



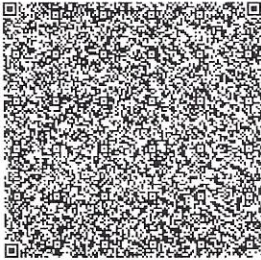
सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

**Certificate No.** : IN-DL39024698269731P  
**Certificate Issued Date** : 17-Jan-2017 02:40 PM  
**Account Reference** : IMPACC (IV)/ dl876903/ DELHI/ DL-DLH  
**Unique Doc. Reference** : SUBIN-DL87690378508047023903P  
**Purchased by** : JAYANT KUMAR  
**Description of Document** : Article Others  
**Property Description** : Not Applicable  
**Consideration Price (Rs.)** : 0  
(Zero)  
**First Party** : JAYANT KUMAR  
**Second Party** : Not Applicable  
**Stamp Duty Paid By** : JAYANT KUMAR  
**Stamp Duty Amount(Rs.)** : 100  
(One Hundred only)



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**BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA**

IN THE MATTER BETWEEN

Velcro Industries B.V.

v.

Velcro Technologies

Complainant

Respondent

BZ

## ARBITRATION AWARD

1. The Complainant is Velcro Industries B.V., a limited liability company organized and existing under the laws of Netherlands with its registered office at Catorweg 22-24, Curacao, Netherlands Antilles. The Respondent is Velcro Technologies with its address at Hyderabad, Telangana, 500042.
2. The Arbitration pertains to the disputed domain name <velcrotech.in>, registered on August 25, 2015 by the Respondent. The registrar for the disputed domain name is Godaddy.com.
3. The sole arbitrator appointed in this complaint by NIXI is Jayant Kumar. The Arbitrator submitted the Statement of Acceptance and Declaration of Impartiality and Independence to NIXI on January 11, 2017.
4. NIXI served an electronic copy of the Complaint on the Respondent on January 12, 2017 but the emails to the Respondent bounced back with the following message:

*"Hi. This is the qmail-send program at [rediffmail.com](mailto:rediffmail.com).*

*I'm afraid I wasn't able to deliver your message to the following addresses.*

*This is a permanent error; I've given up. Sorry it didn't work out.*

*<[info@velcrotechnologies.in](mailto:info@velcrotechnologies.in)>:*

*Sorry, I couldn't find a mail exchanger or IP address. (#5.4.4)*

*<[postmaster@velcrotech.in](mailto:postmaster@velcrotech.in)>:*

*182.50.144.66 Mailbox not found*

*Remote host said: 550 5.1.1 <[postmaster@velcrotech.in](mailto:postmaster@velcrotech.in)> Recipient not found. <<http://x.co/irbounce>>?"*

The Arbitrator then enquired if the physical copy served upon the Respondent by NIXI has been delivered to the Respondent or not. NIXI confirmed that the physical copy of the complaint has been delivered at both the addresses of the Respondent.

The Arbitrator, vide its email dated January 24, 2017, directed the Respondent to file its Reply, if any, by February 15, 2017. Since the mail sent by the Arbitrator to the Respondent again failed, a print of the said email was also sent to the Respondent by post, which was duly delivered to the Respondent.

The Arbitrator also tried to contact the Respondent over the phone to confirm receipt of the complaint and the notice to file Reply, but none of the phone numbers available in the public domain (in WhoIs report and yellow pages) were in service.

5. The Respondent did not file its Reply to the Complaint by March 20, 2017, and is therefore proceeded *ex-parte*.

**Factual Background:**

6. The Complainant was founded by a Swiss engineer and inventor named George de Mestral who invented the first hook and loop fastener in the 1940s and named the hook and loop fastener VELCRO.
7. The Complainant adopted and first used the mark VELCRO at least as early as in 1958 and continues to use it since then. The Complainant registered the domain name <Velcro.com> in the year 1994 where the Complainant is hosting an active business website. In addition to this, the Complainant also owns <Velcro.co.in> in 2009, <velcor.in> in 2013, <Velcro.com.cn> in 2000, <Velcro.fr> in 2002, <Velcro.it> in 2002 and <Velcro.co.uk> in 1996.



8. The Complainant's yearly sales in the year 2002-2004 exceeded US\$ 200 million. The Complainant has also received various award and has also incurred significant expenditure in promotion and advertisement of the mark VELCRO.
9. The Complainant has also filed registration certificates towards registration of the mark VELCRO being registration no. 184852, 203742, 1114518 and 20090357, earliest being as of 1958. The Complainant has also successfully enforced its rights in the mark VELCRO in various domain name dispute cases, which includes *Velcro Industries B.V. and Velcro USA Inc. v. Qingdao Kunwei Velcro Co., Ltd.*; *Velcro USA Inc., Velcro Industries B.V. v. Domain Master, Kentech, Inc./Titan Net*; *Velcro Industries B.V. and Velcro USA Inc. v. Qingdao Kunwei Knitting Co. Ltd.*; *Velcro Industries B.V. and Velcro USA Inc. v. allinhosting.com/Andres Chavez*; *Velcro BVBA v. Steven Jiang, etc.* The Complainant has also successfully enforced its right though INDRP in *Velcro Industries B.V. v. Zhao Ke*, wherein the arbitrator also held the mark VELCRO to be a well-known mark.

**Complainant's Submissions:**

10. The Complainant states that it owns the rights in the mark VELCRO and the disputed domain name <velcrotech.in> is identical and/or confusingly similar with it since the disputed domain name incorporates the Complainant's mark VELCRO in entirety.
11. The Complainant states that the disputed domain name was registered on August 25, 2015, on which date Complainant owned rights in the mark VELCRO. The mark VELCRO is a well-known mark and therefore, it is unlikely that the Respondent has not come across the mark VELCRO at the time of/before registering the disputed domain name. It is further contended that the Respondent does not have rights or legitimate interest in the domain name because although

the domain name was register about 1.5 years back, the Respondent has not commenced use of the domain name and has also not exhibited any preparatory steps for using the domain name in connection with bonafide offering of goods or services.

12. The Complainant also submits that although the domain name is registered in the name of 'Velcro Technologies ' and it also appears to have a company with the name 'Velcro Technologies Pvt. Ltd'\*, the same is insufficient to create any legitimate rights and interest in favour of the Respondent since it is not commonly known by any of these names.
13. The Complainant further submits that the Respondent chose and registered a domain name that is identical/confusingly similar to the Complainant's well-known mark VELCRO, and the Respondent chose this domain name because it was confusingly similar to the Complainant's mark and intended to capitalize on that confusion. This is sufficient evidence of bad faith registration and use of the disputed domain name.
14. The Complainant also sent a Legal Notice dated November 18, 2016 to the Respondent asking it to cease using the mark VELCRO and transfer the dispute domain name, but the Respondent did not respond to the same.

**Discussion and Findings:**

15. Under the .IN Policy, the registrant of the domain name is required to submit to a mandatory arbitration proceeding in the event that a complaint is filed in the .IN Registry, in compliance with the .IN Policy and the INDRP Rules. The .IN Policy, Paragraph 4 requires the Complainant, to establish the following three elements:
  - a. The domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and



- b. The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- c. The disputed domain name has been registered and is being used in bad faith by the Respondent.

16. The Complainant has filed sufficient documentary evidence to show its rights in the mark VELCRO which includes Indian trademark registration certificates. The Respondent has not filed any Reply to rebut the Complainant's claim of ownership of the mark VECLRO. The disputed domain name incorporates the mark VECLRO in entirety. Mere addition of the dictionary word TECH is insufficient to distinguish the disputed domain name from the Complainant's trademark. The disputed domain name is held to be confusingly similar with the Complainant's mark.

17. Paragraph 7 of the Policy states a Respondent's or a registrant's rights can be found from the material on record, if (i) before notice of the dispute, the registrant had used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services or (ii) the registrant (as an individual, business organization) has been commonly known by the domain name, or (iii) the registrant is making legitimate, non-commercial or fair use of the domain name without intent for commercial gain. The Respondent has not filed any evidence on record to show that the Respondent has made preparations to use the disputed domain name for a bona fide offering of goods or services or that the Respondent has been commonly known by the disputed domain name or makes legitimate non-commercial fair use of the website linked to the disputed domain name. The Complainant has rightly submitted that the Respondent is not making a legitimate or fair use of the disputed domain name for offering goods or services and is merely holding the dispute domain name from the date it registered the disputed domain name. The Arbitrator is also convinced with the Complainant's submissions that although the disputed domain name is registered in the name of 'Velcro Technologies' and it also

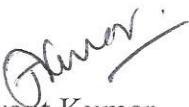


appears to have a company with the name 'Velcro Technologies Pvt. Ltd', the same is insufficient to create any legitimate rights and interest in favour of the Respondent since it is not commonly known by any of these names. The Respondent has also not filed its Reply to contend otherwise. Based on the above, I find that the Respondent has no rights or legitimate interests in the disputed domain name.

18. The Respondent has not made any bonafide use of the domain name or any website that connects with the domain name. The WIPO Panel in *Ferrari S.P.A. v. American Entertainment Group Inc.*, D2004-0673, held that where a domain name is found to have registered with an intention to attract internet users by exploiting the fame of a well-known mark, it constitutes bad faith registration.
19. It is evident that the sole intention of the Respondent in registering the domain name is to sell it to extract unfair profits and is now holding the domain name only to attract potential buyers for it. Based on this, the Arbitrator finds that the disputed domain name was registered and is being used in bad faith by the Respondent. The INDRP panel in *Velcro Industries B.V. v. Zhao Ke* has held the Complainant's mark VELCRO to be a well-known mark, and thus, Respondent's registration and use of the disputed domain name is held to be in bad faith.

### **Decision**

20. In light of the aforesaid discussion and findings, the Arbitrator directs that the disputed domain name <velcrotech.in> be transferred to the Complainant.

  
Jayant Kumar  
(Sole Arbitrator)

Dated: March 20, 2017