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GOVERNMENT OF KERALA
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e-Stamp Serial Number : 202425000002580588

Verification Code : 557685758V

Govt. Reference No.(GRN) : KL042067067202425E
Purpose : Bond
Amount of Stamp Paper Purchased in Numeral : ₹ 100
Amount of Stamp Paper Purchased in Words : Rupees One Hundred
Stamp Paper Purchased on : 25/03/2025
First Party Name : Adv SUNIL V MOHAMED
First Party Address : Arbitrator,NIXI, Delhi
Second Party Name : LEGAL
Second Party Address : NIXI, Delhi
Vendor Code & Name : 11112452 - Jayakumar G
Treasury Code & Name : 1111 - STAMP DEPOT, Eranakulam

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BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA

Adv. SUNIL V. MOHAMMED BA., LL.B.
(Sole Arbitrator)

AWARD

Dated 27th March, 2025

Venue: New Delhi, India



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**In the matter of Arbitration under the .In Domain Name Dispute Resolution
Policy; the INDRP Rules and Procedure and
the Arbitration and Conciliation Act, 1996**

INDRP CASE No. 1940

Between

Complainant

COSRX inc.
West-5F Centrefield,
231, Teheran-ro,
Gangnam-gu Seoul,
Republic of Korea.

And

Respondent

Zeal Shah Ayusiddh
Healthcare Private Limited,
303, Abhishree Complex,
Opp. Star India,
Bazaar, Satellite Road,
Ahmedabad-380015, Gujarat, India.

Disputed Domain Name : "COSRX.CO.IN"

Seat of Arbitration : Office of the NIXI at Delhi, India.

**Date of commencement
of Arbitration Proceeding** : 27th January, 2025



TABLE OF CONTENTS

Sl. No.	Description	Page No.
1.	PARTIES TO THE ARBITRATION	4
2.	APPLICABLE LAW AND JURISDICTION	4 - 5
3.	THE DOMAIN NAME AND REGISTRAR	5 - 6
4.	PROCEDURAL HISTORY	6 - 8
5.	GROUND URGED FOR THE ADMINISTRATIVE PROCEEDINGS	8
6.	COMPLAINANT'S CONTENTIONS	8 - 12
7.	RESPONDENT'S CONTENTIONS	12 - 14
8.	DISCUSSIONS AND FINDINGS	14 - 21
9.	DISPOSITIONS	21
10.	LIST OF ANNEXURES	22


Adv. SUNIL V. MOHAMMED BA., LL.B.
(Sole Arbitrator)



1. The Parties to the Arbitration:

1.1 The Complainant in the Arbitration Proceedings is **COSRX inc.**, West-5F Centrefield, 231, Teheran-ro, Gangnam-gu Seoul, Republic of Korea. The Complainant is represented in these proceedings by its authorized representatives S.S. Rana, Barrister at-law, Bindra Rana, Lucy Rana, Arpit Kalra, Pranit Biswas, Deepika Shirvastav and Pallavi Paul, S.S. Rana and Co., Advocates, Registered Office, 317, Lawyers Chambers, High Court of Delhi, New Delhi-110003, India (Email: inf@ssrana.com), as per Notorial Certificate dated 23rd October, 2024.

1.2 The Respondent in the proceedings is **Zeal Shah Ayusiddh Healthcare Private Limited**, 303, Abhishree Complex, Opp. Star India, Bazaar, Satellite Road, Ahmedabad-380015, Gujarat, India (e-mail: zealsshah@gmail.com), as per the details publically available in WhoIs database maintained by the National Internet Exchange of India (hereinafter referred to as **NIXI**). The Respondent is represented by its authorized representatives Anjali A Rajput, Gaurang A Vaghela, Disha Trivedi and Preya P Shah and Deepika Shirvastav, Raval and Trivedi Associates, Office at 1203 to 1205, Satyam 64, Opp. Gujarat High Court, Sola, Ahmedabad-380060, Registered Office Address: 317, Lawyers Chambers, High Court of Delhi, New Delhi-110003, India (Email: Anjali@ravaladvocates.com)

2. Applicable Law and Jurisdiction:

2.1 The present Dispute Resolution Process is in accordance with Policy No. 5 of the .IN Domain Name Dispute Resolution Policy (hereinafter referred to as the **.IN Policy**) and .IN Domain Name Dispute Resolution Rules of Procedure (hereinafter referred to as the **INDRP Rules of Procedur**), based on the Arbitration and Conciliation Act, 1996 as amended from time to time, adopted by the NIXI and sets forth the legal framework for resolution of disputes between a Domain Name Registrant and a Complainant arising out of the registration and use of an .IN Domain Name.

2.2 By registering the disputed Domain Name with the NIXI accredited Registrar, the Respondent has agreed to the resolution of disputes under the




Policy and Rules framed thereunder (See Policy No. 15 and 16 of the .IN Policy and Rule 13 (a) INDRP Rules of Procedure).

3. The Domain Name and Registrar:

3.1 The disputed Domain Name is "COSRX.CO.IN", which is registered on the 19th March, 2024 with GoDaddy.com, LLC, by the Respondent registrant.

3.2 The particulars of the registration of Domain Name as found in the .IN Registry database (**Annexure-C1**) are as follows:

DNS Form	cosrx.co.in
User Form	cosrx.co.in
ROID	DDB2096348DC34154BC9751F0EC92E1D1-IN
Registrar Name	GoDaddy.com, LLC
IANA ID	146
Create Date	2024-03-19T10:50:34Z
Expiry Date	2027-03-19T10:50:34Z
Last updated Date	2024-11-14T11:10:20Z
EPP Status	clientRenewProhibited serverUpdateProhibited clientUpdateProhibited clientTransferProhibited serverRenewProhibited clientDeleteProhibited serverDeleteProhibited serverTransferProhibited
Domain State	Registered
Assigned Nameservers	ns49.domaincontrol.com ns50.domaincontrol.com
Registrant Client ID	CR747890451
Registrant ROID	C9C39C4D9DA714261808C6D6D441A9676-IN
Registrant Create Date	2024-03-19T10:50:33Z
Email	zealsshah@gmail.com
Phone	(+91).07926922368
International Postal Name	Zeal Shah
International Postal Organisation	Ayusiddh healthcare pvt ltd
International Postal Street Line 1	303, Abhishree Complex, Opp. Star India Bazaar
International Postal Street Line 2	Satellite road
International Postal City	Ahmedabad
International Postal State	Gujarat
International Postal Postcode/ Zip Code	380015



International Postal Country	IN
Local Postal Country	
Registrant Registrar Name	GoDaddy.com, LLC
Registrant Registrar IANA ID	146
Registry Admin ID	CBE909C88BAD24E41BA800E2717AA1A3E-IN
Admin Name:	Zeal Shah
Admin Organization:	Ayusiddh healthcare pvt ltd
Admin Street:	303, Abhishree Complex, Opp. Star India Bazaar
Admin Street:	Satellite road
Admin City:	Ahmedabad
Admin State/Province:	Gujarat
Admin Postal Code:	380015
Admin Country:	IN
Admin Phone:	(+91).07926922368
Admin Email:	zealsshah@gmail.com
Registry Tech ID:	CC33893EEA8E24102AF77B7F02E98A695-IN
Tech Name:	Zeal Shah
Tech Organization:	Ayusiddh healthcare pvt ltd
Tech Street:	303, Abhishree Complex, Opp. Star India Bazaar
Tech Street:	Satellite road
Tech City:	Ahmedabad
Tech State/Province:	Gujarat
Tech Postal Code:	380015
Tech Country:	IN
Tech Phone:	(+91).07926922368
Tech Email:	zealsshah@gmail.com

4. Procedural History

4.1 The Sole Arbitrator, Adv. Sunil V. Mohammed was appointed on 24th January, 2025, in the above INDRP case to resolve the domain dispute raised in the Complaint dated 23rd October, 2024, in accordance with Rule 2(a) and 4(a) of the INDRP Rules of Procedure.

4.2 After obtaining the Statement of Acceptance and Declaration of Impartiality of Independence of the Sole Arbitrator, the NIXI has forwarded the amended complaint along with **Annexure-C1 to C7** and also the WHOIS details of the domain through e-mail dated 24th January, 2025.




4.3 On 27th January, 2025, the Tribunal issued Notice under Rule 5(c) of the INDRP Rules of Procedure to the Respondent through e-mail and the Complainant was directed to serve copies of the domain complaint along with complete set of documents in soft copies as well as in physical via courier or post to the Respondent registrant at the address provided in the WHOIS details of the domain, in compliance of Rule 2 and 3(d) of the INDRP Rules of Procedure and to furnish proof of such service and delivery. In the said Notice, the Respondent was directed to file Reply to the Domain Complaint within 15 days.

4.4 The Complainant forwarded the soft copies of the Complaint and Annexures to the known e-mail ID of the Respondent viz., *zealsshah@gmail.com* as well as through courier. The Complainant as per e-mail dated 27th January, 2025 informed the Tribunal about the said service of Compliant and documents. Thereafter, the Complainant vide e-mail dated 28th January, 2025 forwarded the proof of service on the Respondent in compliance of Rule 3(d) of the INDRP Rules of Procedure. Accordingly, the Complainant has effected the service of the Complaint and Annexures on the Respondent under Rule 2(d) of the INDRP Rules of Procedure.

4.5 Since the Respondent failed to submit reply/response to the Domain Complaint within the time limit as mandated in the Notice dated 27th January, 2025 of the Tribunal and as the said time period had expired on 11th February, 2025, the Tribunal as per e-mail dated 13th February, 2025 granted the Respondent with another opportunity under Rule 13 of the INDRP Rules of Procedure to submit reply to the domain complaint within a further period of 10 days. Immediately thereafter, the Respondent through its counsel vide e-mail dated 18th February, 2025 and 20th February, 2025 requested for a hearing and time to engage in discussion for settlement with the Complainant's counsel, without placing formal reply/response to the Domain Compliant in a fixed format. On 20th February, 2025, the Complainant's counsel through e-mail has objected the extension of time sought for and the request placed by the Respondent's counsel for settlement discussion stating that the Complainant being the bonafide owner of the mark **COSRX** is not inclined to enter into a settlement with the Respondent. In the meanwhile, the Respondent's counsel through another e-mail dated 22nd February, 2025 requested to postpone the matter for a couple of days stating personal inconvenience. Since the extended




time for reply/response of the Respondent had expired on 23rd February, 2025, and no reply/response was placed by the Respondent, the Tribunal as per e-mail dated 25th February, 2025 adjourned the matter for further proceedings to 28th February, 2025, making it clear that the Respondent is free to submit the reply/respondent on or before the said date.

4.6 Consequently, as per e-mail dated 28th February, 2025, the Respondent submitted a Reply to the Domain Compliant.

4.7 Thereafter, the Tribunal by overruling the procedural objections raised by the Respondent, decided to proceed under Rule 5(e) of the INDRP Rules of Procedure as per e-mail dated 4th March, 2025.

5. Grounds urged for the Administrative Proceedings:

5.1 The disputed domain name is identically and/or confusingly similar to Complainant's domain name/trademark.

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

5.3 The Registrant's domain name has been registered or is being used in bad faith.

6. Complainant's Contentions:

6.1 The Complainant would content that **COSRX inc.** is a company incorporated on 16th December, 2013 under the laws of the Republic of Korea, operating under the name COSRX and variations thereof.

6.2 According to the Complainant COSRX inc. is a Korean beauty brand founded by Mr. Jun Sang Hun (now, the acting CEO of COSRX inc.) as a small skin-care brand in the year 2002, which was later incorporated as a company and that with customized solutions being top priority for premium quality skin-care needs of the customers, the name COSRX was coined by combination of the terms "**Cosmetics+Rx (symbol for prescription)= COSRX**".

6.3 It is the case of the Complainant that with skin-friendly ingredients that alleviate irritated skin, it aims to provide a better tomorrow for their customers,




which lead to coin its brand's slogan '**Expecting Tomorrow**' and the researchers at COSRX, experiment and study ingredients and prescriptions directly at its laboratory, to develop products by taking various perspectives into account, and evaluating various parameters including specific skin concerns, product types and the ingredients to be used to target the identified concerns.

6.4 The Complainant states that COSRX currently has developed and is selling more than 150 types of cosmetic products in more than 146 countries globally and it has been recognized as the "*No. 1 brand in the skincare sector in the Philippines on Shopee (the leading online platform in Southeast Asia)*" and "*No. 2 brand in the skincare sector in Malaysia on Shopee*" and that the Complainant has also achieved an *average growth rate of 205% on Amazon in U.S.* and has *garnered 1.3 billion cumulative brand views on the social-media platform TikTok*. It is also stated that several of its products have been honoured with the distinguished '*Amazon's Choice*' badge and sales for the awarded best sellers have surged from 90% to over 1,000% from 2023 to 2024.

6.5 According to the Complainant, through the years, its products have been awarded the Global Beauty Awards more than 135 times, during the period 2014-2023 and its COSRX products, with 8 product lines, including **FULL FIT, PURE FIT, SHIELD FIT, REAL FIT, ONE STEP, HYDRIMUM, BALANCIUM, AC COLLECTION**, has won many overseas and Korean awards including **Amazon Best Seller in Facial Cleansing Gels, Amazon's Choice, Get It Beauty 2020 View Label, 29 BEAUTY AWARD 2020**, and many other famous awards in the beauty industry. The Complainant would add that in recent times, COSRX has been named a **2023 TOP Brand Seller** by the e-commerce giant Amazon, and further that in 2024, COSRX's exceptional growth and success in the highly competitive e-commerce marketplace has earned the brand a place on this highly coveted list.

6.6 The Complainant would highlight that in 2022, COSRX experienced growth on Amazon's marketplace, with an average increase of 266% in overall sales and most notably, in the United States, the **snail** line, including the **Advanced Snail 96 Mucin Essence, Advanced Snail 92 All in One Cream, Advanced Snail Radiance Dual Essence, and Advanced Snail Mucin Power Sheet Mask**, has experienced a significant increase in sales being part of the list




of Tik Tok famous products. It is also contended that during the 2022 Amazon Prime Day event, the Complainant's **Acne Pimple Master Patch** led to record-breaking sales, achieving a 660% increase compared to the previous year and the viral **Advanced Snail 96 Mucin Essence** became the top-selling product in the entire beauty category during the Black Friday and Cyber Monday promotional period in the United States.

6.7 The Complainant, based on **Annexure C-2**, would content that it is a registered proprietor of the **trademark COSRX** in respect of cosmetic preparations and other goods covered in Class 3 in **India** (*Application date 12.01.2017, Registration No. IRDI 3536132, Published Journal No. 1803-0 dated 26.06.2017*) and that the aforesaid registration is valid, renewed and subsisting, by virtue of which the Complainant has the exclusive statutory rights to use the said trade mark in respect of the goods/services.

6.8 The Complainant would prove through **Annexure C-3** that it has also registered the **trademark COSRX** in different classes **in various countries** from 2015 to 2023.

6.9 The Complainant would point out that it had first registered the COSRX-formative ccTLD **www.cosrx.co.kr** in the year 2006, followed by the top-level domain name **www.cosrx.com** on 4th December, 2007, wherein an active website has been operating for years. To prove the same, the Complainant has annexed with the Compliant the screen short of its website.

6.10 The Complainant would contend that with the expansion of its international business, additional COSRX-formative top-level domain names have been registered and some of the said domain names either have independent websites or are redirected to the Complainant's parent website **www.cosrx.com** as evident from the following such domain names covered by **Annexure C-4**:

Sl. No.	Domain Name	Creation Date	Country
1.	cosrx.co.kr	September 15, 2006	South Korea
2.	cosrx.com	December 04, 2007	gTLD
3.	cosrx.kr	November 19, 2014	South Korea
4.	cosrx.de	March 28, 2017	Germany
5.	cosrx.jp	March 28, 2017	Japan

6.	cosrx.id	March 29, 2017	Indonesia
7.	cosrx.ph	March 29, 2017	Philippines
8.	cosrx.tw	March 29, 2017	Taiwan

6.11 It is the case of the Complainant that it has a presence on the internet and information about the company is accessible to persons in India and abroad and even a simple online search for the word COSRX reveals details of Complainant Company's various products under the said mark. It is also contended that in addition to that, the Complainant promotes its business on various social networking sites like Facebook, Instagram and X and also through popular e-commerce websites in India, viz., www.nykaa.com, www.amazon.in, www.flipkart.com, www.tira.com, www.myntra.com, www.foxy.com, www.beautybarn.in etc. and further that its products are available in Amazon for purchase in India from April, 2015. In order to prove the same, the Complainant has annexed the URL and Snapshots in some e-commerce websites in India as well as **Annexure C-6** webpage of Amazon.

6.12 The Complainant would rely on the various articles written and news stories broadcasted about it worldwide as well as in India about its products, services and potential and consumers, which are shown in **Annexure C-5**. According to the Complainant, its trademark **COSRX** is **well known and famous in India within the meaning of Section 2(zg) of the Trade Marks Act, 1999**, which provides for protection of well-known marks in India and it makes very effort to protect its trademark rights by sending Cease and Desist letters and other enforcement actions. The following are the decisions passed by various Panels in favour of the Complainant:

Case No.	Panel	Date of Decision	Domain Name	Decision
COSRX Vs. 李晓飞 (Xiao Fei Li) Case No. DCC2024- 0016	UDRP	July 31, 2024	COSRX.CC	Domain name transferred to COSRX inc. (URL https:// www.wipo.int/amc/en/domains/decisions/pdf/2024/dcc 2024-0016.pdf)



COSRX Vs. 林剑贤 (jianxianlin) Case No. D2024- 1327	UDRP	May 31, 2024	COSRXUSA.N ET	Domain name transferred to COSRX inc. (URL https://www.wipo.int/amc/en/domains/decisions/pdf/2024/d2024-1327.pdf)
COSRX Vs. 卢剑锋 (JianfengLu) CaseNo.D20 23-4171	UDRP	December 08, 2023	COSRXOFFICI A L.COM	Domain name transferred to COSRX inc. (URL https://www.wipo.int/amc/en/domains/decisions/pdf/2023/d2023-4171.pdf)
COSRX Vs. 陈龙 (chenlong) Case No. D2023-2785	UDRP	August 27, 2023	COSRXUS.CO M	Domain name transferred to COSRX inc. (URL https://www.wipo.int/amc/en/domains/search/fulltext/decisions.jsp?q=cosrx).
COSRX Vs. Tejas Taori INDRP Case No. 1805	INDRP	March 11, 2024	COSRX.IN	Domain name transferred to COSRX inc. (URL https://www.registry.in/s3-assets/indrp-1805_repaired.pdf)

6.13 According to the Complainant, recently, it was brought to its notice that a domain name “<COSRX.CO.IN>” was registered on 19th March, 2024 by the Respondent registrant and a parked page hosting several pay-per-click advertisement is being hosted at the said webpage. In order to prove the same, the Complainant would rely on **Annexure C-7** snapshot of the said webpage.

6.14 The Complainant would submit that the disputed domain name “<COSRX.CO.IN>” incorporates its registered trademark **COSRX**, its domain name **COSRX.COM**, the company name **COSRX inc** and its label/brand name **COSRX** in toto, which led to the present complaint to safeguard its IP rights.

7. Respondent’s Contentions:

7.1 As stated above, initially, the Respondent on 18th February, 2025 and 20th February, 2025 requested for a hearing and time to engage in discussion for




settlement with the Complainant's counsel. But the same was objected by the Complainant on 20th February, 2025, stating that the Complainant being the bonafide owner of the mark **COSRX** is not inclined to enter into a settlement with the Respondent.

7.2 Thereafter, the Respondent submitted reply/response to the domain complaint on 28th February, 2025 raising various contentions including lack of jurisdiction and procedural non-compliance as also contending that the domain name does not violate INDRP Rules of Procedure, that there is no bad faith or misuse, that there is no cause of action etc. On 4th March, 2025, the Tribunal overruled the objections regarding procedural non-compliance, making it clear that the remaining contentions will be adjudicated while passing the Award.

7.3 While so, as per e-mail dated 7th March, 2025, the counsel for the Respondent intimated the Tribunal as follows:

"We write on behalf of our client, Ms. Zeal Shah (Director Ayusiddh Healthcare Private Limited), in relation to the ongoing arbitration concerning the domain name [Domain Name]."

At the outset, our client wishes to clarify that it does not intend to contest the reassignment of the domain name. The domain was acquired solely for a potential business venture, which was never pursued. At no point has our client used or sought to derive any commercial benefit from the brand, trademark, or business under this domain.

It is imperative to note that our client had no malafide intention when registering the domain. The acquisition was made in good faith, with a view to exploring potential business opportunities in the future. However, given that no concrete steps were taken to develop or commercialize the domain, our client has no objection to its reassignment. Any suggestion of bad faith or improper intent would be entirely misplaced in these circumstances."

7.4 Thereafter, the Respondent's counsel vide another e-mail dated 13th March, 2025, has intimated the Tribunal as follows:

"Without prejudice to our rights and without acknowledging your authority, we hereby confirm our willingness to relinquish the domain name 'COSRX.CO.IN' and withdraw our application from the GoDaddy website. Additionally, we do not intend to proceed further with the arbitration proceedings."



Therefore, going by the above statements, it is clear that the Respondent has no intention to press its contentions in the reply/response dated 28th February, 2025. Accordingly, the Tribunal by recording the said statements proceeded further in the matter based on the pleadings and materials placed on record.

7.5 Rule 13(b) of the INDRP Rules of Procedure provides that the Arbitrator shall ensure that at all time treat the parties with equality and provide each one of them a fair opportunity to present their case. Infact, the Respondent was given notice under Rule 2 of the INDRP Rules of Procedure and the Respondent has submitted Reply dated 28th February, 2025. Therefore, the Respondent was given a fair opportunity to present its case.

7.6 Further, as per Rule 18(a) of the INDRP Rules of Procedure, the Arbitrator shall decide the Complaint based on the pleadings submitted in accordance with the Arbitration and Conciliation Act, 1996 amended as per the Arbitration and Conciliation (Amendment) Act, 2019, the .IN Policy, INDRP Rules of Procedure and any law that the Arbitrator deems to be applicable. In this case, the e-mail dated 7th March, 2025 of the Respondent is favouring the case put forward by the Complainant. Therefore, the Tribunal is justified in drawing inferences as are appropriate from the pleadings and materials placed on record.

8. Discussions and Findings:

8.1 Accordingly, the Tribunal framed the following issues for consideration:

- (i) *Whether the Respondent's Domain name is identical and/or deceptively similar to domain name and trademarks of the Complainant?*
- (ii) *Whether the Respondent has any rights or legitimate interests in respect of the domain name?*
- (iii) *Whether the Respondent's domain name was registered or is being used in absolute bad faith?*
- (iv) *Reliefs and cost.*

8.2 The Complainant has produced Annexure C to C-7 to substantiate its contentions. As per Rule 13(d) of the INDRP Rules of Procedure, the Arbitrator is to determine the admissibility, relevance, materiality and weight of the




evidence placed for consideration in the proceedings while deciding the Compliant.

8.3 As per Policy No. 4 of the .IN Policy, class of disputes are catergorised on three premises. The Complainant's specific case is that the Respondent's domain name is identical and confusingly similar to its name/marks, that the Respondent has any rights or legitimate interests in respect of the disputed domain name and that the Respondent's domain name was registered and is being used in absolute bad faith.

8.4 The Complainant would state that it is invariably vigilant about its IP rights and strongly resisted against interruption on its goodwill/reputation by the Respondent, which is clearly evident from the decision of the various Panels quoted in para 6.12 above.

8.5 **The statement of the Respondent as per e-mail dated 7th March, 2025 and 13th March, 2025 would categorically prove that the Respondent does not dispute the contentions of the Complainant.** The Respondent would state that it does not intend to contest the re-assignment of the dispute domain name, that the same was not used or sought to derive any commercial benefit from the brand, trademark or business of the Complainant, that the Respondent had no malafide intention when registering the domain name and that the Respondent confirms its willingness to relinquish the domain name "<COSRX.CO.IN>".

8.6 According to the Complainant, **the disputed domain name "<COSRX.CO.IN>" is identical to the name/ mark in which it has rights.** The Complainant would prove through **Annexure C-2 and C-3** that it is the **Registered Proprietor of the trademark COSRX in India and various countries.** Moreover, the global presence of the **COSRX** products as well as its popularity through various platforms supported by various documents would indicate that by virtue of continuous and extensive use worldwide and in India, the trademarks **COSRX** and its variants has acquired substantial reputation. In ***F Hoffman-La Roche AG Vs. Relish Enterprises (WIPO) D2007-1629*** it was held that *"If the Complainant owns a registered trademark, then it satisfies the threshold requirement of having the trademark rights and the domain name is confusingly similar to Complainant's trademark because the disputed domain name looks and reads like Complainant's trademark"*. The Complainant would




rely on certain notable decisions in *Kenneth Cole Productions V. Viswas Infomedia INDRP/093*, *Inter-Continental Hotels Corporation V. Jaswinder Singh (INDRP/278)*, *Starbucks Corporation V. Mohanraj (INDRP/118)*, *Raddison Hospitality Belgium BV/SRL V. Najim (INDRP/1818)* to establish deceptive similarity.

8.7 It is the contention of the Complainant that country code top level domains (ccTLD) as well as general top level domains (gTLD), such as “.in”, “.co.in” and/or “.com” are an essential part of a domain name and in no way can it be said to be eligible to sufficiently distinguish the Respondent’s domain name “<COSRX.CO.IN>” from the Complainant’s registered mark **COSRX** or its existing domain name <COSRX.COM> as well as Complainant's other COSRX-formative domain names comprising prominently of the name/mark COSRX. It is further contended that the mere technical requirement of the addition of the ccTLD does not grant any distinction to the Respondent. In order to prove the same, the Complainant placed reliance on the prior decisions of the INDRP Panel in *Urban Outfitters Inc. v. Hua An Holdings (H.K.) Limited (INDRP/601)*, *Starbucks Corporation v. Aditya Khanna (INDRP/614)* and *Sudhir Kumar Segar v. John Doe (INDRP/1645)*. According to the Complainant, a generic TLD/ccTLD such as “.co.in” is a standard registration requirement and therefore cannot be said to distinguish the Respondent's domain name “<COSRX.CO.IN>” from the Complainant's registered trademark **COSRX** or their domain names as held in *Equifax Inc. v. Nikhlesh Kunwar (INDRP/1038)* and *Walmart Stores, Inc. v. Richard MacLead (WIPO Case No. D2000-0662)*. Therefore, the Complainant would content that when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name, it is to be considered identical or confusingly similar for the purposes of the Policy as held by the Hon’ble Supreme Court of India in *Satyam Infoway Ltd. Vs. Sifynet Solutions Pvt. Ltd., [2004 Supp. (2) SCR 465]* that the domain name has acquired the characteristic of being a business identifier when it identify the subject trade or service that an entity seeks to provide to its potential customers. The Complainant would state that this has been observed by prior Panels in *Dell Inc. v. Mani, Soniya (INDRP/753)*, *Patagonia Inc. v Doublefist Ltd. (INDRP/1185)*, *Factory Mutual Insurance Company v. Rhianna Leatherwood (WIPO Case No. D 2009)* and *Avanti Feeds Limited v.*




Pradeep Chaturvedi (INDRP/1388). Further, the Panel in *Zippo Manufacturing Company Inc. v. Zhaxia (INDRP/840)* has observed that "the Respondent has picked up the mark without changing even a single letter when a domain name wholly incorporates a complainant's registered mark that is sufficient to establish identity or similarity for purpose of the Policy."

8.8 It is an established fact that the Complainant's domain was registered much prior to the registration of the disputed domain name "<COSRX.CO.IN>" of the Respondent. Moreover, the evident identity between Respondent's domain name and Complainant's marks, domain names and brand name incorporating **COSRX** is likely to mislead, confuse and deceive Complainant's customers as well as the general lay public as to the source, sponsorship, affiliation or endorsement of Respondent's domain name. The documents produced by the Complainant would show that the disputed domain name is identical and confusingly similar to that of the name and mark of the Complainant. The said fact remains unopposed as well. Therefore, it can be safely concluded that the domain name "<COSRX.CO.IN>" incorporates the registered trademark **COSRX** of Complainant, its domain name **COSRX.COM**, the company name **COSRX inc** and its label/brand name **COSRX** in toto and that there is confusing similarity to the Complainant's domain name/trade marks in accordance with **Policy No. 4(a) of the .IN Policy**.

8.9 With respect to the contention of the Complainant that **the Respondent has no rights or legitimate interests in the domain name <COSRX.CO.IN>**, it is to be noted that the Complainant's name being a unique combination of the terms "**Cosmetics+Rx**", there is no reason to use the same name by the Respondent. The decision passed on 11th March, 2024 by INDRP Panel in favour of the Complainant herein against another disputed domain **COSRX.IN** in *COSRX Vs. Tejas Taori (INDRP Case No. 1805)* would render support to the fact of unauthorized access to the Complainant's said domain name/trademarks. The Complainant placed reliance in that regard on another decision in *CareerBuilder, LLC V. Stephen Baker (Case No. D2005-0251)*. Moreover, the statement of the Respondent as per e-mail dated 7th March, 2025 and 13th March, 2025 is in favour of the Complainant. In *Motorla Inc. Vs. NewGate Internet, Inc. (WIPO Case D2000-0079)*, it was held that "use of the trademarks not only creates a likelihood of confusion with Complainant's marks as to the source,




sponsorship, affiliation or endorsement of its website, but also results in dilution of the marks.”

8.10 The Tribunal notes that the Respondent hasn't brought in circumstances set out in Policy No. 6 of the .IN Policy to demonstrate rights or legitimate interests in the disputed domain name. Moreover, the Respondent has no claim that the Complainant has licensed or otherwise permitted the Respondent to use its name or trademark or to apply for or use the domain name incorporating said name. In the decision in *Wockhardt Ltd vs Kishore Tarachandani (INDRP/382)*, it has been held that *"The Respondent cannot have a right or legitimate interest in the disputed domain name when it incorporates the entire mark of the Complainant, is a clear case of abusive registration of a well-known mark."* As a result, **it can be concluded that the Respondent's use of the Domain Name does not amount to a bona fide offering of goods or services within the meaning of Paragraph No. 6(a) of the .IN Policy.** Moreover, in light of the nature of the Domain Name, comprising the Complainant's name/marks, it can be concluded that **the Domain Name carries with it an implied risk of affiliation with the Complainant, which cannot constitute fair use.** Therefore, the Tribunal has no hesitation in accepting the contentions of the Complainant that the **Respondent has no authority to use the domain name in accordance with Rule 4(b) of the INDRP Rules of Procedure and Policy No. 6 of the .IN Policy.**

8.11 As regarding Issue No. 3 on the question of the **use of domain name in bad faith**, the Complainant would point out that it has reputation and extensive business operations in India and that the Respondent has mischievously adopted the name **COSRX** to register the disputed domain name "**<COSRX.CO.IN>**" with prior knowledge. The Complainant has relied on the decision of the INDRP Panel in *M/s. Merck KGa Vs. Zeng Wei (INDRP/323)*, wherein it was held that *"The choice of the domain name does not appear to be a mere coincidence, but a deliberate use of a well-recognized mark.... Such registration of a domain name, based on awareness of a trademark is indicative of bad faith registration."* In that view of the matter, it is to be presumed that the Respondent has adopted identical name as opportunistic bad faith as held in *Mozilla Foundation and Mozilla Corporation Vs. LINA Double fist Limited (INDRP/934)*. Further, in the *decision dated 3rd March, 2012 of the INDRP Panel in Flipkart Online Service Private Limited Vs. Azeem Ahmed Khan* it was held that *"passive*




holding would also tantamount to bad faith” and that constructive notice of the mark can be presumed when the Complainant’s mark is of immense reputation of worldwide.

8.12 In the decision dated 16th June, 2005 in *Viacom International Inc & MTV Networks Europe Vs. Web Master (Case No. D2005-0321-WIPO)*, it was observed that *“Given long and widespread reputation of the Complainant's mark, the compelling conclusion is that the Respondent, by choosing to register and use a domain name which is not only confusingly similar to the Complainant's widely known and distinctive mark but identical thereto, intended to ride on the goodwill of the Complainant's trademark in an attempt to exploit, for commercial gain, Internet traffic destined for the complainant. Potential partners and end users are led to believe that the website is either the Complainant's site, especially made up for bearings, or the site of the official authorized partners of the Complainant, while, in fact, it is neither of these”*. Further, in the decision dated 5th April, 2008 in *ITC Ltd Vs. Travel India (Case No, L-2/5/R4 OF 2008-NIXI)*, it has been held that *"Registration of domain name which is identical to trademark, with actual knowledge of the trademark holder's rights is strong evidence that the domain name was registered in bad faith"*. Therefore, **it is to be concluded that the Respondent has not acted in good faith and further that the disputed domain name was registered to make unlawful gain by misleading the Complainant’s consumers in accordance with Rule 4(c) of the INDRP Rules of Procedure.**

8.13 Going by Policy No. 3 of the .IN Policy, while applying for registration of the domain name, the registrant represents that to the knowledge of the registrant, registration of the domain name will not infringe upon or otherwise violate the rights of any third party and further that it is not registered for an unlawful and malafide purpose. Infact, the Respondent had constructive notice of the Complainant's mark COSRX. Therefore, **the Complainant has succeeded in proving that the disputed domain name is registered by suppression and in order to infringe upon and violate its rights and further to make an unlawful gain.**

8.14 The evidence of the registration and use of the disputed domain name in bad faith for the purpose of Policy No. 4(c) as per Policy No. 7 of .IN Policy is




clearly made out in this case. Further, nothing is brought in to prove that **there is bona fide offering of goods or services by the Respondent**, in accordance with Policy No. 6(a) of the .IN Policy.

8.15 In the light of the above discussions and on an analysis of the documents produced and on the facts and circumstances of this case, the Tribunal is of the firm view that the Complainant has succeeded in establishing that the registration of the disputed domain prima facie conflicts with its legitimate rights and interests, that the registration is in bad faith, that the Respondent did not produce evidence to rebut the Complainant's case, that in the absence of such evidence, the Complainant is deemed to have satisfied the requirements of Policy No. 4(b) of the .IN Policy, that the Complainant has also succeeded in establishing that the disputed Domain Name is identical and confusingly similar to the inherently distinctive and well known name and trade mark of the Complainant throughout the world (Policy No. 4(a) of the .IN Policy), that it was registered or is being used in bad faith (Policy No. 4(c) and 7 of the .IN Policy), that the Respondent is by all means is presumed to have knowledge of the Complainant's name/marks when it registered the Domain Name and therefore the registration of the domain name constitutes evidence of bad faith, that through the Respondent's use of the Domain Name, it has intentionally attempted to attract Internet users by creating a likelihood of confusion with the Complainant's trademarks/name as to the source, sponsorship, affiliation or endorsement of the website, in accordance with Policy No. 7(c) of the .IN Policy and that the Respondent ultimately derives commercial advantage from the Respondent's unauthorized use of the Complainant's domain name and marks, which is covered by Policy No. 7(d) of the .IN Policy.

8.16 Therefore, on the basis of the aforementioned findings, the Tribunal is pleased to order as follows:

Decision

- i). *The disputed domain name is confusingly similar to Complainant's domain name/trademarks.*



- ii) *The Registrant has no rights or legitimate interests in respect of the domain name.*
- iii) *The Registrant's domain name has been registered or is being used in bad faith.*
- iv) *The NIXI is to transfer the registration of the Domain Name in dispute "COSRX.CO.IN" to the Complainant, as prayed for, within a week of receipt of this decision. The Complainant shall also be at liberty to contact NIXI for implementation of this decision.*
- v) *The Respondent shall pay a cost of Rs. 25,000/- to the Complainant.*

9. Dispositions:

9.1 The complainant has given sufficient material evidence to prove extensive trademark rights over the dispute domain name and the Respondent's adoption and registration of the impugned domain name is dishonest and malafide.

9.2 The various Panels have recognized that the Complainant if makes out a prima facie case that the Respondent lacks rights or legitimate interest, it is sufficient that the case put forward by the Complainant is to be accepted. In this case, the Complainant has proved a prima facie case that the Respondent is using the disputed domain name in bad faith.

9.3 The Respondent has no rights or legitimate interests in respect of the domain name in accordance with .IN Policy and INDRP Rules of Procedure and the Tribunal directs that the disputed domain name be transferred from the Respondent to the Complainant with a request to NIXI to monitor the transfer and the Respondent to pay cost to the Complainant.

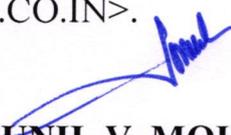
Dated this the 27th March, 2025




Adv. **SUNIL V. MOHAMMED**
Sole Arbitrator

List of Annexures

- Annexure C-1:** Copy of the .IN Registry WHOIS search results for the domain <COSRX.CO.IN>.
- Annexure C-1A:** Copy of the WHOIS details for the domain <COSRX.CO.IN> as received from NIXI.
- Annexure C-2:** Copy of the Indian registration certificate of the Complainant's trademark registration.
- Annexure C-3:** Copies of the Foreign registration certificate of the Complainant's trademark registration.
- Annexure C-4:** Copies of few of the WhoIS results of the Complainant's registrant's domain names as available on the Internet.
- Annexure C-5:** Excerpts of few of the articles and press releases of the Complainant.
- Annexure C-6:** Evidence depicting the availability of the Complainant's product on Amazon.
- Annexure C-7:** Dated copy of the domain <COSRX.CO.IN>.


Adv. **SUNIL V. MOHAMMED**
Sole Arbitrator

