



**BEFORE THE SOLE ARBITRATOR C.A. BRIJESH
.IN REGISTRY
C/o NIXI (NATIONAL INTERNET EXCHANGE OF INDIA)
NEW DELHI, INDIA**

Mozilla Foundation
331 East Evelyn Ave.
Mountain View
California 94041
United States of America

and

Mozilla Corporation
331 East Evelyn Ave.
Mountain View
California 94041
United States of America

.... Complainants

Versus

Lina
Doublefist Limited
No. 2, HengDaMingDu, QingPu
HuaiAn
Jiangsu, 223003
China

.... Respondent

1. The Parties

The Complainants are **Mozilla Foundation**, a non-profit organization, and its wholly-owned subsidiary, **Mozilla Corporation**, both with their principal place of business at 331 East Evelyn Ave., Mountain View, California 94041, United States of America (hereinafter collectively referred to as the **Complainants** or **Mozilla**).

The Respondent is **Lina, Doublefist Limited**, based in Jiangsu, China (hereinafter the **Respondent**).

2. The Domain Name and Registrar

The disputed domain name is < mozilla.co.in >. The Registrar with which the Domain Name is registered is **Netlynx Technologies Pvt. Ltd.**

3. Procedural Timeline

November 27, 2017 : The .INRegistry appointed Mr. C.A. Brijesh as Sole Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of Procedure.

November 28, 2017 : Arbitrator accorded his consent for nomination as Arbitrator and submitted Statement of Acceptance and Declaration of Impartiality and Independence to the .IN Registry.

December 18, 2017 : Parties to the dispute are informed of the constitution of the Arbitration panel and the effective date of handover. Further, NIXI forwarded a soft copy of the Complaint alongwith the annexures to the Respondent with a copy marked to the Complainant's Authorised Representative and Arbitral

Tribunal.

December 19, 2017 : Arbitral Tribunal addressed an email to the Respondent, with a copy marked to the Complainant's Authorised Representative and NIXI, directing the Respondent to file its response, if any, in ten days.

December 29, 2017 : NIXI informed the Arbitral Tribunal that the courier agency was unable to deliver the hard copy of Complaint to the Respondent. Since electronic copy of the Complaint along with annexures were forwarded to the Respondent at its email address mentioned in the Whois records on December 18, 2017 and there was no bounce back/delivery failure notification, the said email was considered as deemed service to the Respondent. Arbitral Tribunal, as a last opportunity, granted the Respondent additional time of seven days to file its response, if any.

January 08, 2018 : The Tribunal addressed an email to the parties intimating that an Award shall be passed on the basis of the material available on record.

The language of the proceedings shall be English.

4. Factual Background

4.1. Complainant's Activities

The Complainant states, *inter alia*, that it is a non-profit organization based in California dedicated to promoting the development of the Internet as a global

public resource. As part of its mission to promote openness, innovation, and opportunity on the Internet, the Complainant states that it supports and develops open source software programs, and today it is best known for creating the world-renowned Mozilla Firefox internet browser. Since the Complainant was founded in 2003, it claims to have acquired considerable goodwill and notoriety worldwide in its company name, brands, logos and trade marks, including MOZILLA (although Complainant states that the Complainant's origins date back to 1998). Its main website is available at www.mozilla.org. In 2005, the Complainant created another non-profit international affiliate, Mozilla China (website available at www.mozilla.org.cn).

4.2. Complainant's Use of 'MOZILLA'

The Complainant has been functioning under the corporate name MOZILLA since 2003. Further, Complainant claims to be Registrant of many domain names consisting of the term 'MOZILLA', including <mozilla.org> since 1998, <mozilla.com> and <mozilla.net> and numerous country code extensions, such as <mozilla.in> (India), <mozilla.com.cn> and <mozilla.cn> (China) in the name of its Chinese affiliate, <mozilla.at> (Austria), <mozilla.ca> (Canada), <mozilla.ch> (Switzerland), <mozilla.cz> (Czech Republic), <mozilla.de> (Germany), <mozilla.eu> (European Union), <mozilla.fr> (France), <mozilla.hk> (Hong Kong), <mozilla.hu> (Hungary), <mozilla.id> (Indonesia), <mozilla.ie> (Ireland), <mozilla.it> (Italy), <mozilla.jo> (Jordan), <mozilla.jp> (Japan), <mozilla.lk> (Sri Lanka), <mozilla.lt> (Lithuania), <mozilla.me> (Montenegro), <mozilla.my> (Malaysia), <mozilla.pe> (Peru), <mozilla.ph> (Philippines), <mozilla.pk> (Pakistan), <mozilla.pt> (Portugal), <mozilla.ro> (Romania), <mozilla.rs> (Serbia), <mozilla.sg> (Singapour), and <mozilla.vn> (Vietnam).

Further, the Complainant has received numerous honours and awards over the past decade. For instance, the Complainant was named the Most Trusted Internet Company for Privacy by the Ponemon Institute (a think tank that conducts independent research on privacy, data protection and information security policy) and also won the American Business Awards 'Stevie Award' for Most Innovative Company of the Year in the software category in 2012. Mozilla's Firefox internet browser has also received numerous accolades including but not limited to CNET Editors' Choice Award for Best Browser (2004, 2005, 2008, 2011), CNET Top 10 Mac Download for 2010; PC Magazine Editors' Choice Award (2005, 2006, 2008, 2009), Info World's "Best of open source productivity apps" award (2008), the Linux Journal's "Reader's Choice" award for "Favorite Web Browser" (2008), and PC World Product of the Year (2005), amongst many others.

Further, the Complainant claims to have a strong presence online by being active on different social media forums available online, such as Facebook, Twitter, YouTube, LinkedIn, Google+. Mozilla's Indian Facebook page was launched on 22 January 2011, and the first post of its official blog for Mozilla India was published on 21 September 2013. Mozilla China's Flickr's page was launched in 2011. Some of these pages are available at the following URLs:

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- <https://www.facebook.com/mozilla>
 - <https://www.facebook.com/mozillaindia>
 - <https://twitter.com/mozilla>
 - <https://www.linkedin.com/company/mozilla-corporation>
 - <http://blog.mozillaindia.org>
 - <https://www.flickr.com/photos/mozillachina>

Further Complainant claims to have secured favourable orders in domain name disputes pertaining to its trade mark 'MOZILLA'. Few of the decisions cited by the Complainant are as follows:

- a) *Mozilla Corporation and Mozilla Foundation vs. Zhao Ke*, ZA2017-00262 (<mozilla.co.za>);
- b) *Mozilla Foundation, Mozilla Corporation v. Bozlul Haque*, WIPO Case No. D2017-0672, (downloadfirefoxbrowser.com);
- c) *Mozilla Foundation and Mozilla Corporation v. Whois Agent, Whois Privacy Protection Service, Inc. / John Morzen*, WIPO Case No. D2016-1489 (<mozillafirefox.biz>, <mozillafirefox.net>, <mozillafirefoxupdate.com> and <mozillathunderbird.net>);
- d) *Mozilla Foundation, Mozilla Corporation v. Whois Privacy Shield Services / Hiroshi Sakamoto*, WIPO Case No. D2016-1488 (<mozilla-europe.com>);
- e) *Mozilla Foundation and Mozilla Corporation v. Kiran Kumar*, WIPO Case No. D2016-0952 (<firefox.lol> and <mozilla.lol>);
- f) *Mozilla Foundation and Mozilla Corporation v. Limpkin Walker*, WIPO Case No. DME2008-0007 (<getfirefox.me>); and
- g) *Mozilla Foundation, Mozilla Corporation v. Metro Media*, WIPO Case No. DME2008-0006 (<firefox.me>).

4.3 Complainant's Trade Mark MOZILLA

The Complainant claims to have registered its trade mark 'MOZILLA' in numerous countries of the world including India. In USA, the trade mark 'MOZILLA' is registered under No. 2815227 since February 17, 2004 with first use in Commerce claimed since the year 1998. In India the Trade Mark 'MOZILLA' is registered under No. 1698244 since

June 12, 2008. The said mark is registered in European Union as well since 1999.

4.4 Respondent's activities and its use of MOZILLA

The domain name <mozilla.co.in> was created on April 19, 2013 as is clearly discernible from the WHOIS records, registered in the name of the Respondent. **Annex 3** confirms the same. According to the previous WHOIS records of the Domain Name, the Registrant's name and organization were previously Zhaxia and the Pfister Hotel, respectively. Complainant claims that Zhaxia is frequently associated with the Respondent's current organization, Doublefist Limited. **Annex 10** demonstrates the same through few WHOIS records. Further, the Complainant claims that the website redirects either to dynamic advertising websites, the Yahoo! Canada search results page for the term "MOZILLA" or a survey scam asking users to indicate the website they have just visited and whether they have clicked on an ad. The same is shown by screenshots in **Annex 9**.

The Respondent (or the party that controls the Respondent) is also associated with hundreds of domain names allegedly infringing well-known third party trade marks under the .IN extension, including but not limited to <fourseasons.co.in>, <bio-oil.in>, <baccarat.co.in>, <christian-lacroix.in>, <hewlett-packard.in>, <aigle.co.in>, <boucheron.co.in>, <caudalie.in>, <jpmorgan.co.in>, <lloydsbank.co.in>, <generali.in>, <hennessy.in>, <maje.in>, <lipton.co.in>, <mauboussin.in>, <haagendazs.in>, <missoni.co.in>, <fijiwater.co.in>, <laperla.in>, <morganstanleysmithbarney.in>, and <richemont.co.in>. Same is corroborated by WHOIS records in **Annex 10**, wherein email address of Respondent ymgroup@msn.com is common and some records show

Respondent's organization, Doublefist Limited (but using a different registrant name such as Zhaxia).

On May 30, 2017, the Complainant's lawyers sent a cease and desist letter to the Respondent by email asserting the Complainant's trade mark rights and calling upon the Respondent to transfer the Domain Name to the Complainant. On May 31, 2017, the Respondent replied by email offering the Domain Name for sale for USD 2,890. Correspondence between the Complainant's lawyers and the Respondent, including the cease and desist letter and the response thereto is attached at **Annex 12**.

Given that the Respondent has not furnished a response to the Complaint, no further information is available on its business activities and/or its use of the domain comprising the mark/name MOZILLA.

5. Contentions of Parties as summarised in the pleadings

5.1 Complainant

a) The Domain Name is identical or confusingly similar to the Complainant's trade marks (Paragraph 4(i) of the .IN Policy)

- i. As mentioned above, Complainant has trade mark rights in the term 'MOZILLA' in many jurisdictions throughout the world. Details of few such registrations are as given below:

- United States Trade mark No. 2815227, MOZILLA, registered on 17 February 2004 (first used in commerce in 1998);
- United States Trade mark No. 3187334, MOZILLA, registered on 19 December 2006 (first use in commerce in February 2004);

- Indian Trade mark No. 1698244, MOZILLA, registered on 12 June 2008;
- European Union Trade mark No. 000182899, MOZILLA, registered on 3 March 1999;
- International Trade mark No. 974622, MOZILLA, registered on 13 August 2008.

Copies of extracts of these trade mark registrations, are attached at **Annex 14.**

- ii. The Complainant submits that the Domain Name is identical or confusingly similar to the trade mark in which the Complainant has rights. The Domain Name incorporates the term MOZILLA in its entirety. The Complainant further states that prior panels deciding under the Policy have held that "*when a domain name wholly incorporates a complainant's registered mark that is sufficient to establish identity or confusing similarity for purposes of the Policy.*" Complainant has relied on *Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, (WIPO Case No. D2000-1525) and *AB Electrolux v. GaoGou of YERECT*, (INDRP / 630 (<zanussi.in>)) and *Wal-mart Stores Inc. v. Ambra Berthiaume*, (INDRP / 491 (<walmart.in>)). Complainant has further relied upon decision of *Havells India Limited v. QRG Enterprises Limited*, INDRP /896 (<crabtree.co.in>) wherein it was held that "*the expressions '.co' and '.in' need to be discarded while comparing the marks with the domain names*". Therefore the Complainant submits that

Domain Name is identical to the Complainant's trade mark in accordance with paragraph 4(i) of the .IN Policy.

b) **The Respondent has no rights or legitimate interests in respect of the Domain Name (Paragraph 4 (ii) and Paragraph 7 of the .IN Policy)**

- i. It is the contention of the Complainant that the Respondent has no rights or legitimate interests in the disputed domain name.
- ii. The Complainant asserts that the Respondent is unable to invoke any of the circumstances set out in Paragraph 7 of the .IN Policy, in order to demonstrate rights or legitimate interests in the Domain Name.
- iii. The Complainant submits that it has not authorised, licensed or otherwise allowed the Respondent to make any use of its MOZILLA trade mark, in a domain name or otherwise.
- iv. It is further submitted by the Complainant that since the Domain Name redirects to dynamic advertising websites from which the Respondent or a third party is clearly obtaining financial gains, the Respondent cannot assert that, prior to any notice of this dispute, it was using, or had made demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services in accordance with paragraph 7(i) of the .IN Policy or legitimate non-commercial or fair use of the Domain Name in accordance with Paragraph 7(iii) of the .IN Policy.
- v. The Complainant contends that as per a search conducted by it, Respondent has not secured or even sought to secure any trade mark rights in the mark MOZILLA. Complainant has relied on the findings in

Shulton Inc. vs. Mr. Bhaskar, INDRP/483 (<oldspice.in>), wherein it was held that there is no right or legitimate interest in the disputed domain name as the respondent did not have trade mark rights in a word corresponding to the disputed domain name and there was no evidence that the respondent was commonly known by the disputed domain name.

- vi. The Complainant contends that the Respondent cannot conceivably assert that it is commonly known by the term MOZILLA, in accordance with Paragraph 7(ii) of the .IN Policy, given the notoriety surrounding the Complainant's trade mark and the fact that it is exclusively associated with the Complainant in connection with software and online services.

c) **The domain name was registered or is being used in bad faith (Paragraph 4(iii) and Paragraph 6 of the .IN Policy)**

- i. The Complainant asserts that the Domain Name was registered and is being used in bad faith.
- ii. The Complainant contends that its MOZILLA trade mark is highly distinctive and has acquired considerable renown and goodwill worldwide, including in India, as a result of its continuous and extensive use for over 15 years in connection with computer and internet-related products and services. Therefore it would be inconceivable for the Respondent to argue that it did not have knowledge of the Complainant's rights at the time of registration of the Domain Name in 2013. Further, it is apparent that the Respondent knowingly and deliberately registered the Domain Name in bad faith seeking to somehow profit from the Complainant's goodwill and renown.

- iii. The Complainant submits that the Respondent registered the Domain Name primarily for the purpose of selling, renting, or otherwise transferring it to the Complainant, who bears the name and is the owner of the MOZILLA trade mark or to a competitor, for valuable consideration in excess of its documented out-of-pocket costs directly related to the Domain Name, in accordance with Paragraph 6(i) of the .IN Policy. The Complainant submits that the Respondent's response to the cease and desist letter sent by Complainant's Counsel offering the Domain Name for sale for the amount of USD 2,890 establishes the fact that the Respondent registered the Domain Name seeking to exploit the Complainant's rights which is nothing but bad faith.
- iv. The Complainant further submits that the Respondent registered the Domain Name, which identically reproduces the Complainant's trade mark without adornment, to prevent the Complainant from reflecting its trade mark in the corresponding .CO.IN country code extension for India, and has engaged in a pattern of such conduct, in accordance with Paragraph 6(ii) of the .IN Policy.
- v. It is submitted by the Complainant that by using the Domain Name the Respondent is intentionally attempting to attract, for commercial gain, internet users to its website by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation or endorsement of the websites, in accordance with paragraph 6(iii) of the .IN Policy.

- vi. The Complainant asserts that the Respondent's use of Domain name is in bad faith as it redirects internet users to either dynamic advertising websites, the Yahoo! Canada search results page for the term "MOZILLA" or a survey scam asking users to indicate the website they have just visited and whether they have clicked on an ad which, although unconnected to the Complainant are clearly commercial in nature. Further, the fact that the Respondent replied to the Complainant's cease and desist letter offering the Domain Name for sale is a strong indication that the Respondent is not intending to use the Domain Name in good faith but rather to obtain financial gains derived from the goodwill and reputation attached to the Complainant's trade mark.
- vii. The Complainant asserts that the Domain Name was registered and is being used in bad faith in accordance with Paragraph 4(iii) of the .IN Policy.

5.2 Respondent

As per the INDRP Rules of Procedure, NIXI has forwarded a copy of the Complaint alongwith all annexures to the Respondent on January 18, 2017 with a copy marked to the Complainant and this Arbitral Tribunal.

On December 18, 2017, this Tribunal issued a notice to the Respondent directing it to file a response within ten days. However, no response was received from the Respondent.

Absent a response from the Respondent thereto or any intimation by the Respondent of its desire to furnish a response, the matter has proceeded *ex-parte*.

6. Discussion and Findings


As per paragraph 4 of the .IN Domain Name Dispute Resolution Policy (INDRP), any person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

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

Based upon the pleadings, it is required to be examined as to whether the parties have been able to justify/rebut the aforesaid premises:

6.1 Identical or confusingly similar trade/service mark

As per the WHOIS records, the disputed domain name <mozilla.co.in> was registered on April 19, 2013.

The Complainant is the proprietor of the registered trade mark MOZILLA in diverse classes and has applications/registrations for the mark MOZILLA in various jurisdictions of the world. To substantiate the same, the Complainant has placed on record copies of registration certificates for the trade mark MOZILLA in several countries across the world. Complainant has also filed a representative list of its trademark registrations obtained in numerous countries. In India, the Complainant's trademark application filed under no. 1698244 on June 12, 2008 stands registered. Further, the Complainant also claims to own the domain name <www.mozilla.org>, as well as India specific domain name <mozilla.in>. It

claims to have been substantially and continuously using the mark/name MOZILLA in relation to its business/products/services.

The disputed domain name incorporates the mark MOZILLA in its entirety. It has been held in *Inter-Continental Hotels Corporation vs. Abdul Hameed* (INDRP/278) as well as in *Indian Hotels Company Limited vs. Mr. Sanjay Jha* (INDRP/148) that when a disputed domain name incorporates a mark in entirety, it is adequate to prove that the disputed domain name is either identical or confusingly similar to the mark. Similarly, in case of *Farouk Systems Inc. vs. Yishi*, WIPO Case No. D2010-006, it has been held that the domain name wholly incorporating a Complainant's registered mark may be sufficient to establish identity or confusing similarity, despite the additions or deletions of other words to such marks.

As can be seen from above, the Complainant has registered the domain name <mozilla.org> since 1998, <mozilla.com> and <mozilla.net> and numerous country code extensions, such as <mozilla.in> (India), <mozilla.com.cn> and <mozilla.cn> (China) in the name of its Chinese affiliate, <mozilla.at> (Austria), <mozilla.ca> (Canada), <mozilla.ch> (Switzerland), <mozilla.cz> (Czech Republic), <mozilla.de> (Germany), <mozilla.eu> (European Union), <mozilla.fr> (France), <mozilla.hk> (Hong Kong), <mozilla.hu> (Hungary), <mozilla.id> (Indonesia), <mozilla.ie> (Ireland), <mozilla.it> (Italy), <mozilla.jo> (Jordan), <mozilla.jp> (Japan), <mozilla.lk> (Sri Lanka), <mozilla.lt> (Lithuania), <mozilla.me> (Montenegro), <mozilla.my> (Malaysia), <mozilla.pe> (Peru), <mozilla.ph> (Philippines), <mozilla.pk> (Pakistan), <mozilla.pt> (Portugal), <mozilla.ro> (Romania), <mozilla.rs> (Serbia),

<mozilla.sg> (Singapour), and <mozilla.vn> (Vietnam) and is doing/operating business/website under the said domain names. The Respondent on the other hand registered the domain <mozilla.co.in> much subsequent to the Complainant.

In the view of the foregoing discussions, the Complainant has satisfied this Tribunal that:

- i. The domain name in question <mozilla.co.in> is phonetically as well as visually identical to the Complainant's prior registered trade mark MOZILLA and that the ccTLD "co.in" does nothing materially to distinguish the same from Complainant's mark MOZILLA; and
- ii. It has both prior statutory and proprietary rights in respect of the mark MOZILLA.

6.2 Rights and legitimate interests

The Complainant has asserted that the Respondent has no rights or legitimate interests in the disputed domain name. Paragraph 7 of the INDRP enumerates three circumstances (in particular but without limitation) and if the Arbitrator finds that the Registrant has proved any of the said circumstances, the same shall demonstrate its rights to or legitimate interest in the disputed domain name. The said paragraph is reproduced herein under:


"Registrant's Rights to and Legitimate Interest in the Domain Name - Any of the following circumstances, in particular but without limitation, if found by the Arbitrator to be proved based on its evaluation of all evidence presented, shall demonstrate the Registrant's rights to or legitimate interest in the domain name for the purposes of Paragraph 4 (ii):

- i. Before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name with a bona fide offering of goods or services;
- ii. The Registrant (as an individual, business, or other organisation) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or
- iii. The Registrant 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 ought to have been aware of the reputed mark/name MOZILLA of the Complainant. There is no documentary evidence to suggest that the Respondent has used or made demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with bonafide offering of goods/services; or is commonly known by the disputed domain name; or has made fair use of the domain name. On the other hand, Respondent's domain name <mozilla.co.in> redirects either to dynamic advertising websites, the Yahoo! Canada search results page for the term "MOZILLA" or a survey scam asking users to indicate the website they have just visited and whether they have clicked on an ad. Screenshots evidencing the same have been filed website filed by Complainant. Complainant has alleged that such redirecting of domain name to dynamic advertising websites is to clearly obtain financial gain.

Further, as observed by the panel in the case of *International Hotels v. Abdul Hameed* (INDRP/278), it is well established, that trade mark registration is recognised as *prima facie* evidence of rights in a mark. Complainant, in the instant case, is the owner of the registered trademark MOZILLA in various jurisdictions in the world; has a '.org' registration for the same since 1998; and has filed an application for registration in India which predates registration of said domain name by Respondent and thus has sufficiently demonstrated its rights in the trade mark MOZILLA.

Further it is a settled position that if the Respondent does not have trade mark right in the word corresponding to the disputed domain name and in the absence of evidence that the respondent was commonly known by the disputed domain name, the Respondent can have no right or legitimate interest [See *Shulton Inc. vs. Mr. Bhaskar*, INDRP/483- <'oldspice.in'>].

 In view of the foregoing, it is evident that Respondent has no rights or legitimate interests in the disputed domain name.

6.3 Bad faith

Paragraph 6 of the INDRP enumerates the circumstances evidencing registration and use of domain name in bad faith. The said paragraph is reproduced herein under:

"Evidence of Registration and use of Domain Name in Bad Faith: For the purposes of Paragraph 4(iii), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:

- i. Circumstances indicating that the Registrant 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 bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or
- ii. the Registrant 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 the Registrant has engaged in a pattern of such conduct; or
- iii. by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.”

The following clearly establishes bad faith:

- (i) The reply of Respondent to Complainant's Cease and Desist letter offering for sale the disputed domain name for USD 2,890, clearly depicts Respondent's intent to sell for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name. See *Wacom Co. Ltd. v. Liheng*, INDRP/634 (<wacom.in>).

- (ii) From the evidence on record, it is clear that such registration of domain name by Respondent is intended at preventing Complainant from reflecting its MOZILLA mark in a corresponding domain name, so as to sell the domain name for valuable consideration in excess of its out-of-pocket costs. See *Volvo Trademark Holding AB v. Mr Sachin*, INDRP/869 (<volvo-bus.in>).
- (iii) From the records, it also appears that by registering the impugned domain name, the Respondent has attempted to attract internet users thereby creating likelihood of confusion with the Complainant's mark/source of origin. See *Colgate – Palmolive Company and Colgate – Palmolive (India) Ltd. v. Zhaxia*, INDRP/887 (<colgate.in>).
- (iv) The Respondent (either itself or through others) is the registrant of hundreds of domain names infringing third parties well known trade marks. Such abusive domain name registrations, undoubtedly, is a strong indication of bad faith. See *Microsoft Corporation v. Gioacchino Zerbo*, WIPO Case No. D2005-0644 (<internetexplorer.com>); *Southern Communications Services, Inc. d/b/a Southern LINC v. Henry Chan* (WIPO Case No. D2004-0214)- “Cyberpirates may attempt to warehouse multiple domain names containing other's marks, sometimes hundreds or even thousands, and this factor permits a court to take such conduct into the consideration of whether a certain domain name was registered in bad faith.”

In view of the foregoing, the panel is of the view that Respondent has registered the domain name <mozilla.co.in> in bad faith.

7. Award

From the foregoing findings, it is established beyond doubt that (1) the domain name is confusingly similar to the mark MOZILLA which is proprietary to the Complainant, (2) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and (3) the domain name is registered in bad faith.

Thus, in accordance with the Policy and Rules, this Arbitral Tribunal directs the Respondent to immediately transfer the disputed domain name <mozilla.co.in> to the Complainant.

The parties shall bear their own cost.

Dated: February 19, 2018



C.A. Brijesh
Sole Arbitrator