

## ADMINISTRATIVE PANEL DECISION

Voltas Limited v. arthursins004 arthursins004  
Case No. D2024-2200

### 1. The Parties

The Complainant is Voltas Limited, India, represented by Ira Law Attorneys (Ira Law), India.

The Respondent is arthursins004 arthursins004, Hong Kong, China.

### 2. The Domain Name and Registrar

The disputed domain name <voltascollections.com> is registered with Porkbun LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 29, 2024. On May 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 30, 2024, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registrant of “www.voltascollections.com” / Whois Privacy, Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 3, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on June 7, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 3, 2024.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on July 23, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

The Complainant is a company incorporated in India in 1954 with its principal place of business in Mumbai, India. It does business throughout most of India and in several foreign countries in the Middle East, South and Far East Asia and CIS countries. Its shares are traded on the Mumbai stock exchange. In 2020-2021 it had a turnover of INR 63.7797 billion.

It is India's largest manufacturer of air conditioners and air conditioning solutions. It is also one of the world's premier engineering solution providers and project specialists. It offers engineering solutions for a wide spectrum of industries in numerous fields such as heating, ventilation and air conditioning, refrigeration, climate control, electro-mechanical, textile machinery, mining and construction, water management, building management systems and pollution control.

It sells domestic home appliances including air conditioners, refrigerators, water coolers, washing machines, dishwashers, microwaves, water heaters and air purifiers under the mark VOLTAS through physical stores, via e-commerce platforms and on its own websites such as "www.myvoltas.com".

The Complainant has traded since 1954 continuously using the trade and service mark VOLTAS which it has registered as a trade mark in India and elsewhere. VOLTAS was coined by the Complainant's two promoters; VOLKART, a Swiss company and TATAS, an Indian company. The prefix "VOL" was taken from VOLKART and the suffix "TAS" from TATAS.

The Complainant includes at Table 1 to the Complaint a list of approximately forty Indian trade mark registrations for or incorporating the mark VOLTAS. These include five registrations for VOLTAS, nos.169302, 169303,169304,169311 (combined) and 169312 in classes 1, 2, 3, 11 and 16, respectively, registered on May 31,1955. Copies of the registration certificates are exhibited at Annexure 5 to the Complaint and a complete list of Indian registrations is exhibited at Annexure 6.

The Complainant claims that it is also the registered proprietor of the trade mark VOLTAS in various countries throughout the world including; Singapore, Hong Kong, China, Qatar, Bahrain, Kuwait, China, South Africa, and Mozambique. Annexure 7 to the Complaint is a table illustrating the registrations and pending trade mark applications in favour of the Complainant around the world.

As a result of the continuous and extensive use of the trade mark VOLTAS the Indian trade mark registry has recently declared the mark VOLTAS to be a well-known trade mark under the Indian Trade Marks Act 1999. A copy of the Indian Trade Marks Journal No.2113 dated July 17, 2023 containing this declaration is exhibited as Annexure 14.

The Complainant is also the registrant of a number of domain names containing the mark VOLTAS including; <voltaslimited.org>, <myvoltas.com>, <voltas.com> and <voltasservice.com>. A complete list of these domain names is exhibited at Annexure 17.

The disputed domain name according to the Whois data base was registered on December 22, 2023, which is well after the dates of registration of the Complainant's Indian trade mark registrations listed in Annexure 6.

The Respondent is using the disputed domain name to access a web-site which according to the Complainant has "entirely copied and reproduced the contents, design elements, and the look and feel" of the Complainant's own website. It offers for sale products using the trade mark VOLTAS and VOLTAS BEKO under the guise, contrary to the fact, that these are the genuine products of the Complainant".

The Complainant exhibits side by side in the Complaint its own and the Respondent's website from which it can be seen that the Respondent uses an identical font, size and manner to that of the Complainant and replicating the same blue and white colour scheme as used by the Complainant.

In the absence of a Response the Panel finds the above evidence as adduced by the Complainant to be true.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- i. It has established extensive registered trade mark rights in India and elsewhere in the world which predate the date of registration of the disputed domain name.
- ii. The disputed domain name incorporates the Complainant's trade mark VOLTAS in its entirety and is therefore confusingly similar to the Complainant's mark in which it owns prior rights.
- iii. There is no evidence that the Respondent has rights or legitimate interests in respect of the disputed domain name.
- iv. On the evidence of the Respondent's use of the disputed domain name and in particular a comparison of both parties' websites the disputed domain name was registered and is being used by the Respondent in bad faith.

### **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of the trade mark VOLTAS for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's mark VOLTAS is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, in this case the word "collections", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent which has not replied to the Complaint has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, claimed sale of counterfeit goods, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

In particular the Panel takes into account the use and copying by the Respondent of the Complainant’s website accessed by use of the disputed domain name in which it offers for sale likely infringements of the Complainant’s products at substantially lower prices than genuine products offered by the Complainant. On the evidence the Complainant submits that this is a “clear case of cyber-squatting”, a submission which the Panel accepts.

The Panel finds that the second element of the Policy has been established.

## **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent’s activities in registering and using the disputed domain name shows an intention to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark within paragraph 4(b) of the Policy.

The Panel finds that the Respondent had active knowledge of the Complainant’s rights in the trade mark VOLTAS at the time that it registered and began using the disputed domain name. This is evidenced by the Respondent’s creation of its website which is a replica of the Complainant’s website. In doing so it would have had knowledge of the Complainant and its website.

This finding is supported by the fact that the disputed domain name incorporates in its entirety the Complainant’s trade mark VOLTAS in conjunction with the descriptive word “collections”.

The Panel also takes into account that the comparison of the Complainant’s website with the Respondent’s website shows that the Respondent has reproduced the content, design elements and the look and feel of the Complainant’s website and is making available purportedly the Complainant’s products using the Complainant’s trade mark VOLTAS and those of its affiliate under the mark VOLTAS BEKO.

Panels have held that the use of a domain name for illegal activity as applicable to this case: sale of counterfeit goods, impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <voltascollections.com> be transferred to the Complainant.

*/Clive Duncan Thorne/*

**Clive Duncan Thorne**

Sole Panelist

Date: August 6, 2024