

**ARBITRATION AWARD  
.IN REGISTRY**

(C/O NATIONAL INTERNET EXCHANGE OF India)

Before the Sole Arbitrator, Binny Kalra

Disputed domain name <[araldite.co.in](http://araldite.co.in)>

In the matter of:

Pidilite Adhesives Private Limited  
Regent Chambers, 7th Floor Jamnalal  
Bajaj Marg, 208, Nariman Point, Mumbai -  
400021, Maharashtra, India

**Complainant**

vs

Pradeep Singhal, Proprietor  
Singhal Chemical Corporation  
C-152, Major Dhyanchand Nagar  
Delhi Road, Meerut  
Uttar Pradesh, 250002, India  
Email: [scc157@rediffmail.com](mailto:scc157@rediffmail.com)

**Respondent**

**INDRP Case No: 1343**

**1. The Parties:**

The Complainant is Pidilite Adhesives Private Limited which is represented by Khaitan & Co., One World Center (earlier One Indiabulls Centre), 10 & 13 Floor, Tower 1C, 841 Senapati Bapat Marg, Prabhadevi, Mumbai 400 013. The Respondent is Pradeep Singhal, proprietor of Singhal Chemical Corporation. The Respondent is not represented in person or through counsel in these proceedings.

**2. The domain name, Registrar, and Policy:**

The disputed domain name is <[www.araldite.co.in](http://www.araldite.co.in)> (hereinafter referred to as the "**Disputed Domain Name**"). The Registrar for the Disputed Domain Name is Infocom Network Ltd. The present arbitration is being conducted in accordance with the Arbitration



and Conciliation Act, 1996, the .IN Domain Name Dispute Resolution Policy ("**Policy**") and the INDRP Rules of Procedure ("**Rules**").

### **3. Procedural history:**

- 23 February 2021: Statement of acceptance along with a declaration of impartiality and independence was sent to the .IN Registry
- 25 February 2021: The .IN Registry transmitted information of appointment of the arbitrator and circulated the complaint and its annexures to the parties, while also informing the Complainant about the deficiencies to be rectified in the complaint i.e. missing details of the Respondent in the complaint main body and the incomplete WHOIS details annexure.
- 25 February 2021: Notice of commencement of arbitration proceedings was sent to the parties and a period of 30 days, until 27 March 2021, was given to the Respondent to submit a statement of defense
- 26 February 2021: The Complainant submitted the updated complaint and annexure with complete WHOIS details.
- 27 February 2021: The Complainant provided certain clarifications requested by the Panel in respect of the amendments made in the complaint.
- 27 February 2021: The Panel sent a communication to the Parties and gave further time to the Respondent until 30 March 2021 to file its statement of defense in view of the fact that the final complaint was circulated on 27 February 2021.
- 21 March 2021: An email was addressed to the Panel by one Shobhit Singhal from the email ID [scc157@rediffmail.com](mailto:scc157@rediffmail.com) stating "Domain [www.araldite.co.in](http://www.araldite.co.in) is for sale if you want to purchase kindly contact us".
- 22 March 2021: The Panel circulated the communication received from the Respondent to the Parties with the observation "The arbitrator considers this communication to be *prima facie* a voluntary admission of bad faith registration by the Registrant under

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Rule 4(c) and Rule 7(a) of the INDRP policy. Nonetheless, as mentioned in the below email of 27 February 2021, the Registrant has time until 30 March 2021 to file a formal statement of defense if it still wishes to do so.”

31 March 2021: The matter was reserved for passing an award as the Respondent did not file a statement of defense or attempt to make any submission on merits with regards to the substantive grounds set out in the complaint.

#### **4. Complainant’s case:**

The Complainant has made the following submissions, which the Panel has paraphrased:

The expression “Complainant” as per submissions in para 1 of the Complaint would include Pidilite Adhesives Private Limited and its group companies, subsidiaries, and predecessors-in-title and licensed users of the trademarks. The Complainant claims to be a renowned company in the field of adhesives and sealants. The mark ARALDITE and marks consisting ARALDITE are claimed to be exclusively associated with the Complainant.

The Complainant has further made the following relevant factual claims, *inter alia*:

- The Complainant was incorporated in 2019 as Huntsman Advanced Materials Solutions Private Limited and was earlier a part of the Huntsman Group of Companies.
- Since November 3, 2020, the Complainant is a part of the Pidilite Group of Companies and the name of the Complainant was changed to Pidilite Adhesives Private Limited with effect from 13 January 2021. Copy of certificate of incorporation of the Complainant pursuant to its name change is annexed as **Annexure-4** to the Complaint.
- The Complainant’s products are sold under the trademarks ARALDITE, ARALDITE KARPENTER, ARASEAL etc.
- The Complainant’s products and services are also advertised through its official website under the domain name [www.araldite.in](http://www.araldite.in).



- The Complainant's website enables its viewers to obtain information regarding the Complainant's brands, products and services and connect with the Complainant's representatives in relation to the same.
- The mark ARALDITE was adopted by the Complainant's predecessor in or about the year 1946 and the same now vests with the Complainant and has been used and registered in India and few other countries.
- The Complainant's ARALDITE marks are extensively used as part of the Complainant's trading style and domain names in addition to the same being used as a product/service identification mark. The Complainant has placed on record a list of its trade mark registrations in India as **Annexure-5** to the complaint.
- The Complainant has also obtained domain name registrations consisting of the mark ARALDITE including its official website- [www.araldite.com](http://www.araldite.com) and [www.aralditediy.in](http://www.aralditediy.in), [www.arelдитеadhesive.in](http://www.arelдитеadhesive.in), [www.arelдитеretail.in](http://www.arelдитеretail.in), [www.arelдитеbond.in](http://www.arelдитеbond.in), [www.aralditeretail.co.in](http://www.aralditeretail.co.in), [www.aralditebond.co.in](http://www.aralditebond.co.in), [www.aralditeretail.com](http://www.aralditeretail.com) and [www.aralditebond.com](http://www.aralditebond.com).
- The Complainant's products/ services are sold in the Indian market and countries abroad and have been extensively promoted/ advertised in India. This has been supported by copies of advertisements and other promotional material under the ARALDITE brand annexed as **Annexure-6** to the complaint.
- The Complainant's total sales figures for products sold under the ARALDITE mark were approximately 241 crores for the year 2020. The Complainant also incurs substantial promotional/marketing expenditure in advertising / promoting its business under the ARALDITE mark and has spent approximately 8.45 crores as promotional expenses in the year 2020.
- The Complainant has generated substantial reputation and goodwill in relation to its ARALDITE mark and as a result, the Complainant's ARALDITE mark is exclusively associated with the Complainant.
- The Disputed Domain Name registered by the Respondent uses the Complainant's registered trade mark ARALDITE as part of the domain name with respect to identical goods being adhesives and construction chemical products and redirects users to the Respondent's website [www.singhalchemical.com](http://www.singhalchemical.com). A copy of details of the Disputed Domain Name has been placed on record as **Annexure-3** to the complaint.

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- The Disputed Domain Name is likely to cause confusion in the minds of the consuming public who may perceive the affiliation or endorsement of the Disputed Domain Name with the Complainant.
- The Disputed Domain Name is likely to be linked to a domain name parking service such as Google AdSense to wrongfully generate revenue from misguided traffic to the Disputed Domain Name on account of its confusing nature.
- The Complainant has not authorised the Respondent to register the Disputed Domain Name. In fact, after becoming aware of the Disputed Domain Name, the counsel for the Complainant issued a cease and desist notice to the Respondent seeking the Respondent to cease use of the domain name consisting of the Complainant's trade mark. The Complainant also called upon the Respondent to cease use of the Complainant's mark and misrepresenting that the Respondent or the Disputed Domain Name is associated or connected with the Complainant. This correspondence has been placed on record as **Annexure-7** of the Complaint.
- Post receipt of the notice, the Respondent has stopped use of the Disputed Domain Name, however it continues to retain registration for the Disputed Domain Name.

## **5. Legal grounds:**

Under Paragraph 4 of the Policy, the Complainant must establish the following three elements to succeed:

- (a) the Disputed Domain Name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
- (b) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (c) the Disputed Domain Name has been registered or is being used in bad faith.

## **6. Discussion and findings:**

The Respondent has chosen not to participate in the present proceedings and has not filed any statement of defence. Therefore, the claims of fact made by the Complainant as summarized in paragraph 4 of this decision, shall be accepted by the Arbitrator if they are found to be *prima facie* valid. The discussion will therefore proceed on this basis.

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**A. Whether the Disputed Domain Name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights**

The Disputed Domain Name is <[araldite.co.in](http://araldite.co.in)>. The Complainant has claimed rights in the mark ARALDITE. The evaluation of Issue A shall therefore be twofold:

**a. Whether the Complainant has rights in the mark ARALDITE**

The Complainant has attempted to establish its rights in the mark ARALDITE by making the following claims:

- The Complainant's mark ARALDITE was adopted by the Complainant's predecessor in around 1946.
- Products bearing the Complainant's trade mark ARALDITE have been a market leader and the mark has been continuously and extensively used in an uninterrupted manner.
- The Complainant's ARALDITE marks are extensively used as part of the Complainant's trading style and domain names in addition to the same being used as a service identification mark.
- It owns and operates several domain names consisting of the mark ARALDITE including [www.araldite.in](http://www.araldite.in), [www.araldite.com](http://www.araldite.com), [www.aralditediy.in](http://www.aralditediy.in), [www.arelдитеadhesive.in](http://www.arelдитеadhesive.in), [www.arelдитеretail.in](http://www.arelдитеretail.in), [www.arelдитеbond.in](http://www.arelдитеbond.in), [www.aralditeretail.co.in](http://www.aralditeretail.co.in), [www.aralditebond.co.in](http://www.aralditebond.co.in), [www.aralditeretail.com](http://www.aralditeretail.com) and [www.aralditebond.com](http://www.aralditebond.com).

At the outset, it must be pointed out that the Complainant has placed no evidence in support of its claim for trademark registrations, other than a table listing out the trademarks and their application numbers as Annexure 5 to the complaint and requests to bring the assignment of the trademarks on record in the Trademark Office as Annexure 5A to the complaint. The registration certificates of the trademark ARALDITE at the least ought to have been separately filed, since presumably, these registrations are the Complainant's primary evidence of rights and title relevant for the present proceedings. Further, the Complainant has failed to provide the Whois records or any other details about the various domain names registered by it using the mark ARALDITE, however the claim made by the Complainant as to its ownership of the domain names is accepted, given the lack of contradiction by the Respondent.



Be that as it may, the Panel has accepted the Complainant's claims to be *prima facie* valid based on the statements made in the complaint and the trademark registration numbers forming a part of Annexure 5.

Given that these claims have been found to be valid, the Arbitrator finds that the Complainant exercises statutory rights in the mark ARALDITE along with goodwill and reputation. Therefore, the Complainant exercises both common law and statutory rights in the mark ARALDITE in India.

**b. Whether the Disputed Domain Name is identical and/or confusingly similar to the mark ARALDITE**

In agreement with the claims made by the Complainant and as the result of independent analysis, the Panel finds that the Disputed Domain Name is confusingly similar to the mark ARALDITE for the following reasons:

- The Disputed Domain Name <[araldite.co.in](http://araldite.co.in)> wholly contains the mark ARALDITE which forms the entirety of the ARALDITE mark in which the Complainant has exclusive rights.
- The mark ARALDITE has been accepted by the Panel to be exclusively associated with the Complainant. It is likely that consumers who access the website corresponding to the Disputed Domain Name will associate it with the Complainant believing it to be related to the Complainant. Similar reasoning has been upheld by several courts, including by the Hon'ble High Court of Delhi in *Citigroup Inc. v. Citicorp Business & Financial Pvt. Ltd.*, (2015) 216 DLT 359.

For the above reasons, the Panel holds in favour of the Complainant in respect of Issue A and finds that the Disputed Domain Name is confusingly similar to the mark ARALDITE in which the Complainant has rights.

**B. Whether the Respondent has any rights or legitimate interests in respect of the Disputed Domain Name**

The Complainant's claim that its correspondence with the Respondent, requesting the Respondent to cease use of the ARALDITE mark and transfer the Disputed Domain Name to the Complainant has not been responded to by the Respondent, must be accepted by the Panel in light of the document placed on record at Annexure-7 to the Complaint and



absent any contradiction by the Respondent. Prima facie, this indicates the lack of any rights or legitimate interest in the Disputed Domain Name by the Respondent as any entity who claims any rights or interest in any asset (such as a domain name) can reasonably be expected to defend such right or interest, when challenged.

The Complainant's claim could have been disproved by the Respondent by demonstrating, *inter alia*, the existence of any of the elements in Paragraph 6 of the Policy. However, the Respondent has chosen not to participate in these proceedings.

Therefore, the Panel holds in favour of the Complainant in respect of Issue B and finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

### **C. Whether the Disputed Domain Name has been registered or is being used in bad faith**

The Complainant avers that post sending the cease and desist notice to the Respondent, the Respondent ceased use of the Disputed Domain Name which evidences that the Respondent is aware of the Complainant's rights in the mark ARALDITE and the domain names containing the ARALDITE marks. Since the Respondent continues to dishonestly retain registration of the Disputed Domain Name, the same evidences that the Respondent obtained its registration in bad faith.

Although, the Complainant has not placed on record a screenshot of the website corresponding to the Disputed Domain Name as on the date of filing the complaint, which would have enabled the Panel to determine whether the same was being used in bad faith, when checked by the Panel on April 20, 2021, the website corresponding to the Disputed Domain Name is unavailable and the web browser displays the message "*This www.araldite.co.in page can't be found*". The Panel therefore is of the view that the Respondent is not making any *bonafide* use of the Disputed Domain Name. The claim made by the Complainant that the Respondent being aware of the Complaint's rights in the ARALDITE mark ceased use of the Disputed Domain Name, however continues to dishonestly retain registration, is accepted.

Further, in light of the Respondent's attempt to telephonically contact the Panel and email dated March 21, 2021 addressed to the Panel by one Shobhit Singhal from the email ID [scc157@rediffmail.com](mailto:scc157@rediffmail.com) stating "*Domain [www.araldite.co.in](http://www.araldite.co.in) is for sale if you want to purchase kindly contact us*" is considered *prima facie* a voluntary admission of bad faith registration by the Respondent.





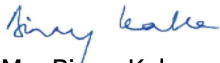
The Panel holds in favour of the Complainant in respect of Issue C and finds that the Disputed Domain Name has been registered in bad faith.

**7. Decision:** For the reasons described above, the Arbitrator finds that the Complainant has satisfied all three elements required under Paragraph 4 of the Policy to obtain the remedy of transfer of the Disputed Domain Name.

Therefore, the Arbitrator directs that the Disputed Domain Name <[araldite.co.in](http://araldite.co.in)> be transferred to the Complainant.

Note: The present award has been passed beyond the 60-day timeframe from the commencement of the domain name dispute proceedings because of a personal difficulty of the arbitrator on account of the Covid 19 pandemic.

Signed:



Ms. Binny Kalra

Arbitrator

Date: 4 May, 2021