

दिल्ली DELHI

AB 877330

ARBITRATION PROCEEDINGS OF DOMAIN NAME  
"laroche-posay.co.in"  
between

LA ROCHE- POSAY  
LABORATOIRE PHARMACEUTIQUE

...COMPLAINANT

AND

GROUPFIELD FAR EAST LIMITED

...RESPONDENTS

AWARD

**VISHESHWAR SHRIVASTAV**  
SOLE ARBITRATOR  
NEW DELHI



दिल्ली DELHI

AB 877331

ARBITRATION PROCEEDINGS OF DOMAIN NAME  
"laroche-posay.co.in"  
between

LA ROCHE- POSAY  
LABORATOIRE PHARMACEUTIQUE

...COMPLAINANT

AND

GROUPFIELD FAR EAST LIMITED

...RESPONDENTS

**AWARD**

**VISHESHWAR SHRIVASTAV**  
SOLE ARBITRATOR  
NEW DELHI

**VISHESHWAR SHRIVASTAV**  
**SOLE ARBITRATOR**  
**IN**  
**ARBITRATION PROCEEDINGS OF DOMAIN NAME**  
**“laroche-posay.co.in”**

**LA ROCHE- POSAY**  
**LABORATOIRE PHARMACEUTIQUE**                      **...COMPLAINANT**

**AND**

**GROUPFIELD FAR EAST LIMITED**                      **...RESPONDENTS**

**AWARD**

1. This Arbitral Tribunal was constituted by nomination of undersigned as the Arbitrator in the aforesaid proceeding vide communication by NIXI and accordingly this Tribunal issued





notice to the parties on 22/06/2012. However, while checking the records of the proceedings, this Tribunal found that there was nothing on record which showed that the copy of the complaint has been supplied to the Respondents and also there was no PoA in favour of M/s Dreyfus & Associates, the Ld. Counsels for the Complainants. Accordingly vide the aforesaid communication this Tribunal directed the Complainants to send a copy of their complaint to the Respondents by Courier and also supply a copy of their authority authorizing M/s Dreyfus & Associates to act on behalf of the complainants.

2. That the Ld Counsel for the Complainants asked for more time for compliance of the order so this Tribunal gave them further time till 02/07/2012. The compliance was done by the Complainants vide their letter dated 27/06/2012 in which they sent a copy of a courier receipt of M/s DHL Courier waybill No. 9026207746 sent to the respondents. However, "*Address information needed, Contact DHL and later on Shipment on hold on 29/06/2012.*" Hence, this Tribunal vide order dated

30/06/2012 directed the Respondent to send their Response/ Statement of Defense to the Complaint by sending the soft copy by email and a hard copy by Courier so as to reach this Tribunal latest by 7<sup>th</sup> July 2012.

3. That this Tribunal finds that the Complainants have duly complied with the directions of this Tribunal and have tried their level best to serve the Respondents on the address provided by him in WHO IS. This Tribunal notes that the tracking records of the courier sent by the complainant showed "*Address information needed, Contact DHL and later on Shipment on hold on 29/06/2012.*" Be it that as it may this Tribunal notes that the copy(s) of the order(s) have also been emailed to the Respondent at his notified email id as well hence it cannot be said that the Respondents are unaware of the present Arbitration proceedings.
4. In view of the above this Tribunal vide order dated 10/07/2012 reserved the award and also gave liberty to the Respondent to



send any communication on any date prior to the publication of the award so that suitable orders can be passed. This Tribunal notes that the Respondent has not filed any Statement of Defense till the date of signing of Award nor sent any communication and has chosen to remain silent.

5. In view of these peculiar facts and circumstances and in view of INDRP this Tribunal which requires adjudication of a controversy within 60 days, this Tribunal accordingly proceeds in the matter as per the material available before it.

#### **CLAIM**

6. The claim as put forward by the complainant is briefly as under:

- A. **The domain name registered by Respondent is identical to the trademark of Complainant**


A handwritten signature in black ink, appearing to be 'Theg', is written below the text of item A.

The Complainants claim that their own trademark registrations for LA ROCHE-POSAY throughout the world and rely upon **Annex 12**

It is also claimed that the Complainant's Group L'Oréal operates an international website [www.laroche-posay.com](http://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. It is also stated that the Complainant owns numerous ccTLD names corresponding to these websites, as given in **Annex 13** which includes

- [laroche-posay.com.cn](http://laroche-posay.com.cn) created on September 8, 2000;
- [laroche-posay.hk](http://laroche-posay.hk) created on October 29, 2008;
- [laroche-posay.jp](http://laroche-posay.jp) created on December 17, 2003;
- [laroche-posay.us](http://laroche-posay.us) created on April 26, 2002 etc.

It is alleged that the disputed domain name is "identical or at least confusingly similar" with Complainant's trademarks LA ROCHE-POSAY.



It is stated that the disputed domain name only differs from LA ROCHE-POSAY trademark by the addition the ccTLD "co.in" which is enough to create confusion between Complainant's trademarks and the disputed domain name. Reliance is placed on *PepsiCo, Inc. v. Bijon Chatterji*, Case No. INDRP/014, June 24, 2006; *Mothercare UK Limited, United Kingdom v. Mr. Rajkumar Jalan, New Delhi*, Case No. INDRP/061, April 27, 2008; *Bombay Stock Exchange Limited v. Jigar Vikamsey*, Case No. INDRP/063, August 17, 2008 – **Annex 14** & *Tenneco Inc. v. Toni Li*, Case No. INDRP/130, March 5, 2010; *ITC limited v. Travel India*, Case No. INDRP/065, April 15, 2008 – **Annex 15**.

It is also pointed out that the name LA ROCHE-POSAY is also the corporate and trade name of Complainant thus it is 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.





**B. Respondent has no rights or legitimate interests in respect of the domain name:**

It is alleged that the predominant part of the Disputed Domain Name is 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. Reliance is placed on **Annex 13**.

It is alleged that the Respondent does not have prior rights or legitimate interests in the LA ROCHE-POSAY trademark. Reliance is placed on Case No. INDRP/096, June 27, 2009, *Compagnie Gervais Danone v. Digitech Software Solutions* – **Annex 16**.

It is also stated that the Respondent is in no way affiliated with Complainant and the 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. It is also stated that the trademark LAROCHE-POSAY is largely used across the world. The products LA ROCHE-POSAY are present in 50 countries including Hong Kong where Respondent is located. Complainant has *inter alia* built a specific website for these countries.

It is alleged that the Disputed Domain Name currently is an error page which is not used or a *bona fide* offering of goods and services.

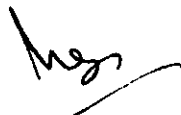
**C. The domain name has been registered or is being used in bad faith.**

The complainants allege that the Complainant is present on a worldwide basis and its trademark LA ROCHE-POSAY is well-known throughout the world and Hong Kong where Respondent is located. Asia and namely, China, Hong Kong and Japan, is a

particular fast-growing market for Complainant's Group L'Oréal. Reliance is placed on **Annexes 3, 4, 5, 7** and because of the distinctiveness of Complainant's LA ROCHE-POSAY trademark, it is reasonable to infer that Respondent registered the disputed domain name with full knowledge of Complainant's trademark.

#### **ORDER**

7. This Tribunal has given an anxious consideration to the allegations of the complainants and has seen that the Respondent despite being aware of the present proceedings and despite being called upon by this Tribunal to give his Statement of Defense chose not to give any and hence the allegations of the complainants remain un rebutted.
  
8. In view of the undisputed weighty evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name <laroche-posay.co.in> hence this Tribunal directs the Registry to transfer the domain name <laroche-



posay.co.in> to the complainants. The Complainants too are free to approach the Registry and get the same transferred in their name. The original copy of the Award is being sent along with the records of this proceedings to National Internet Exchange of India (NIXI) for their record and a copy of the Award is being sent to both the parties for their records .

Signed this 25<sup>th</sup> day of July 2012.

NEW DELHI  
25/07/2012



V. SHRIVASTAV  
ARBITRATOR