)>.

5.11 I have visited on this date of award the web site of the Respondent under the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)>. It has led to a web page where the disputed domain name is parked by Sedo for sale. The web page has many sponsored links and at the top, it is prominently mentioned that "Buy this domain – this domain name <[parajumpers.co.in](http://parajumpers.co.in)> may be for sale by its owner. And a click of this link leads to another web page. This web page asks you to fill in your bid amount for the sale of the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)>. It is obvious that the Respondent never intended to use the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> in connection with a bona fide offering of goods or services and has simply parked it for sale.

5.12 In the absence of any reply from the Respondent, I agree with the contentions of the Complainant that:

- (a) There is strong likelihood that a web browser looking for Complainant's goods/services in India would mistake the Respondent's website <[parajumpers.co.in](http://parajumpers.co.in)> for the Complainant's India specific website which is absolutely false as the Complainant has not authorized or licensed the Respondent's to act on their behalf.
- (b) The Complainant will suffer incalculable harm and injury to its goodwill, reputation and business in general if the Respondent is allowed to maintain its domain name <[parajumpers.co.in](http://parajumpers.co.in)>. The loss and damage will not only be to the Complainant reputation but also result in confusion and deception among the trade and public who would assume Respondent's goods/services to be sourced, sponsored, affiliated, approved, authorized or



endorsed by the Complainant. The trade and public may also assume that there exists connection between the Complainant and the Respondent which is likely to further harm the reputation enjoyed by the Complainant.

- (c) The Respondent is not and has never been known by the PARAJUMPERS name or by any similar name. The Respondent did not have any active business in the name of PARAJUMPERS. The registration of the disputed domain name by the Respondent is thus a typical example of "cybersquatting". The fact that the Respondent's website carries nothing but sponsored links of different products including Complainants' field of business (jackets and winter wear) further proves that the Respondent is just a cyber-squatter.

5.13 Therefore, I have no hesitation to hold, for the above reason that the Respondent has no right or legitimate interest in respect of the disputed domain name [parajumpers.co.in](http://parajumpers.co.in).

***Respondent's domain name has been registered or is being used in bad faith.***

5.14 The Complainant is the proprietor of the PARAJUMPERS marks. Complainant has been using PARAJUMPERS as a trade mark continuously since 2005. The first registration for the mark PARAJUMPERS was obtained in the year 2006. The Complainant's domain name [www.parajumpers.it](http://www.parajumpers.it) was created on 10.11.2005. The disputed domain name [parajumpers.co.in](http://parajumpers.co.in) was created on 05.05.2014. Obviously, Complainant's rights in the PARAJUMPERS marks pre-date Respondent's registration of the disputed domain name [parajumpers.co.in](http://parajumpers.co.in). The Respondent could not have ignored, rather actually influenced by, the well-known PARAJUMPERS marks of the Complainant at the time he acquired the disputed domain name [parajumpers.co.in](http://parajumpers.co.in).

5.15 As seen above, Respondent is currently not using the disputed domain name [parajumpers.co.in](http://parajumpers.co.in) in any manner. The Respondent is no way connected with the Complainant. Respondent's adoption of the disputed domain name [parajumpers.co.in](http://parajumpers.co.in) is nothing but an unjust exploitation of the well-known reputation of the Complainant's prior PARAJUMPERS marks.

5.16 Respondent's lack of response on merits to the Complaint indicates that the Respondent has no reason and/or justification for the adoption of the Complainant's PARAJUMPERS marks.

5.17 In the absence of any reply from the Respondent, I agree with the contentions of the Complainant that:

- (a) The Respondent is not carrying out any business activities through the domain name [www.parajumpers.co.in](http://www.parajumpers.co.in) and has merely blocked/registered the said domain name for the purpose of reselling. The Respondent has offered to sell the disputed domain name [parajumpers.co.in](http://parajumpers.co.in) through [www.sedo.com](http://www.sedo.com) that deals in domain name sale/purchase and auction. Thus, it is obvious that the registration of the disputed domain name [parajumpers.co.in](http://parajumpers.co.in) by the Respondent is in bad faith.

- (b) The popularity and registration of PARAJUMPERS mark and domain name was a constructive notice to the Respondent of Complainants' rights in the PARAJUMPERS mark and domain name. Thus, the adoption of an identical mark/domain name by the Respondent is in bad faith.

5.18 Thus it is clearly established that Respondent registered the disputed the disputed domain name [parajumpers.co.in](http://parajumpers.co.in) in bad faith.

5.19 The actions of the Respondent should not be encouraged and should not be allowed to continue. Respondent never intended to put the disputed domain name [parajumpers.co.in](http://parajumpers.co.in) into any fair/useful purpose. Respondent not even considered it worth responding the complaint of the

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Complainant. Respondent did not file any response. The conduct of the Respondent has necessitated me to award costs of the Complaint to and in favour of the Complainant.

**6. Decision**

- 6.1 For all the foregoing reasons, the Complaint is allowed as below.
- 6.2 It is hereby ordered that the disputed domain name <[parajumpers.co.in](http://parajumpers.co.in)> be transferred to the 1<sup>st</sup> Complainant, namely, PJS International S.A.
- 6.3 Respondent is ordered to pay the 1<sup>st</sup> Complainant, namely, PJS International S.A, a sum of Rs.10,00,000/-(Rupees Ten lakh Only) towards costs of the proceedings.



S.Sridharan  
Arbitrator