



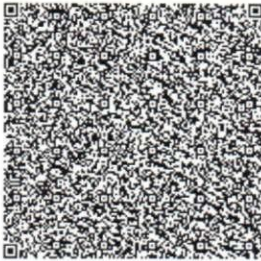
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## INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

### e-Stamp

Certificate No. : IN-DL98330503494661L  
Certificate Issued Date : 03-Apr-2013 04:36 PM  
Account Reference : IMPACC (IV)/ dl871703/ DELHI/ DL-DLH  
Unique Doc. Reference : SUBIN-DL87170396208441354860L  
Purchased by : SANJAY KUMAR SINGH  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : SANJAY KUMAR SINGH  
Second Party : Not Applicable  
Stamp Duty Paid By : SANJAY KUMAR SINGH  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



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BEFORE SANJAY KUMAR SINGH, ARBITRATOR  
IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRA)

Christian Louboutin — — Complainant

vs

Duan Zuchun — — Respondent

Domain Name — "Louboutin.co.in"

**BEFORE SHRI SANJAY KUMAR SINGH ARBITRATOR**

**IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)**

**IN THE MATTER OF:**

Christian Louboutin  
C/O Christian Louboutin S.A  
19, rue Jean-Jacques Rousseau  
Paris 75001,  
France

**THROUGH**

IP Gurus,  
Sujata Chaudhri and Sahil Yadav,  
A-45, Sector 63, NOIDA,  
Uttar Pradesh, India  
E-mail: [Sujatachaudhri@ipgurus.in](mailto:Sujatachaudhri@ipgurus.in),  
E-mail: [sahilyadav@ipgurus.in](mailto:sahilyadav@ipgurus.in)

**..COMPLAINANT**

**Versus**

Duan Zuochun )  
XinXiangZhou Chang Ye Road 70,  
Anjuyuan 33I)ong I~7-4 SHOP  
Zhuhai, Guangdong - 519000  
China  
E-mail: [domainlaw@foxmai1.com](mailto:domainlaw@foxmai1.com)

**..RESPONDENT**

**1. THE PARTIES:**

The complainant is Christian Louboutin, C/O Christian Louboutin S.A 19;  
rue Jean-Jacques Rousseau, Paris 75001, France, E-Mail:  
[juridique@clu'istianlouboutin.fr](mailto:juridique@clu'istianlouboutin.fr) .

(Complaint has been filed by authorized representative IP Gurus, Sujata  
Chaudhri and Sahil Yadav, A-45, Sector 63, NOIDA, Uttar Pradesh, India  
E-mail [Sujatachaudhri@ipgurus.in](mailto:Sujatachaudhri@ipgurus.in), E-mail [sahilyadav@ipgurus.in](mailto:sahilyadav@ipgurus.in)

*Sanjay Kumar Singh*

The Respondent is Duan Zuochun, Xin Xiang Zhou Chang Ye Road 70 Anjuyuan 33Dong 174 Shop, Zhuhai, Guangdong – 519000, China, E-Mail: domainlaw@foxmail.com

This Complaint has submitted for decision in accordance with the .IN Domain Dispute Resolution Policy (INDRP) and the INDRP Rules (INDRP Rule 3(b)> (i)).

The Complainant's preferred method for communication directed to the Complainant in the administrative proceeding: Electronic-Only Material Method: E-mail

**2. DOMAIN NAME AND TRADEMARK IN DISPUTE:**

Domain name of the respondent is "LOUBOUTIN.CO.IN"

The trademark of the complainant is "LOUBOUTIN".

**3. TRADE MARK/SERVICE MARK INFORMATION:**

This complaint is based on the trade marks LOUBOUTIN, CHRISTIAN LOUBGUTTN and marks that incorporate the LOUBOUTIN and CHRISTIAN LOUBOUTIN marks. Hereinafter, these marks are collectively referred to as "the LOUBOUTIN Marks".

The LOUBOUTIN Marks are used in connection with fashion and fashion accessories such as footwear and bags.

**4. PROCEDURAL HISTORY:**

This arbitral proceeding commenced in accordance with IN Dispute Resolution Policy (INDRP) and rules framed there under.

The present dispute pertains to the domain name "LOUBOUTIN.CO.IN" in favour of the respondent.

The complainant submitted his complaint in the registry of NIXI against the respondent in respect to the respondent's Domain name "LOUBOUTIN.CO.IN".

The complainant herein has filed the instant complaint challenging the registration of the domain name "LOUBOUTIN.CO.IN" in favour of the respondent

*Lawyer for Duan*



I was appointed as Sole Arbitrator in the matter by NIXI.

The complainant submitted the said complaint under In Domain Name Dispute Resolution Policy (INDRP).

A copy of complaint was sent to me by the NIXI for arbitration in accordance with Dispute Resolution Policy (INDRP). The copy of the complaint along with annexures/exhibits was forwarded to me and to the respondent by .In Registry of NIXI.

On 02-12-2012 I issued notice to the respondent and informed the respective parties to the complaint, about my appointment as an arbitrator. Accordingly, I called up on the parties to file their counter/reply and rejoinder with the supportive document/evidence within seven days of receipt of notice.

On 04-01-2013 I again issued notice to the respondent and further directed the respective parties to the complaint, to file their counter/reply and rejoinder with the supportive document/evidence.

The respondent has failed to submit any reply till date in spite of opportunities provided to him.

I have perused the records and have gone through the contents of the complaint. Since respondent has not filed any reply hence the complaint is being decided ex-parte on the merits of the complaint and as per law of the land.

##### **5. FACTUAL AND LEGAL GROUNDS:**

The Complainant, Christian Louboutin, is one of the world's best-known fashion designers. Christian Louboutin is commonly referred iolagahissurnanie, Louboutin.

The complainant has submitted that since the year 1992, the complainant has been best known for marking virtually all of his high fashion women's shoes with a bright red-lacquered outsole. The complainant sells these shoes under the names LOUBOUTIN and CHRISTIAN LOUBOUTIN. The LOUBGUTIN Marks appear on every shoe and bag sold by the complainant, the marks are depicted so that the

*Langage ke fish*

name LOUBOUTIN appears prominently on the Complainant's products, as shown below:

The Complainant is one of the world's most exclusive designers of ladies shoes.

The complainant has submitted that from the creation of the CHRISTIAN LOUBOUTIN brand in 1991 and the opening of the first boutique shop in Paris in 1992, CHRISTIAN LOUBOUTIN shoes and bags (hereinafter referred to as "LOUBOUTIN Products" are today available in 58 countries worldwide, through its boutique stores (including one in Delhi), as well as several exclusive department stores around the globe, select small retailers and, as described later, through the worldwide web. The complainant has submitted a list of 58 countries in which LOUBOUTIN Products can be found (as of 3 October, 2012) as Annexure 1.

The complainant has submitted that since their introduction, sales of LOUBOUTIN Products have shown a dramatic increase. This dramatic increase in sales is evidenced by escalating revenue figures over the last few years: in the year 2009, the complainant's revenue was EUR 89.2 million, in 2010, it was EUR 110.2 million, and from 1 January, 2011 to 31 August, 2011, it was EUR 91.8 million.

The complainant has submitted that over the years, LOUBOUTIN Products have been worn by many celebrities all around the world, including Princess Caroline of Monaco, Cameron Diaz, Nicole Kidman, Diane von Furstenberg, Oprah Winfrey, Kate Moss, Angelina Jolie, Sarah Jessica Parker and Jennifer Lopez. Many fashion designers worldwide, including Diane von Furstenberg, Marchesa, Rodarte and Phillip Lim have featured LOUBOUTIN Products at runway shows in New York, Paris and London, among other places. The complainant has annexed pictures of some celebrities wearing LOUBOUTIN Products as Annexure 2.

The complainant has submitted that the renown of LOUBOUTIN Products is so widespread that in 2009 the Complainant and Mattel Inc., the maker of the BARBIE doll, embarked on a collaboration to

*Jayraj K. Singh*



commemorate the fiftieth anniversary of the doll. The Complainant designed a peep-toe pump in BARBIE pink that was worn at the MERCEDES BENZ fashion week in New York City at BARBIE's first ever runway show and offered for sale in limited release, three BARBIE dolls in LOUBOUTIN footwear and a 2010 diary. Pictures featuring (1) snippets from this collaboration, (2) other special events like an exhibition dedicated to CHRISTIAN LOUBOUTIN at the London Design Museum, and (3) similar EUR 89.2 million, in 2010, it was EUR 110.2 million, and from 1 January, 2011 to 31 August, 2011, it was EUR 91.8 million.

The complainant has also submitted that Over the years, LOUBOUTIN Products have been worn by many celebrities all around the world, including Princess Caroline of Monaco, Cameron Diaz, Nicole Kidman, Diane von Furstenberg, Oprah Winfrey, Kate Moss, Angelina Jolie, Sarah Jessica Parker and Jennifer Lopez. Many fashion designers worldwide, including Diane von Furstenberg, Marchesa, Rodaite and Phillip Lim have featured LOUBOUTIN Products at runway shows in New York, Paris and London, among other places. The complainant has annexed pictures of some celebrities wearing LOUBOUTIN Products as Annexure 2.

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*Saughey Kar Singh*

The complainant has submitted that since 1992, the Complainant has engaged successfully in extensive marketing and promotional activities relating to the LOUBOUTIN Marks.

The complainant has submitted that its in India The year 2012 has seen India feature extensively in the Complainant's business plans. Earlier this year, the Complainant set up a free-standing CHRISTIAN LOUBOUTIN store at the Emporio Mall in Delhi. A representative sampling of articles and photographs relating to this store are annexed as Annexure 4. In addition, the Complainant has marketed his Spring/Summer 2012 collection as partially inspired by Bollywood. The collection called "Bollywood" was launched in May this year to a flurry of excitement. A representative sampling of articles and photographs referring to the collection and its Bollywood inspiration, as well as results of a search on the GOOGLE search engine are annexed as Annexure 5.

The complainant has submitted that , in 2011, an Indian company named Christian Louboutin Private Limited was set up, enhancing the Complainant's Indian ties. An extract from the register of the Registrar of Companies detailing the incorporation details of the company is annexed as Annexure 6.

The complainant has submitted that although the Complainant's Indian free-standing store opened a few months back, the Complainant's ties to India go back much longer. Over the years, the Complainant's LOUBOUTIN Products have been worn by well-known Bollywood celebrities such as Bipasha Basu, Amy Jackson and Angela Johnsson. Pictures of these celebrities and articles featuring these pictures are annexed as Annexure 7. Moreover, Indian consumers have been able to purchase LOUBOUTIN Products through the worldwide web for many years.

#### **6. LOUBOUTIN MARKS:**

The complainant has submitted that it is the owner of the LOUBOUTIN Marks which represent some of the most famous marks in the fashion

*Sanjay K. Singh*



world. The Complainant owns registrations of the LOUBOUTIN Marks in countries and jurisdictions around the world, including France, the United States, the United Kingdom, the European Union and Canada. The Complainant also owns international Registrations that extends to numerous countries. The complainant has annexed copies of certificates of a representative sample of the Complainant's registrations and/or extracts from the databases of the relevant Trade Mark Offices as Annexure 8.

The complainant has submitted in India, the Complainant owns registrations for the LOUBOUTIN Marks since 2008. The Complainant's Indian registrations, including Registration Nos. 1644051, 1839047 and 191553, all of which predate the registration of the disputed domain name. The complainant has annexed copies of certificates of the Complainant's Indian registrations as Annexure 9. The complainant has submitted by virtue of these registrations, the Complainant has the exclusive rights to use the LOUBOUTIN Marks in India.

The complainant has submitted that it has used the LOUBOUTIN Marks since at least as early as 1992, and the marks remain in use worldwide, including in India. As stated above, the LOUBOUTIN Marks are among the most famous trade marks in the fashion industry. In fact, the LOUBOUTIN Marks are even recognizable to a substantial section of the public not associated with the fashion industry. The LOUBOUTIN Marks can indisputably be categorized as 'well-known trademarks', as envisaged by Section 2(1)(zg) and Section 11(6) of the Trade Marks Act, 1999.

## **7. COMPLAINANT'S INTERNET PRESENCE:**

The complainant has submitted that it is the owner of the generic top level domain name CHRISTIANLOUBOUTIN.COM, which is accessible to users all over the world, including India. The complainant has annexed a copy of the WHOIS record relating to the domain name CHRISTIANLOUBOUTIN .COM as Annexure 10 and a printout of the home page of < www.christianlouboutin.com > is attached as Annexure 11.

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The complainant has submitted that it can be seen from Annexure 11, the LOUBOUTIN mark appears prominently on the top left hand corner of the home page.

The complainant has submitted that its LOUBOUTIN Products can be purchased by consumers in the United States, Canada and Europe, through the Complainant's website located at [www.christianlouboutin.com](http://www.christianlouboutin.com). In addition, other websites including [www.net-a-porter.com](http://www.net-a-porter.com), [www.saksfifthavenue.com](http://www.saksfifthavenue.com), and [www.neimanmarcus.com](http://www.neimanmarcus.com), ship LOUBOUTIN Products to India. The Complainant is also the owner of numerous country-code top level domain names, including the domain name CHRISTIANLOUBOUTININ. The complainant has annexed a copy of the WHOIS record relating to this domain name as Annexure 12.

The complainant has submitted that this domain name resolves to the complainant's website located at CHRISTIAN LOUBOUTIN COM. Thus, Indian consumers who look for the Complainant's Indian website are automatically directed to the Complainant's website at [www.christianlouboutin.com](http://www.christianlouboutin.com).

The complainant has submitted that it has actively policed domain names registered by third parties that incorporate the LOUBOUTIN Marks. For instance, the Complainant brought, and prevailed in, the following proceedings against cyber squatters, namely, Christian Louboutin v. Zhangyong, D2009-0270 (WIPO 2009) and Christian Louboutin S.A. v. Christian Louboutin. Liu Fang. Liujie. Lockhart. Lv Xiuli and Wangfang, D 2010-0383 (WIPO 2010). The complainant has annexed English translations of these decisions as Annexure 13.

#### **8. THE REGISTRANT AND THE DISPUTED DOMAIN NAME:**

The Registrant, in this case, is a Mr. Duan Zuochun. The complainant has annexed a printout of the WHOIS record associated with the disputed domain name as Annexure 14.

*Sanjay (or Singh)*

The complainant has submitted that as per the WHOIS record; the Registrant is based in Guangdong, China. The record also shows that the disputed domain name was registered on 27 April, 2012.

The complainant has submitted that the Registrant, Mr. Duan Zuochun, appears to be a habitual cyber-squatter and has been the respondent in numerous domain name complaints, including complaints before the National Internet Exchange of India. The complainant has annexed copies of a representative sampling of decisions rendered against the Registrant as Annexure 15 collectively.

The complainant has submitted that currently the domain name does not resolve to an active Website. In fact, when an attempt is made to access the website associated with the domain name, an error message is displayed by the internet browser. The complainant has annexed a screenshot of the relevant error message as Annexure 16.

#### **9. LEGAL GROUNDS:**

The complainant has submitted that the Registrant's Domain Name is Identical and/or Confusingly Similar to a Mark in Which the Complainant has Rights It is well-settled that a domain name has all the characteristics of a trade mark.

The complainant has relied on M/S Satvam Infowav Ltd. v. M/S Siffvnet Solution (P) Ltd. JT 2004 (5) SC 541. Thus, a trade mark and a domain name, although used in a different manner and in different fields, can be identical or confusingly similar.

The complainant has submitted that it has demonstrated statutory and common law rights in the LOUBOUTIN Marks. It owns registrations for the LOUBOUTIN Marks in countries and jurisdictions around the world, including in India. The complainant has submitted that it has used the LOUBOUTIN Marks extensively and continuously since 1992, and continues to do so. Consorzio del Prosciutto di Pameia v. Jim Muller, INDRP/218 (June 16, 2011). The complainant has annexed a copy of this decision as Annexure 17. In this decision, the Panel ordered transfer of a domain name that had been used to exploit the reputation and

*Sanjay Kr Singh*



goodwill associated with the complainant's mark to attract Internet traffic and to mislead the customers.

The complainant has contended the registrant has registered the domain name LOUBOUTTN.CO.IN. The domain name incorporates the Complainant's LOUBOUTIN marks. The complainant has further contended that the disputed domain name, LOUBOUTIN.CO.IN, is identical or confusingly similar to the LOUBOUTIN Marks under INDRP Policy Paragraph 4(i).

**10. THE REGISTRANT HAS NO RIGHT OR LEGITIMATE INTEREST IN THE DOMAIN NAME:**

The complainant has contended the Registrant cannot have any right or legitimate interest in the disputed domain name because the disputed domain name incorporates the including in India and China. There can be no doubt that the Registrant was aware of the LOUBOUTIN Marks when he chose and registered the disputed domain name, and in fact chose the domain name because it was confusingly similar to the Complainant's well-known marks and intended to capitalize on that confusion. This constitutes evidence of bad faith. *Kenneth Cole Productions Inc. v. Viswas Infomedia*, INDRP/93 (April 10, 2009). The complainant has annexed a copy of the decision as Annexure 22.

The complainant has further contended the past conduct of the Registrant speaks to the Registrant's bad faith. The complainant has submitted that as discussed above, the Registrant has been the respondent in numerous prior domain name complaints and in all of these complaints, the Registrant has failed to file a formal response and all of these complaints have been decided against the Registrant. The complainant has submitted thus, there is no question that the Registrant is a cyber-squatter. It is well-settled that cyber-squatting is evidence of bad faith under the INDRP Policy. *GA Modefine S.A. v. Naveen Tiwari trading as MKHOJ*, INDRP/82 (February 20, 2009). The complainant has annexed a copy of this decision as Annexure 20.

*Sanjay Kr Singh*

The complainant has further contended the Registrant's domain name does not resolve to any website, It is well settled that registration of a domain name that incorporates a third-party mark Without any legitimate commercial interest is evidence of bad faith. GA Modetine S.A. v. Naveen Tiwari trading as MKHOJ, INDRP/82 (February 20, 2009). The complainant has annexed a copy of this decision as Annexure 20.

The complainant has submitted that the Registrant's domain name has been registered, and is being used, in bad faith under INDRP Policy Paragraph 4(iii).

### **11. FINDING:**

As stated above I have perused the records and have gone through the contents of the complaint, legal submissions and cases relied upon by the complainant. Since respondent has not filed any reply hence the complaint is being decided ex-parte on the merits of the complaint and as per law of the land.

The complainant has made positive assertions that respondent has no legitimate right in domain name and the respondent has no trademark on the domain name. The complainant has made positive assertions regarding the fact that respondent has got registered the disputed domain name in the .IN Registry for which the respondent has no right or trademark. As such in above circumstance it is clear that the complainant has prima facie discharged the initial onus cast upon him. The respondent has not come forward inspite of repeated notices to file any reply / counter or to provide any positive, cogent and specific evidence that it is known or recognized by domain name. The respondent has neither put forth and has nor provided such evidence. Thus the conclusion is that respondent has no right or legitimate interest in the domain name.

The complainant has relied on Indian decision **M/s Satyam Infoway Ltd. Vs. M/s Sifynet Solution (P) Ltd. JT. 2004 (5) SC 541**, wherein it has been held that Domain name has all characteristics of trademark. As such principles applicable to trademark are applicable to

*Sanjay K. Singh*



domain names also. In the said case the words, "Sify' & 'Siffy' were held to be phonetically similar and addition of work 'net' in one of them would not make them dissimilar. It is held in above case that in modern times domain name is accessible by all internet users and thus there is need to maintain it as an exclusive symbol. It is also held that it can lead to confusion of source or it may lead a user to a service, which he is not searching. Thus conclusion is that domain name and trademark, which may be used in different manner and different business or field, or sphere, can still be confusingly similar or identical.

27. Thus the conclusion is that the domain name "**LOUBOUTIN.CO.IN**" is identical and confusingly similar to the trademark of complainant "**LOUBOUTIN**" and the complainant has established that he has right in the trademark and further the respondent has got registered and is using his domain name "**LOUBOUTIN.CO.IN**" in bad faith.

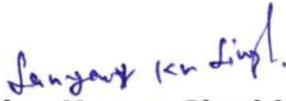
**RELIEF:**

The domain name of the respondent is identical and confusingly similar to trademark of complainant. The respondent also does not have right or legitimate interest in the domain name. He has got it registered in bad faith and is using his domain name "**LOUBOUTIN.CO.IN**" in bad faith as such he is not entitled to retain the domain name. The complainant is entitled for transfer of domain name "**LOUBOUTIN.CO.IN**" to him, as it has established its bonafide rights in trademark in facts and circumstances and as per law discussed above. Hence I direct that the Domain name be transferred to the complainant by registry on payment of requisite fee to the registry.

No order as to costs.

**Delhi**

**Date: 12-04-2013.**

  
**(Sanjay Kumar Singh)**

**Arbitrator**