



தமிழ்நாடு தமில்நாடு TAMILNADU Sridharan

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BEFORE S SRIDHARAN, SOLE ARBITRATOR
OF NATIONAL INTERNET EXCHANGE OF INDIA

ARBITRATION AWARD

DATED: 14th February 2013

LA ROCHE-POSAY
LABORATOIRE
PHARMACEUTIQUE

Versus

EAC INTERNATIONAL CO., LIMITED

... Complainant
... Respondent

Sridharan

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**LA ROCHE-POSAY
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... **Complainant**

Versus

EAC INTERNATIONAL CO., LIMITED

... **Respondent**

1. The Parties

- 1.1 The complainant **La Roche-Posay Laboratoire Pharmaceutique**, a French Company incorporated under French law as "société par actions simplifiée", having its registered office at rue Rene Levayer, 86270, La Roche-Posay, Paris represented by Nathalie DREYFUS of Dreyfus & Associates, 78 Avenue Raymond Poincaré, 75116 Paris, France.
- 1.2 Respondent is **EAC INTERNATIONAL CO., LIMITED**, at Ground Floor, 26 Lee Street, NSW 2000, Sydney, AUSTRALIA.

The Domain Name and Registrar

- 1.3 The disputed domain name <**laroche-posay.in**> created on 11.08.2012 is registered with Directi Web Services Pvt Ltd (R118-AFIN).

2. Procedural History

- 2.1 On 18th January 2013, 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 24th January 2013, I received hardcopy of the Complaint.
- 2.3 On 24th January 2013, 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 29th January 2013, I received a soft copy of the Complaint.
- 2.5 Respondent has not filed any response to the Complaint.

Sridharan

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 Complainant is a French company specialized in the field of cosmetics and beauty. Founded in 1928 for post-treatment dermatological products formulated with La Roche-Posay thermal spring water, this brand has been ever since dedicated to create new generations of dermatological skincare products.

3.2 This high-tech dermatological brand prides itself on safety, expertise, ethics and rigorous testing. Complainant aims to improve quality of life for patients and consumers by offering a range of products and services designed specifically to meet the needs and requirements of dermatologists and suitable for even the most sensitive skins.

3.3 With over 30 years' experience in research into sensitive skins and 25 patents to their name, Complainant has become a true benchmark in the development of the simplest possible formulas for sensitive skin. The formulation is governed by strict rules: rigorous selection of active ingredients at their optimum concentration, elimination of any potential irritants, paraben-free formulation, and hypoallergenic fragrances. It is now present in 50 countries and recommended by 25,000 dermatologists worldwide.

3.4 Complainant is the subsidiary of the industrial group L'Oréal. Created in 1909 by a French chemist of the same name, L'Oréal recently celebrated its centenary. It is one of the world's largest groups in the cosmetics business. Present in over 130 countries, L'Oréal creates and distributes products in all sectors of the beauty industry, such as hair color, styling aids, cosmetics, cleansers, and fragrances. L'Oréal markets professional products, consumer products, luxury products and active cosmetics. L'Oréal owns 23 international brands among which GARNIER, KERASTASE, MAYBELLINE, LANCOME and SHU UEMURA.

3.5 L'Oréal markets over than 500 brands, and more than 2,000 products in all sectors of the beauty business. It develops and markets inter alia cosmetic active products with brands such as LA ROCHE-POSAY.

3.6 Complainant's Group L'Oréal is also present in Australia where it has recorded very significant growth in terms of sales and has a local subsidiary since 1934. LA ROCHE POSAY products respect Australian standards and are available in all States of Australia. Complainant has specific web addresses for the website of LA ROCHE POSAY Australia and Hong Kong.

3.7 The brand LA ROCHE POSAY is also present in India where magazines widely distributed such as Vogue India refers to its products.

3.8 Complainant's own numerous trademark registrations for LA ROCHE-POSAY throughout the world. Complainant is inter alia the owner of :

a) Hong Kong trademark LA ROCHE-POSAY, No. 301872865 registered on September 28, 2011 and covering goods in class 3.

b) International trademark LA ROCHE-POSAY, No. 787605 registered on July 12, 2002 protected inter alia in Australia and covering goods in classes 3 and 5;

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- c) Indian trademark LA ROCHE-POSAY, No.2123344 dated of March 13, 2011 and covering goods in class 3.
- 3.9 Additionally, Complainant's Group L'Oréal operates an international website www.laroche-posay.com which is entirely dedicated to his brand LA ROCHE-POSAY and has its branch national websites in over 40 countries where the products of said brand are marketed. Thus, Complainant and its affiliates owns numerous ccTLD names corresponding to these websites, as for example:
- a) www.laroche-posay.com.cn created on September 8, 2000;
 - b) www.laroche-posay.hk created on October 29, 2008;
 - c) www.laroche-posay.jp created on December 17, 2003;
 - d) www.laroche-posay.us created on April 26, 2002
 - e) www.laroche-posay.com.au etc.
- 3.10 When Complainant has become aware of the registration of the disputed domain name **<laroche-posay.in>**, it belonged to Pfister Hotel with Wangyuan as contact located in United States. This domain name was pointing to a page of commercial links including links in the field of cosmetics and links reproducing the trademark LA ROCHE-POSAY. Complainant sent a cease-and-desist letter to Pfister Hotel and Wangyan requesting transfer of the disputed domain name **<laroche-posay.in>**. Complainant received a reply from a person named Zhao offering to sell the domain name for 3890 USD to Complainant. This person also contacted directly Complainant offering to sell the domain name.
- 3.11 Complainant further noticed that the disputed domain name **<laroche-posay.in>** was released and reregistered by an entity named Zonce Group domiciled in Hong Kong. A cease-and-desist letter was sent to new registrant by Complainant notifying its rights in LA ROCHE POSAY and requesting transfer of the domain name. Complainant received a reply from a person named Song offering to sell the domain name for 1890 USD. The post version of its cease-and-desist letter was also returned for insufficient address.
- 3.12 Complainant further noticed a new change of registrant for the disputed domain name, its owner in Whois databases being now EAC International Co. Ltd. located in Australia with Jiaai as contact. The registrar and the direction of the domain name a parking page displaying sponsored links in the field of cosmetics remained unchanged. Complainant was also in parallel contacted again by Song in respect of the offered purchase price.
- 3.13 A cease-and-desist letter was sent after to registrant EAC International Co. Ltd. The post of version of such letter was returned to Complainant with the mention unknown address. Complainant received no reply from EAC despite its reminder by email.
- 3.14 Respondent appears to be using wrong contact details and there seems to be links between the present registrant in Whois database and the previous Zonce Group.
- 3.15 Complainant found there is a company named EAC (H.K) International Co., Limited with also Jiaai as contact and domiciled in Hong Kong as the previous Registrant, Zonce Group. The email address of the registrant is also used for a person named Rainer Lowack domiciled in Great Britain. Further, Complainant was contacted again by Song from Zonce Group for his offer to purchase the domain name at 1890 USD.
- 3.16 Today, the disputed domain name **<laroche-posay.in>** still resolves to a page of commercial links including links in the field of cosmetics directing Internet users to competing products and such page also includes a link to post an offer for the domain name.

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3.17 As no amicable settlement could be found, Complainant is forced to start the present proceedings in order to obtain the transfer of the disputed domain name <laroche-posay.in>.

3.18 The Complainant has filed 34 annexures along with the Complaint.

B Respondent

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

4. Parties Contentions

A Complainant

4.1 The disputed domain name <laroche-posay.in> is identical or at least confusingly similar with Complainant's trademarks LA ROCHE-POSAY.

4.2 The disputed domain name differs from LA ROCHE-POSAY trademark by the addition the ccTLD ".in". However it is only minor difference that are insufficient to avoid likelihood of confusion between Complainant's trademarks and the disputed domain name. Indeed, it is well established in domain name cases that the suffix to indicate the top level of the domain name has to be disregarded for the purpose of determining whether the domain name is identical or confusingly similar to Complainant's trademark. The lack of impact of this minor difference was also evidenced by previous decisions of INDRP involving <laroche-posay> domain names and Complainant's trademark.

4.3 The disputed domain name <laroche-posay.in> incorporates Complainant's trademark LA ROCHE-POSAY in its entirety. Previous Panels have found that when a domain name contains a trademark in its entirety, the domain name is identical or at least confusingly similar to the trademark.

4.4 Besides, the name LA ROCHE-POSAY is also the corporate and trade name of Complainant. L'Oréal acquired notoriety and today is known worldwide thanks to this trade name.

4.5 For all the reasons above, it has been established that Complainant has rights to the LA ROCHE-POSAY trademarks and that the disputed domain name is highly and confusingly similar to these trademarks. The condition of paragraph 4(i) of the IN. Policy has therefore been fulfilled.

4.6 The predominant part of the disputed domain name is <laroche-posay.in> LA ROCHE-POSAY, which is Complainant's registered trademark, company name and trade name. Complainant is also the owner of many domain names incorporating the term LA ROCHE-POSAY.

4.7 Respondent does not have prior rights or legitimate interests in the LA ROCHE-POSAY trademark. Where Complainant's rights in a trademark predate Respondent's registration of the disputed domain name incorporating that trademark, Respondent does not have rights or legitimate interests in the disputed domain name.

4.8 Respondent is in no way affiliated with Complainant. Complainant has not authorized or licensed Respondent to use and register the LA ROCHE-POSAY trademark, nor sought registration of any domain name incorporating these trademarks.

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- 4.9 The trademark LAROCHE-POSAY is largely used across the world. The products LA ROCHE-POSAY are present in 50 countries including Australia where Respondent is located and in Hong Kong where previous registrant was located. Complainant has inter alia built a specific website and specific pages for these countries.
- 4.10 Although Respondent is the current owner of the disputed domain name <laroche-posay.in> the simple use of Complainant's trademarks in the disputed domain name <laroche-posay.in> does not confer rights or legitimate interests to Respondent. There can thus be no right or legitimate interest on Respondent's side.
- 4.11 Respondent never explained Complainant why he registered the disputed domain name <laroche-posay.in>, while it corresponds exactly to Complainant's trademark. If Respondent had a legitimate interest in the domain name, it can be assumed Respondent would have done his utmost to prove his prior rights or interests in the disputed domain name <laroche-posay.in>.
- 4.12 Respondent has never provided evidence of being known or recognized by the disputed domain name <laroche-posay.in>. Previous Panels have concluded that where Respondent has not provided evidence that it is known or recognized by the domain name, Respondent has no rights or legitimate interests in the domain name.
- 4.13 Respondent is not making a fair or legitimate non-commercial use of the disputed domain name <laroche-posay.in>. On the contrary it is making a commercial use of the domain name. Respondent uses the domain name to direct Internet users to a page of sponsored links which includes links in the field of cosmetics products, links directing to products offered by Complainant's competitors. Such links cannot constitute a bona fide use offering of goods and services.
- 4.14 Besides, the page includes a link offering Internet user to acquire the domain name. It appears obvious that the sole reason for Respondent's registration of the disputed domain name <laroche-posay.in> was sale of said domain name and to benefit from the goodwill and strong reputation attached to Complainant and its trademark. Such a conduct demonstrates everything but a legitimate interest in the domain name.
- 4.15 Besides, Respondent appears to be using several identities and contact details. The post version of Complainant's cease-and-desist letter was returned with the mention Unknown. Complainant found that Respondent's email address was also used for a person named Rainer Lowack domiciled in Great Britain and that Respondent appeared to have an address in Hong Kong as previous registrant Zonce Group. Such dissimulation behavior also suggests Respondent has no rights or legitimate in the disputed domain name <laroche-posay.in>. Complainant was contacted by previous registrant Zonce Group after the domain name owner was changed / transferred to present registrant EAC INTERNATIONAL CO., LIMITED.
- 4.16 Furthermore, Respondent appears to have engaged in a pattern of conduct of registering domain names reproducing well-known trademarks. Respondent is inter alia the owner of domain names lvmh.co.in and allstar.in while it does not appear to have any links with the owner of the trademarks LVMH and ALL STAR. Such domain names are also directed to commercial links. This also suggests Respondent has no rights in the disputed domain name.
- 4.17 For the aforementioned reasons, Respondent has no rights or legitimate interests in respect of the disputed domain name <laroche-posay.in> under paragraph 4(ii) of the Policy.

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- 4.18 Since Complainant has established a prima facie case of Respondent's lack of rights or legitimate interests in the domain name, Respondent has now the burden to prove his rights or legitimate interests in the disputed domain name <laroche-posay.in>.
- 4.19 As indicated earlier, Complainant is present on a worldwide basis and its trademark LA ROCHE-POSAY is well-known throughout the world and Australia where Respondent is located.
- 4.20 Because of the distinctiveness of Complainant's LA ROCHE-POSAY trademark, it is reasonable to infer that Respondent registered the disputed domain name <laroche-posay.in> with full knowledge of Complainant's trademark.
- 4.21 Even if Respondent was unaware of Complainant, which is unlikely in the present case, a quick trademark search or online search on Google using the keywords "LA ROCHE-POSAY" would have shown the existence of Complainant and its trademark rights. According to the Policy paragraph 3, it was Respondent's responsibility to conduct a trademark search before registering the disputed domain name. Respondent's failure to conduct this search is evidence of registration in bad faith.
- 4.22 Furthermore, Respondent appears to have engaged in a pattern of conduct of registering domain name consisting in famous trademarks belonging to third parties and thus preventing them to reflect their trademark in corresponding domain names which is evidence of bad faith according to article 6(ii) of the policy.
- 4.23 It is likely that Respondent registered the disputed domain name <laroche-posay.in> to prevent Complainant from reflecting its trademarks in the disputed domain name <laroche-posay.in>. This type of conduct constitutes evidence of Respondent's bad faith.
- 4.24 Furthermore, the disputed domain name <laroche-posay.in> is confusingly similar to Complainant's LA ROCHE-POSAY trademark. Panels have found that "registration of a domain name that is confusingly similar or identical to a famous trademark by any entity, which has no relationship to that mark, is itself sufficient evidence of bad faith registration and use".
- 4.25 The disputed domain name <laroche-posay.in> is offered for sale through a link on the page to which the domain name resolves and Complainant has received an offer to purchase the domain name for 1890 Euros, a price far beyond the registration costs of the disputed domain name <laroche-posay.in>. It demonstrates that Respondent was aware of the disputed domain name's value and that it planned to make a profit, which is certainly not evidence of good faith registration and use since the value of the domain name is only provided by the fame of the trademark it contains.
- 4.26 Additionally, Respondent appears to be using several identities or at least wrong contact details and Respondent never replied to Complainant denying its knowledge of Complainant's trademark.
- 4.27 Consequently, it can be assumed that Respondent has registered this disputed domain name <laroche-posay.in> to capitalize on Complainant's long history, reputation and goodwill.
- 4.28 It is thus established that Respondent registered the domain name in bad faith.
- 4.29 Several elements can be put forward to support the finding that Respondent also uses the domain name in bad faith.

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- 4.30 The disputed domain name <laroche-posay.in> resolves to a page of commercial links with a link to post an offer for the domain name. Some of the links direct to cosmetic products offered by competitors of Complainant. Such use of the disputed domain name to divert Internet users and directing them to a webpage providing click through revenues to Respondent evidences bad faith. Respondent is taking undue advantage of Complainant's trademark to generate profits. The use of a famous trademark to attract Internet users to a website for commercial gains constitutes use in bad faith. The disputed domain name has thus been used in bad faith.
- 4.31 Respondent is further taking undue advantage of Complainant's trademark to generate profits. As evidenced Respondent tried to sell the disputed domain name <laroche-posay.in> at a price exceeding its out-of-pocket costs, which is a sign of bad faith.
- 4.32 Indeed, straight after Respondent was indicated as registrant, domain name was indicated for sale and previous registrant that could be linked to the present offered the domain name far beyond its out-of-pocket costs.
- 4.33 Respondent appeared in Whois database after Complainant sent a cease-and-desist letter to registrant Zonce and before Complainant was contacted again by Zonce for the purchase of the disputed domain name <laroche-posay.in>. Respondent's contacts appear erroneous which suggests Respondent attempts to escape its responsibilities and that Respondent is acting in bad faith.
- 4.34 Furthermore, the disputed domain name <laroche-posay.in> resolves to a page displaying commercial links in the field of cosmetics and redirects to Complainant's competitors websites (Annex 14). Therefore, the disputed domain name <laroche-posay.in> was used to attract and directs Internet users to websites generating revenues for Respondent. This behavior is constitutive of bad faith.
- 4.35 Consequently, it is established that Respondent both, registered and used the disputed domain name in bad faith in accordance with Paragraph 4 (iii) and Paragraph 6 of the Policy.

B. Respondent

- 4.36 Respondent has not filed any reply to the Complainant's Complaint in this arbitration.

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.

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

- 5.4 The Complainant is the proprietor of the mark LA ROCHE-POSAY. Complainant has been using LA ROCHE-POSAY as a trade mark and trading style continuously since 1928. The brand LA ROCHE POSAY is present in India where magazines widely distributed such as Vogue India refers to its products. Complainant owns numerous trademark registrations for LA ROCHE-POSAY throughout the world. In Hong Kong, the Complainant has got registration for the mark LA ROCHE-POSAY under No. 301872865 registered on September 28, 2011 and covering goods in class 3. In India, the Complainant's Application No. 2123344 dated 13.03.2011 is pending for registration. The Complainant's domain name www.laroche-posay.com was created on 21.10.1996. The disputed domain name **<laroche-posay.in>** was registered on 11.08.2012. Obviously, the Complainant is the prior adopter of LA ROCHE-POSAY mark. The above facts have established that the Complainant has common law rights in respect of its LA ROCHE-POSAY mark.
- 5.5 The Complainant's LA ROCHE-POSAY mark is famous and well known throughout the world including India. It is clearly seen that the disputed domain name **<laroche-posay.in>** wholly incorporates the prior LA ROCHE-POSAY mark of the Complainant. The suffix ".in" is descriptive and is not distinguishing part of the domain name. The specific top-level and /or second-level of a domain name such as ".in" needs to be disregarded when determining the similarity or identity with the Complainant's LA ROCHE-POSAY mark. The disputed domain name **<laroche-posay.in>** is similar to the Complainant's domain name www.laroche-posay.com.
- 5.6 I, therefore, find that:
- (a) The Complaint has common law right in respect of its LA ROCHE-POSAY mark.
 - (b) The disputed domain name **<laroche-posay.in>** is:
 - (i) Identical to the Complainant's prior LA ROCHE-POSAY trade mark, and
 - (ii) Similar to the Complainant's domain name www.laroche-posay.com.

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

- 5.7 It is already seen that:
- (a) The Complainant is the prior adopter and user of the LA ROCHE-POSAY mark. The Complainant's LA ROCHE-POSAY mark is well known in many countries across the globe including India.
 - (b) The Complainant's LA ROCHE-POSAY mark was adopted in the year 1928. Indian application for registration filed in 2011. The Complainant's domain name www.laroche-posay.com was created on 21.10.1996. The disputed domain name **<laroche-posay.in>** was registered only on 11.08.2012.
- 5.8 Respondent did not register the disputed domain name until 11.08.2012. Complainant has adopted and used the mark LA ROCHE-POSAY and a domain name containing the mark LA ROCHE-POSAY before Respondent registered the disputed domain name. It is unlikely that the Respondent was unaware of Complainant's existence of trademark and domain name rights before registering the disputed domain name **<laroche-posay.in>**.
- 5.9 I visited the web site of the Respondent under the disputed domain name **<laroche-posay.in>**. In the home page, at the top left side prominently appears the disputed domain

laroche-posay.in with a link "enquire about this domain name". A click on the link leads you to another window wherein the visitor is prompted to submit his offer for the purchase of the disputed domain name. The home page gives links to web sites of others including the competitors of the Complainant. It is obvious that the Respondent never intended to use the disputed domain name <laroche-posay.in> in connection with a bona fide offering of goods or services.

5.10 In the absence of response from the Respondent, I accept the argument of the Complainant that:

- (a) Where Complainant's rights in a trademark predate Respondent's registration of the disputed domain name incorporating that trademark, Respondent does not have rights or legitimate interests in the disputed domain name.
- (b) Respondent is in no way affiliated with Complainant. Complainant has not authorized or licensed Respondent to use and register the LA ROCHE-POSAY trademark, nor sought registration of any domain name incorporating these trademarks.
- (c) The trademark LAROCHE-POSAY is largely used across the world. The products LA ROCHE-POSAY are present in 50 countries including Australia where Respondent is located and in Hong Kong where previous registrant was located. Complainant has inter alia built a specific website and specific pages for these countries.
- (d) Although Respondent is the current owner of the disputed domain name <laroche-posay.in> the simple use of Complainant's trademarks in the disputed domain name <laroche-posay.in> does not confer rights or legitimate interests to Respondent. There can thus be no right or legitimate interest on Respondent's side.
- (e) Respondent never explained Complainant why he registered the disputed domain name <laroche-posay.in>, while it corresponds exactly to Complainant's trademark. If Respondent had a legitimate interest in the domain name, it can be assumed Respondent would have done his utmost to prove his prior rights or interests in the disputed domain name <laroche-posay.in>.
- (f) Respondent has never provided evidence of being known or recognized by the disputed domain name <laroche-posay.in>. Previous Panels have concluded that where Respondent has not provided evidence that it is known or recognized by the domain name, Respondent has no rights or legitimate interests in the domain name.
- (g) Respondent appears to be using several identities and contact details. The post version of Complainant's cease-and-desist letter was returned with the mention Unknown. Complainant found that Respondent's email address was also used for a person named Rainer Lowack domiciled in Great Britain and that Respondent appeared to have an address in Hong Kong as previous registrant Zonce Group. Such dissimulation behavior also suggests Respondent has no rights or legitimate in the disputed domain name <laroche-posay.in>. Complainant was contacted by previous registrant Zonce Group after the domain name owner was changed / transferred to present registrant EAC INTERNATIONAL CO., LIMITED.

5.11 Therefore, I have no hesitation to hold, for the above reasons that the Respondent has no right or legitimate interest in respect of the disputed domain name <laroche-posay.in>.

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



- 5.12 The Complainant is the proprietor of the mark LAROCHE-POSAY. Complainant has been using LA ROCHE-POSAY as a trade mark and trading style continuously since 1928. The brand LA ROCHE POSAY is present in India where magazines widely distributed such as Vogue India refers to its products. Complainant owns numerous trademark registrations for LA ROCHE-POSAY throughout the world. In Hong Kong, the Complainant has got registration for the mark LA ROCHE-POSAY under No. 301872865 registered on September 28, 2011 and covering goods in class 3. In India, the Complainant's Application No. 2123344 dated 13.03.2011 is pending for registration. The Complainant's domain name www.laroche-posay.com was created on 21.10.1996. The disputed domain name <laroche-posay.in> was registered on 11.08.2012. Obviously, Complainant's rights in the LA ROCHE-POSAY marks pre-date Respondent's registration of the disputed domain name <laroche-posay.in>. The Respondent could not have ignored, rather actually influenced by, the well-known LA ROCHE-POSAY marks of the Complainant at the time he acquired the disputed domain name <laroche-posay.in>.
- 5.13 As seen above, Respondent is currently holding the disputed domain name <laroche-posay.in> primarily for sale and gives links to other web sites of third parties and not for any other purpose. The Respondent is no way connected with the Complainant. Respondent's adoption of the disputed domain name <laroche-posay.in> is nothing but an unjust exploitation of the well-known reputation of the Complainant's prior LA ROCHE-POSAY mark.
- 5.14 When Complainant has become aware of the registration of the disputed domain name <laroche-posay.in>, it belonged to Pfister Hotel with Wangyuan as contact located in United States. Complainant sent a cease-and-desist letter to Pfister Hotel and Wangyan requesting transfer of the disputed domain name <laroche-posay.in>. Complainant received a reply from a person named Zhao offering to sell the domain name for 3890 USD to Complainant. This person also contacted directly Complainant offering to sell the domain name.
- 5.15 Later, the disputed domain name <laroche-posay.in> was transferred to Zonce Group domiciled in Hong Kong. A cease-and-desist letter was sent to new registrant by Complainant notifying its rights in LA ROCHE POSAY and requesting transfer of the domain name. Complainant received a reply from a person named Song offering to sell the domain name for 1890 USD. The post version of its cease-and-desist letter was also returned for insufficient address.
- 5.16 The disputed domain name was again transferred to the Respondent, EAC International Co. Ltd. located in Australia with Jiaai as contact. The registrar and the direction of the domain name a parking page displaying sponsored links in the field of cosmetics remained unchanged. Complainant was also in parallel contacted again by Song in respect of the offered purchase price.
- 5.17 A cease-and-desist letter was sent after to registrant EAC International Co. Ltd. The post of version of such letter was returned to Complainant with the mention unknown address. Complainant received no reply from EAC despite its reminder by email.
- 5.18 Respondent appears to be using wrong contact details and there seems to be links between the present registrant in Whois database and the previous Zonce Group.
- 5.19 Complainant found there is a company named EAC (H.K) International Co., Limited with also Jiaai as contact and domiciled in Hong Kong as the previous Registrant, Zonce Group. The email address of the registrant is also used for a person named Rainer Lowack domiciled in Great Britain. Further, Complainant was contacted again by Song from Zonce Group for his offer to purchase the domain name at 1890 USD.

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- 5.20 Respondent's lack of response to the Complaint indicates that the Respondent has no reason and/or justification for the adoption of the Complainant's <laroche-posay.in> marks.
- 5.21 Thus it is clearly established that Respondent registered the disputed domain name <laroche-posay.in> in bad faith.
- 5.22 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 <laroche-posay.in> into any fair/useful purpose. Respondent not even considered it worth responding the complaint of the 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 prayed for in the Complaint.
- 6.2 It is hereby ordered that the disputed domain name <laroche-posay.in> be transferred to the Complainant.
- 6.3 Respondent is ordered to pay the Complainant a sum of Rs.10,00,000/-(Rupees ten lakh only) towards costs of the proceedings.


S.Sridharan
Arbitrator