



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL76272475235386V
Certificate Issued Date : 16-Mar-2023 10:58 AM
Account Reference : IMPACC (IV)/ dl717303/ DELHI/ DL-DLH
Unique Doc. Reference : SUBIN-DL71730324436734505388V
Purchased by : AJAY GUPTA ARBITRATOR
Description of Document : Article 12 Award
Property Description : Not Applicable
Consideration Price (Rs.) : 0
(Zero)
First Party : AJAY GUPTA ARBITRATOR
Second Party : AJAY GUPTA ARBITRATOR
Stamp Duty Paid By : AJAY GUPTA ARBITRATOR
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



Please write or type below this line

INDRP ARBITRATION CASE No.1667
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA

NOVARTIS AG

Vs.

VAIBHAV CHAUBEY

DISPUTED DOMAIN NAME: "NOVARTISEVENT.IN"

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shoilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.



INDRP ARBITRATION CASE No.1667
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA

NOVARTIS AG

Vs.

VAIBHAV CHAUBEY

DISPUTED DOMAIN NAME: "NOVARTISEVENT.IN"

A handwritten signature in black ink, appearing to read 'Ajay Gupta', with a horizontal line drawn underneath it.

INDRP ARBITRATION CASE NO.1667
THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: AJAY GUPTA

Novartis AG
4002 Basel/ Switzerland.


... Complainant

VERSUS

VAIBHAV CHAUBEY
Kshitij Building, Above Raymond Showroom
Bhayandar, Thane-401105 INDIA

...Respondent

Disputed Domain Name: "NOVARTISEVENT.IN"


Page 2 of 30

1. The Parties

- 1.1 The **Complainant, NOVARTIS AG**, in this arbitration proceeding, is a Company incorporated under the Laws of Switzerland/ having its registered office at 4002 Basel, Switzerland and which deals in health care products and research.
- 1.2 Complainant's Authorized Representative in this administrative proceeding is Mamta R. Jha INTTL ADVOCARE Express Trade Tower B-36/Sector-132 NOIDA Expressway, NOIDA-201303 National Capital Region of Delhi, INDIA.
- 1.3 In this arbitration proceeding, the Respondent is VAIBHAV CHAUBEY Kshitij Building, Above Raymond Showroom, Bhayandar Thane-401105 INDIA as per the details given by the WHOIS database maintained by the National Internet Exchange of India (NIXI).

2. The Domain Name and Registrar

- 2.1 The disputed domain name is "NOVARTISEVENT.IN" and the Registrar with which the disputed domain name is registered is Endurance Digital Domain Technology LLP.

3. Procedural History [Arbitration Proceedings]

- 3.1 This arbitration proceeding is in accordance with the IN Domain Name Dispute Resolution Policy [INDRP], adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure [the Rules] were approved by NIXI on 28th June 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the



disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes under the .IN Dispute Resolution Policy and Rules framed thereunder.

3.2 The history of this proceeding is as follows :

3.2.1 In accordance with Rules 2(a), NIXI on 14.03.2023 formally notified the Respondent of the complaint along with a copy of the complaint & annexures/documents, and appointed Ajay Gupta as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Resolution Policy and the Rules framed thereunder. That the Arbitrator submitted the Statement of Acceptance & Declaration of Impartiality and Independence dated 14.03.2023 to NIXI.

3.2.2 That commencing the arbitration proceedings an Arbitration Notice Dated 14.03.2023 was emailed to the Respondent on 14.03.2023 by this panel under Rule 5(c) of INDRP Rules of Procedure with direction to file a reply of the complaint, if any, within 10 days. That this panel vide its mail dated 14.03.2023 also directed the Complainant to update the complaint with Respondents details as requested by NIXI and send the same to all the parties including Respondent.

3.2.3 That however, the Notice sent by this panel to the Respondent vide mail dated 14.03.2023 bounced back with remarks "address could not be found". That similarly the email with attached copy of complaint and other documents sent to the Respondent by NIXI also returned undelivered.

3.2.4 That since the original complaint filed by the Complainant was not having complete details of the Respondent, this



panel vide its mail dated 16.03.2023 again directed the Complainant to update the domain complaint with the registrant's missing details as mentioned in the WHOIS details provided by the NIXI and send the same to all the parties including the Respondent.

3.2.5 That as the mail sent to the Respondent by this panel on 14.03.2023 bounced back, this panel on 17.03.2023 again resent the scanned copy of Arbitration notice to the Respondent via mail. That similarly on 17.03.2023 the NIXI also resent the Copy of complaint along with other documents to the Respondent. That the mails so resent to the Respondent both by this panel and NIXI did not bounce back again and were duly received by the Respondent.

3.2.6 The Complainant complying with the directions dated 16.03.2023 of this panel, sent the copy of updated complaint to the Respondent on 21.03.2023 via mail and copied the same to this panel and NIXI. The Complainant as directed also sent the updated complaint to the Respondent through courier and submitted the courier receipt to this panel via mail dated 21.03.2023.

3.2.7 The Respondent was directed by this panel to file the reply of complaint, if any, within 10 days of the notice. However, the Respondent, despite the receipt of Arbitration Notice and copy of complaint neither replied to the Arbitration notice nor filed a reply of complaint; hence, on 27.03.2023 the Respondent was proceeded ex-parte.

4. The Respondent's Default

4.1 The Respondent failed to reply to the notice regarding the complaint. It is a well-established principle that once a

Complainant makes a prime facie case showing that a Respondent lacks rights to the domain name at issue; the Respondent must come forward with proof that it has some legitimate interest in the domain name to rebut this presumption. The disputed domain name in question is "NOVARTISEVENT.IN".

- 4.2 The INDRP Rules of Procedure require under Rule 8(b) that the arbitrator must ensure that each party is given a fair opportunity to present its case. Rule 8(b) reads as follows :

"In all cases, the Arbitrator shall ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case."

- 4.3 The Respondent was notified of this administrative proceeding as per the Rules. The .IN discharged its responsibility under Rules paragraph 2(a) to employ reasonably available means calculated to achieve actual notice to the Respondent of the complaint.

- 4.4 The panel finds that the Respondent has been given a fair opportunity to present his case. The Respondent was given direction to file a reply of the complaint if any, but the Respondent neither gave any reply to notice nor to the complaint. The 'Rules' paragraph 12 states, "In the event, any party breaches the provisions of INDRP rules and/or directions of the Arbitrator, the matter can be decided ex parte by the Arbitrator and such arbitral award shall be binding in accordance to the law." In the circumstances, the panel's decision is based upon the Complainant's assertions, evidence, inferences, and merits only as the Respondent has not replied despite opportunity given in this regard and is proceeded ex parte.

5. Background of the Complainant & its Submissions about the trademark "NOVARTIS", its statutory and common law rights Adoption :

5.1 The Complainant, in the present arbitration proceedings to support their case, has relied and placed on records documents as annexures and made the following submissions :

- (I) The Complainant submits that the Complainant, is world leader in the healthcare industry and specializes in innovation through the research and development of products that improve the health and well-being of patients around the world. The Complainant's products are available in more than 155 countries. In the year 2021, the group achieved net sales of USD 51. 6 billion. The Complainant have spent around USD 9.5 billion on research and development in 2021 itself.
- (II) The Complainant submits that it has received several international awards for progress in research and development, working environment and corporate responsibility activities. The Complainant has also received several awards in India, in the area of social responsibility.
- (III) The Complainant further submits that Complainant has also organized various educational and healthcare oriented events such as seminars and educational events to provide students/academicians/and young researchers exposure to the pharmaceutical and biotechnology industry and healthcare camps and educational meetings in rural India.

(IV) The Complainant submits that Complainant is a global healthcare Company, based in Switzerland, which provides solutions to address the evolving needs of patients worldwide. It was created in 1996 through a merger of Ciba-Geigy and Sandoz. Novartis and its predecessor trace roots back more than 250 years. The Complainant further submits that in the year 1997, Novartis Healthcare Private Limited was incorporated in India. Another subsidiary Novartis India Private Limited (includes the predecessor in business and title) was incorporated in the year 1947. The word NOVARTIS is a coined word, having no dictionary meaning/and is entitled to the highest degree of protection. The Complainant has been using the corporate name NOVARTIS and also using the same as trade mark/trade name/ house mark/ domain name for all its activities and Services internationally as well as in India since 1996.

5.2 The Complainant submits that the trade mark NOVARTIS is a registered trade mark internationally as well as in India. The earliest international registration of the trade mark NOVARTIS dates back to 15. 02.1996 in Switzerland. The said trade mark is registered in over 70 countries. The trade mark NOVARTIS and its formative marks are registered trade marks in India since the year 1996. The trade mark NOVARTIS is a valid and subsisting trade mark in India and the Complainant is the lawful proprietor thereof. The Complainant submits that it has the exclusive statutory right to use the trade mark NOVARTIS in India as well as internationally.

5.3 The Complainant submits that to its credit, also has domain name registrations for various domain names for its



Company name/trade name/trademark/house mark NOVARTIS. The Complainant submits that the Company name/trade name/trademark/ house mark NOVARTIS is forming part of domain name in almost all countries in the world for carrying on business activities of the Complainant.

- 5.4 The Complainant further states that Complainant has extensively used the mark NOVARTIS as part of Company name/trade name/trademark/house mark/domain name internationally as well as in India in the field of pharmaceutical industries. The Complainant through its group companies having NOVARTIS as part of their trading name has presence in almost every continent and is one of the largest pharmaceutical company in the world. The Complainant is known for revolutionary drugs which have led to the eradication and/ or treatment for several life-threatening and lifestyle diseases. On account of extensive use of the mark NOVARTIS as part of Company name/ trade name/ trade mark/ house mark/domain name, the said mark has become a well-known trademark having huge reputation and goodwill internationally as well as in India.
- 5.5 The Complainant submits that considering the extensive use of NOVARTIS as part of Company name/trade name/ trade mark/house mark/domain name throughout the world/ including in India, the trade mark NOVARTIS has been appearing in internet articles, pharmaceutical magazines, health magazines having circulation in the entire country and across the world. As a consequence of the same/ considerable reputation and goodwill has built into the Complainant's said mark NOVARTIS forming part of Company name/trade-name/trademark/house mark/ domain name and the Complainant has acquired common law rights in the said trade mark to the exclusion of all others.

5.6 The Complainant submits that the trade mark NOVARTIS has been recognized as a well-known trade mark by several WIPO UDRP decisions. Therefore, any unauthorized use of the mark NOVARTIS by a third party as a part of Company name/ trade name/trade mark/ house mark/ domain name, or in any other form whatsoever constitutes infringement, passing off, unfair competition and will be in violation of the Complainant's statutory and common law rights. The Complainant has also successfully filed several UDRP and INDRP complaints and obtained favorable Orders. The Complainant further submits that Complainant has been taking several actions of filing oppositions and sending legal notices to third parties and has been zealously guarding any misuse of its trade mark/ trade name/ domain name NOVARTIS.

6. Submissions of Complainant about the Respondent and its use of the domain name

6.1 The Complainant submits that to its utter surprise and shock, has come to know that the Respondent has registered the domain name : www.novartisevent.in (the disputed domain name) wherein the Complainant's well-known trade mark NOVARTIS has been used in a blatant manner. The Complainant has several domain name registrations wherein the mark NOVARTIS forms an integral part thereof/and therefore, the disputed domain name is identical to the Complainant's Company name/ trade name/ trade mark/ house mark/ domain name. The disputed domain name contains the whole of the Complainant's trade mark NOVARTIS with addition of a generic term "event" and ".in" indicating the country India. Therefore/ the disputed domain name is identical and a blatant copy of the Complainant's well-known trade mark NOVARTIS.

6.2 The Complainant submits that a link on the disputed domain name, www.novartisevents.in redirects the viewers to a disputed page. The Complainant further submits that the disputed domain name can be misused to mislead and create confusion amongst the general public in relation to the events organized by the Complainant such as competitions, campaigns/ and Philanthropic drives, etc. Events organized and conducted by the Complainant are one of the predominant ways through which it interacts with the general public and community. The Complainant strives towards making an important contribution to society/via its innovative healthcare products, philanthropic and educational events by targeting unmet medical needs of the society and improving the health of the general public. Such social engagements of the Complainant have reposed great trust and respect towards the Complainant and the same has also played an integral role in building the goodwill and reputation of the well-known trademark NOVARTIS. The Respondent, by creating the disputed domain name, aims to appropriate the long-standing reputation and goodwill garnered by the Complainant in its trade mark NOVARTIS.

6.3 The Complainant submits that the disputed domain name www.novartisevent.in in itself suggests that it has been registered by Respondent with malafide intention and without any legitimate interest. It is submitted that the same has been registered by the Respondent with ulterior motives to ride upon the goodwill and reputation of the Complainant associated with its well-known trade mark NOVARTIS. The Respondent's disputed domain name can be mistaken by potential and prospective medical volunteers to be the domain name of the Complainant and can be used to



deceive potential and prospective individuals looking to avail of medical aid. Considering that NOVARTIS has been recognized by prestigious institutions such as Harvard University for its immense social contribution under the 'Arogya Parivar' program by way of extensively organizing health education meetings and health camps in rural India.

- 6.4** The Complainant has been organizing the Novartis Bio-Technology Leadership Camp (Bio-Camp) in India, a unique seminar that brings together young talented students from various academic backgrounds and universities to explore the field of pharmaceuticals and biotechnology. The disputed domain name may be mistaken by, and/or used to deceive potential and prospective participants wanting to participate in such events. There is thus, an imminent likelihood of damage that may be caused to the public at large and may also cause irreparable damage to the Complainant's reputation and goodwill through the disputed domain name. In fact, the domain name can be used to deceive the public including current and future patients/volunteers, seminar participants/and even the general public/which may result in life-threatening consequences, financial obligations/ and misuse thereof which may also cause legal implications. The disputed domain name is registered by Respondent in bad faith and can be used for illegal and unlawful purposes.

7. The issues involved in the dispute

- 7.1** The Complainant in its complaint has invoked paragraph 4 of the INDRP, which reads :

"Class of Disputes "

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:-

The disputed domain name is identical or confusing similar to a trademark in which the Complainant has statutory/common law rights.

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

The disputed domain name has been registered or is/ are being used in bad faith."

- 7.2 The above-mentioned 3 essential elements of a domain name dispute are being discussed hereunder in light of the facts and circumstances of this complaint.

8. Parties' Contentions

The domain name <NOVARTISEVENT.IN>is identical to a trade mark in which Complainant has rights

9. Complainant

- 9.1 The Complainant contends that a mere glance at the disputed domain name "novartisevent.in" gives rise to enormous confusion as to its origin because the disputed domain name uses the trade name "NOVARTIS" which is identical to the Complainant's trade name/trademark/ domain name "NOVARTIS". The disputed domain name also gives rise to enormous confusion and deception qua its origin because the disputed domain name is using the Complainant's trade mark NOVARTIS as a whole being phonetically, visually and structurally identical to Complainant's trade mark NOVARTIS. They incorporate the Complainant's NOVARTIS mark, combined with a generic term "event", which is closely related to the Complainant and its activities, and "in" representing the country India.



9.2 The Complainant submits that it has several domain names registered which incorporate the trade name NOVARTIS. An Internet user who wishes to visit the Complainant's website for Information regarding the Complainant's goods and Services, but not being entirely familiar with the exact web address of the Complainant's websites, might be taken to the Respondent's website instead/ thereby prejudicing the interests and reputation of the Complainant. Further, the disputed domain name will lead to confusion qua the Complainant's mark as search engines are likely to turn up hits for Respondent's website based on searches for NOVARTIS. The adoption of the disputed domain name which is identical to the Complainant's trade mark NOVARTIS as well as the Complainant's websites www.novartis.com, www.novartis.in is misappropriation of the Complainant's goodwill and reputation, and constitutes acts of misrepresentation to the members of public at large that the Respondent's disputed domain name is associated with the Complainant, amounting to infringement, passing off, unfair competition, etc.

9.3 The Complainant submits that the disputed domain name : www.novartisevent.in is liable to be considered identical/ similar to the Complainant's trademark NOVARTIS and its domain names/particularly www.novartis.in.

10. Respondent

10.1 The Respondent has not replied to Complainant's contentions.

11. Panel Observations

11.1 This Panel on pursuing the documents, records and submissions made by the Complainant observes that the



Complainant is a global healthcare company with also presence in India.

- 11.2 This panel observe that the Complainant has common law as well as statutory rights in its trade mark "NOVARTIS". It is also observed by this panel that the Complainant has successfully secured registrations of for NOVARTIS worldwide including India. The Complainant has proved that it has trademark rights and other rights in the mark "NOVARTIS" by submitting substantial details and documents in support of it.
- 11.3 This panel observe that the disputed domain name incorporates the Complainant's trademark "NOVARTIS" combined with term "event" has the potential to cause consumer confusion and will cause the user to mistakenly believe that it originates from, is associated with or is sponsored by the Complainant. It is further observed by this panel that suffix ".in" is not sufficient to escape the finding that the domain is confusingly similar to Complainant's trademark.
- 11.4 This panel, therefore, is of opinion that the disputed domain name "novartisevent.in" being identical/confusingly similar to the trademark of Complainant will mislead the public and will cause an unfair advantage to Respondent. The Panel is of the view that there is a likelihood of confusion between the disputed domain name and the Complainant, its trademark, and the domain names associated. The disputed domain name registered by the Respondent is confusingly similar to the trademark "NOVARTIS" of the Complainant.
- 11.5 It is the responsibility of the Respondent to find out before registration that the domain name he is going to register



does not violate the rights of any proprietor/brand owner and the Respondent has miserably failed in following this condition.

- 11.6 This Panel, therefore, in light of the submission made by the Complainant concludes that the disputed domain name is confusingly similar to the Complainant marks. Accordingly, the Panel concludes that the Complainant has satisfied the first element required by Paragraph 4(a) of the INDR Policy.

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

12. Complainant

- 12.1 The Complainant contends that the Respondent does not have rights or legitimate interests in the disputed domain names. The Complainant has never granted the Respondent any right to use the NOVARTIS mark to the Respondent and the Respondent is not affiliated to the Complainant in any form and the Complainant has not found the Respondent to be commonly known by the disputed domain name or to have any legitimate interest over it. The Respondent could have performed a search before registering the disputed domain name which would have disclosed the Complainant's interest.
- 12.2 The Complainant contends that the Respondent's registration of the disputed domain name is contrary to the conditions outlined under the Policy and clearly shows that the Respondent has no legitimate interest in the disputed domain name but has been registered only to commit fraud upon the public by engaging into unlawful activities. The



disputed domain name is a deliberate unlawful impersonation representing it to be of the Complainant's events website.

12.3 The Complainant contents that the Respondent deliberately chose to use the Complainant's well-known, distinctive NOVARTIS mark within the disputed domain name with the likely Intention of benefiting from the Complainant's worldwide renown and to confuse Internet users as to source or sponsorship. It cannot be considered to be making bonafide offering of goods or Services. The registration of the Complainant's marks predates the registration of the disputed domain name and the Complainant did not authorize the Respondent to register the disputed domain name. The combination of the well-known NOVARTIS mark with the term "event" can only be a deliberate and calculated attempt to benefit improperly from the Complainant's rights. The Respondent very likely knew about the Complainant and its mark, which is distinctive and well-known both worldwide and in India.

13. Respondent

13.1 The Respondent has not replied to Complainant's contentions.

14. Panel Observations

14.1 It is observed by this panel that the Respondent has failed to rebut the allegations of the Complainant that the Respondent does not have rights or legitimate interests in the disputed domain names. The Complainant has never granted the Respondent any right to use the NOVARTIS mark to the Respondent and the Respondent is not affiliated to the Complainant in any form and the Complainant has not found the Respondent to be commonly



known by the disputed domain name or to have any legitimate interest over it.

14.2 It is observed by this panel that the Respondent has failed to rebut the allegations of the Complainant that the Respondent's registration of the disputed domain name is contrary to the conditions outlined under the Policy and clearly shows that the Respondent has no legitimate interest in the disputed domain name but has been registered only to commit fraud upon the public by engaging into unlawful activities. The disputed domain name is a deliberate unlawful impersonation representing it to be of the Complainant's events website.

14.3 It is observed by this panel that the Respondent has failed to rebut the allegations of the Complainant that the Respondent deliberately chose to use the Complainant's well-known, distinctive NOVARTIS mark within the disputed domain name with the likely Intention of benefiting from the Complainant's worldwide renown and to confuse Internet users as to source or sponsorship.

14.4 It is further observed by this panel that the Respondent has failed to rebut the allegations of the Complainant that the registration of the Complainant's marks predates the registration of the disputed domain name and the Complainant did not authorize the Respondent to register the disputed domain name. The Respondent has also failed to rebut the allegations of the Complainant that the combination of the well-known NOVARTIS mark with the term "event" can only be a deliberate and calculated attempt to benefit improperly from the Complainant's rights, and the Respondent very likely knew about the



Complainant and its mark, which is distinctive and well-known both worldwide and in India.

14.5 Whereas it is observed by this panel that the Complainant by making submissions and placing documents/records and evidence in support of these submissions has been able to prove that the Complainant is doing its healthcare and other related business under the mark 'NOVARTIS' globally including in India. The Complainant by virtue of its priority in adoption, goodwill, and long, continuous and extensive use of the mark, the Complainant has acquired the exclusive right to use the 'NOVARTIS' mark in respect of its products and other related activities.

14.6 Once the Complainant makes a prima facie case showing that the Respondent does not have any rights or legitimate interest in the domain name, the burden to give evidence shifts to the Respondent to rebut the contention by providing evidence of its rights or interests in the domain name. The Respondent has failed to place any evidence to rebut the allegations of the Complainant.

14.7 It is further observed by this panel that para 6 of the IN Domain Name Dispute Resolution Policy (INDRP) states :

14.7.1 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 interests in the domain name for Clause 4 (b) :

(a) 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 in connection with a bona fide



offering of goods or services; (b) the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or (c) 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.

14.7.2 This panel observe that the Respondent has failed to full fill any of the requirements as mentioned in para 6 of INDRP Policy which demonstrates the Registrant's rights to or legitimate interests in the domain name.

14.7.3 This Panel therefore holds that the Complainant has proved that the Respondent does not have any rights or legitimate interests in the disputed domain name "novartisevent.in".

The disputed domain name was registered in bad faith

15. Complainant

15.1 The Complainant contends that the Respondent's conduct clearly establishes that the disputed domain name was registered by the Respondent to misuse the proprietary and legitimate legal rights vested with the Complainant alone. The name of the disputed domain name www.novartisevent.in has been deliberately chosen to target the present and prospective individuals looking to participate in events organized by the Complainant/ especially in India/ and is a dishonest attempt to piggyback upon the enormous goodwill and reputation of the Complainant.

15.2 The Complainant further contends that the Respondent's disputed domain name can be mistaken to be the domain name of the Complainant and can be used to deceive potential and prospective individuals looking to participate as the disputed domain name suggests that it is the Complainant's events domain name. There is thus, an imminent likelihood of damage which may be caused to the public at large and also cause irreparable damage to the Complainant's reputation and goodwill through the disputed domain name. The disputed domain name is registered in bad faith and can be used for illegal and unlawful purposes. The disputed domain name ought to be transferred to the Complainant on this ground alone.

15.3 The Complainant contends that the malafide intent of the Respondent is writ large in as much as the said Respondent has no affiliation or connection with the Complainant/ despite which the Respondent has registered the disputed domain name which contains the well-known and registered trade mark NOVARTIS of the Complainant. The Respondent is beyond a doubt, intentionally and methodically attempting to confuse and deceive potential and prospective individuals looking to participate in events organized by the Complainant at the expense of not only the Complainant, but also the general public and public health in India.

15.4 The Complainant further contends illegality in the registration of the disputed domain name arises from the fact that domain names today are part and parcel of corporate identity. A domain name acts as the address of the Company on the Internet and can be termed as a web address or a web mark just like a trade mark or service mark. It is also the Internet address of a Company. The



domain name of the Complainant with "novartisevent" conveys a corporate identity and exclusive domain name maintained for the Complainant's events, which if misused entails huge legal/public health, social and financial obligations. The companies working in the pharmaceutical industry are heavily regulated by several laws for the sake of public health and safety and if breached consequential civil and criminal liabilities can be attributed to the Company. If the disputed domain name is misused for any dubious purposes/it will not only expose the Complainant to several liabilities ruining its hard-earned reputation and goodwill but also pose serious life-threatening consequences to the portion of the public deceived.

15.5 The Complainant submits that it is settled law, as held in WIPO Case No.D-2017-2232 that where a domain name incorporates a sufficiently well-known trademark/and the Respondent knew/or ought to have known/of the trade mark's existence, and the Respondent has no legitimate rights or interests in it/ the domain name is considered to have been registered in bad faith. In the present case, the Respondent is well aware of the immense goodwill and reputation of the Complainant's well-known trade mark "NOVARTIS" one of the biggest pharmaceutical companies in the world.

15.6 The Complainant contends that the Respondent has obtained registration for the disputed domain name in bad faith to attract the Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship/affiliation/or endorsement of the Respondent's



website or Service/goods on the Respondent's website or location.

15.7 The Complainant contends that the Respondent's registration and use of the disputed domain name is a clear case of cyber squatting, whose intention is to take advantage of the Complainant's immense reputation and its prominent presence on the Internet in order to confuse the public to the detriment of the Complainant.

15.8 The Complainant submits that it is clear that the Respondent's registration of the disputed domain name "www.novartisevent.in" is in bad faith/ without sufficient cause/ and is intended to take advantage of the Complainant's immense reputation and prominent presence on the Internet in order to confuse the public to the detriment of the Complainant.

16. Respondent

16.1 The Respondent has not replied to Complainant's contentions.

17. Panel Observation

17.1 Paragraph 7 of the INDRP provides that the following circumstances are deemed to be evidence that Respondent has registered and used a domain name in bad faith :

"(a) Circumstances indicating that the Respondent has registered or has acquired the domain name primarily for 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 over the Registrar's documented out of pocket costs directly related to the domain name; or

(b) the Respondent has registered the domain name to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or

(c) by using the domain name, the Respondent has intentionally attempted to attract internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its Website or location or a product or services on its website or location."

17.2 This panel while going through the complaint and documents which are placed in the form of annexures has observed that the Respondent registered the disputed domain name in August 2022, by which time the Complainant has been using the mark "NOVARTIS" for many years. It is observed by this panel that the Complainant has statutory and common law rights in the mark NOVARTIS worldwide including in India. The Complainant is also using the NOVARTIS mark on the internet, in other domain name, and as a trading name prior to registration of disputed domain name. It is observed by this panel that in view of the above-mentioned facts and circumstances, it is impossible to conceive that the Respondent could have registered the disputed domain name in good faith or without knowledge of the Complainant's rights in the mark NOVARTIS.

17.3 It is observed by this panel that the Respondent has failed to rebut the allegation of the Complainant, that the Respondent's conduct clearly establishes that the disputed domain name was registered by the Respondent

to misuse the proprietary and legitimate legal rights vested with the Complainant alone. The name of the disputed domain name www.novartisevent.in has been deliberately chosen to target the present and prospective individuals looking to participate in events organized by the Complainant/ especially in India/ and is a dishonest attempt to piggyback upon the enormous goodwill and reputation of the Complainant. The Respondent further failed to rebut the allegations of the Complainant that the Respondent's disputed domain name can be mistaken to be the domain name of the Complainant and can be used to deceive potential and prospective individuals looking to participate as the disputed domain name suggests that it is the Complainant's events domain name. There is thus, an imminent likelihood of damage which may be caused to the public at large and also cause irreparable damage to the Complainant's reputation and goodwill through the disputed domain name. The disputed domain name is registered in bad faith and can be used for illegal and unlawful purposes.

- 17.4 It is observed by this panel that the Respondent has failed to rebut the allegation of the Complainant, that the said Respondent has no affiliation or connection with the Complainant/despite which the Respondent has registered the disputed domain name which contains the well-known and registered trade mark NOVARTIS of the Complainant. The Respondent is beyond a doubt, intentionally and methodically attempting to confuse and deceive potential and prospective individuals looking to participate in events organized by the Complainant at the expense of not only the Complainant, but also the general public and public health in India.

- 17.5 It is observed by this panel that the Respondent has failed to rebut the allegation of the Complainant, that The domain name of the Complainant with "novartisevent" conveys a corporate identity and exclusive domain name maintained for the Complainant's events, which if misused entails huge legal/ public health, social and financial obligations. The companies working in the pharmaceutical industry are heavily regulated by several laws for the sake of public health and safety and if breached consequential civil and criminal liabilities can be attributed to the Company. If the disputed domain name is misused for any dubious purposes/it will not only expose the Complainant to several liabilities ruining its hard-earned reputation and goodwill but also pose serious life-threatening consequences to the portion of the public deceived.
- 17.6 The Respondent has also failed to rebut the allegations of the Complainant that in the present case, the Respondent is well aware of the immense goodwill and reputation of the Complainant's well-known trade mark "NOVARTIS" one of the biggest pharmaceutical companies in the world and that the Respondent has obtained registration for the disputed domain name in bad faith to attract the Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship/affiliation/or endorsement of the Respondent's website or Service/goods on the Respondent's website or location.
- 17.7 It is observed by this panel that the Respondent has failed to rebut the allegation of the Complainant, that



the Respondent's registration and use of the disputed domain name is a clear case of cyber squatting, whose intention is to take advantage of the Complainant's immense reputation and its prominent presence on the Internet in order to confuse the public to the detriment of the Complainant.

- 17.8 It is observed by this panel that the Respondent has failed to rebut the allegation of the Complainant, that that the Respondent's registration of the disputed domain name www.novartisevent.in is in bad faith/ without sufficient cause/and is intended to take advantage of the Complainant's immense reputation and prominent presence on the Internet in order to confuse the public to the detriment of the Complainant.
- 17.9 The Complainant has thus rightly established that the Respondent has registered the disputed domain name in bad faith, and there is evidence that points to the existence of circumstances as mentioned in clause 7(C) of the INDRP Policy. The Respondent's domain name registration meets the bad faith elements outlined in Para 4(c) of the INDRP Policy. Therefore the Panel concludes that the registration by Respondent is in bad faith. Consequently, it is therefore established that Respondent has wrongfully acquired/ registered the domain name in its favor in bad faith.

18. Remedies Requested

- 18.1 The Complainant has prayed to this Administrative Panel that the disputed domain <NOVARTISEVENT.IN> be transferred to the Complainant and costs of the proceedings compensatory and penal damages be awarded in favor of the Complainant.



19. Decision

19.1 The following circumstances are material to the issue in the present case :

19.1.1 Through its contentions based on documents/ records and evidence, the Complainant has been able to establish that the mark "NOVARTIS" is a well-established name worldwide including India in healthcare industry. The Complainant has also established that the NOVARTIS, is popularly known exclusively concerning the Complainant's healthcare business and other related activities. The Complainant has also established that the trademark NOVARTIS is inherently distinctive of the healthcare products ,research and other programme/ and business of the Complainant and the Complainant has secured trademark protection for NOVARTIS by registering trademarks in many countries including in India.

19.1.2 The Respondent despite repeated opportunities given, however, has failed to provide any evidence that it has any rights or legitimate interests in respect of the domain name, and the Respondent is related in any way to the Complainant. The Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the Disputed Domain Name.

19.1.3 The Complainant has rather been able to establish that the Respondent's registration and use of the disputed domain name is a clear case of cyber squatting, whose intention is to take advantage of the Complainant's immense reputation and its prominent presence on the Internet in order to confuse the

public to the detriment of the Complainant. It is therefore established that Respondent in order to get monetary gain has registered the disputed domain name, rather than any bona fide offering for goods/ services thereunder, which is evidence of bad faith. This panel while considering the complaint and records in the form of annexures submitted by the Complainant, has concluded that there exist circumstances as stated in para 7(c) of INDRP Policy.

19.1.4 This panel taking into account the nature of the disputed domain name combined with generic term "event" and in particular, the ".in" extension alongside the Complainant's mark which is confusingly similar, observe that it would also inevitably associate the disputed domain name closely with the Complainant's group of domains in the minds of consumers/internet users, and all plausible actual or contemplated active use of disputed Domain Name by the Respondent is and would be illegitimate.

19.1.5 The Respondent also failed to comply with Para 3 of the INDRP, which requires that it is the responsibility of the Respondent to ensure before the registration of the impugned domain name by him that the domain name registration does not infringe or violate someone else rights. The Respondent should have exercised reasonable care and efforts to ensure there was no encroachment on any third-party rights.

19.1.6 This panel is of the view that it is for the Complainant to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the Respondent



carries the burden of demonstrating rights or legitimate interests in the domain name but the Respondent has failed to do that. The Respondent's registration and use of the domain name [novartisevent.in] are in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name and also the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

RELIEF

Following INDRP Policy and Rules, this Panel directs that the disputed domain name [NOVARTISEVENT.IN] be transferred from the Respondent to the Complainant; with a request to NIXI to monitor the transfer.

New Delhi, India
Dated : 29th March, 2023


[AJAY GUPTA]
Sole Arbitrator