



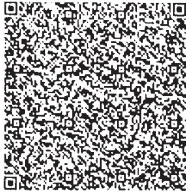
सत्यमेव जयते

# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

Certificate No.	: IN-DL70562085396833T
Certificate Issued Date	: 07-Apr-2021 04:41 PM
Account Reference	: IMPACC (IV)/ dl925103/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL92510341930410338396T
Purchased by	: SRIDHARAN RAJAN RAMKUMAR
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
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Stamp Duty Paid By	: SRIDHARAN RAJAN RAMKUMAR
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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*S. Kumar*

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**BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME  
DISPUTE RESOLUTION POLICY  
INDRP ARBITRATION  
THE NATIONAL INTERNET EXCHANGE OF INDIA  
[NIXI]  
INDRP Case No: 1352  
ARBITRAL TRIBUNAL CONSISTING OF  
SOLE ARBITRATOR  
SRIDHARAN RAJAN RAMLUMAR  
ADVOCATE, DELHI HIGH COURT  
COMPLAINT UNDER .IN DOMAIN NAME DISPUTE  
RESOLUTION POLICY  
INDRP Case No: 1352**

**IN THE MATTER OF:**

Medtronic, Inc.  
710 Medtronic Parkway  
Minneapolis, MN 55432-5604  
USA  
mhallerman@swlaw.com

...Complainant

VERSUS

Doublefist Limited  
A3, JiaZhaoYe, JiangBei,  
Huicheng District  
HuiZhou City,  
GuangDong Province,  
China  
[ymgroup@msn.com](mailto:ymgroup@msn.com)

...Respondent

**AWARD**

**1. THE PARTIES:**

**COMPLAINANT**

The complainant in these proceedings is Medtronic, Inc., one of the largest medical device and technology companies incorporated in USA, having its address at 710 Medtronic Parkway, Minneapolis, MN 55432-5604, United States of America, which has filed the present complaint under rules framed under INDRP. A copy of the .IN Domain Name Dispute Resolution Policy was annexed and marked as Annex 1.



## **RESPONDENT**

The Respondent is a company incorporated in China whose details are unknown and has its office at A3, JiaZhaoYe, JiangBei, Huicheng District, Guangdong Province, China as per information available on Whois website. A copy of the printout of the WhoIs details as received from NIXI on January 27, 2021, was annexed and marked as Annex 2.

## **THE DOMAIN NAME AND REGISTRAR:**

The disputed domain name : **medtronic.in**

The domain name registered with IN REGISTRY

## **2. PROCEDURAL HISTORY:**

- **January 28, 2021:** Date of Complaint
- **March 3, 2021:** Sole Arbitrator was appointed to adjudicate the dispute
- **March 3, 2021:** Arbitral proceedings were commenced by sending notice to Respondent through e-mail as per Paragraph 4 (c) of INDRP Rules of Procedure, marking copy of the same to Complainant's authorized representative and to the .IN REGISTRY to file response within 15 days of receipt of same.
- **March 18, 2021:** Respondent was served with copies of the Complaint and annexure thereto but failed and neglected to file its response within the 15 days time period intimated to all parties.

Hence this award is proceeded with on basis of the available pleadings and documents only.

## **3. FACTUAL AND LEGAL BACKGROUND :**


The Service Agreement, pursuant to which <**medtronic.in**> is registered, incorporates the Policy. A true and correct copy of the domain name dispute policy that applies to the domain in question was annexed and marked as Annex 3 to this Complaint.

The Complainant provided a table of relevant Indian trademarks owned by it reproduced under:

### **Relevant Indian Trademarks of Complainant**

<b>Trademark</b>	<b>Application No.</b>	<b>Application Date</b>	<b>Class &amp; Specification of Goods / Services</b>	<b>Status</b>
<b>MEDTRONIC</b>	284458	<b>November 30, 1972</b>	<b>Class 10:</b> Electronic medical apparatus for use in cardiac diagnosis and stimulation and in neurological stimulation.	<b><u>Registered</u></b>



	365868	September 09, 1980	<b><u>Class 10:</u></b> Surgical, medical, dental and veterinary instruments and apparatus (including artificial limbs, eyes, and teeth).	<b><u>Registered</u></b>
<b>Medtronic</b>	854921	May 06, 1999	<b><u>Class 09:</u></b> scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life- saving and teaching apparatus and instruments, apparatus for recording, transmission or reproduction of sound or images, magnetic data carriers, recording discs, automatic vendig machines and mechanisms for coin-operated apparatus, cash register, calculating machines, data processing equipments and computers, fire-extinguishing apparatus, their parts and fittings comprised in the class 9, recorded computer progrms and software all being goods included in class 9	
<b>Medtronic</b>	854922	May 06, 1999	<b><u>Class 10:</u></b> Surgical, Medical, Dental And Veterinary Apparatus And Instruments Artificial Limbs, Eyes And Teeth; Orthopaedic Articles; Suture Materials; Their Parts And Fittings Comprised In This Class All Being Goods Included In Class 10	<b><u>Registered</u></b>
<b>MEDTRONIC CARELINK</b>	2187599	August 08, 2011	<b><u>Class 10:</u></b> Medical apparatus and equipment for use in electronic acquisition, capture, processing, presentation, storage and transmission of patient's medical and physiological data for use in programming, monitoring and testing implanted cardiac devices.	<b><u>Registered</u></b>
<b>MEDTRONIC GUARDIAN</b>	2462871	January 18, 2013	<b><u>Class 10:</u></b> Medical Apparatus, Namely, Blood Glucose Monitor.	<b><u>Registered</u></b>

*P. Mulam*

<b>MEDTRONIC</b>	4529201	<b>June 12, 2020</b>	<p><b><u>Class 35:</u></b></p> <p>Retail services in relation to medical apparatus and instruments; provision of consumer product information relating to medical apparatus and instruments for sales purposes; sales consultancy relating to medical apparatus and instruments, namely, provision of information and advice to consumers regarding the selection of products and items to be purchased; sales promotion services; provision of contract sales forces; procurement services for others; Business consulting services to providers of healthcare services; consulting services in cost management of healthcare services; inventory management services in the field of medical and surgical apparatus and supplies; Promoting public interest and awareness of chronic disease management; promoting public awareness of healthcare and preventive medicine in personal health, exercise and healthy lifestyle choices, in treatment of illnesses and chronic conditions, and in proper medical waste disposal; providing consumer information in the fields of medical diagnostics, medical, surgical and healthcare products, equipment and services; promoting public awareness of environmental matters; promoting public awareness with healthcare professionals and consumers of medical and surgical techniques; promoting public awareness with healthcare professionals and consumers about health wellness and disease management; business consulting services to providers of healthcare services; business consulting services in cost management, medical billing and coding, office management, data analytics and mobile technology for healthcare service providers; communication hotline services for providing technical support, counselling and assistance in the area of diagnostic and procedural coding to medical professionals for the purposes of reimbursement from insurance</p>	<b><u>Registered</u></b>
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<b>MEDTRONIC</b>	4542311	<b>June 24, 2020</b>	<b><u>Class 44:</u></b>  Providing medical information, consultancy and advisory services; medical imaging services; medical diagnostic testing, monitoring and reporting services; charitable services, namely, donating medicine and medical equipment to underserved communities; charitable services, namely, providing medical equipment and services to underserved communities; leasing of medical equipment; providing an internet website for medical professionals and patients featuring medical information from remote locations via electronic patient monitoring devices that feed information to the website that can be accessed in real-time by medical professionals for purposes of monitoring and diagnosing medical conditions; providing online medical record analysis services designed to provide patients with custom tailored information about the range of possible diagnoses and therapies associated with a defined set of symptoms; professional consultation in the field of medical and surgical equipment, apparatus, appliance and instruments, namely, consultation on medical care, medical therapy and surgery; consultation services, namely, providing medical information to medical professionals to assist in the diagnosis and treatment of patients; medical consultation with physicians regarding the use of medical apparatus for treatment of patients; technical consultation in the field of medical and surgical equipment, apparatus, appliance and instruments, namely, consultation on medical care, medical therapy and surgery; patient support program, namely, providing medical information to patients evaluating therapeutic treatment options; providing medical information to patients in the field of surgery preparation; maintaining patient medical records and files in preparation for surgery; providing an on-line computer database, namely, a repository of	<b><u>Registered</u></b>
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			information in the field of medical information and healthcare information accessible to healthcare providers online medical evaluation services, namely, functional assessment program for patients who are about to receive medical treatment services for purposes of guiding treatment and assessing program effectiveness; home health care services in the nature of interactive medical care monitoring for patients; managed healthcare services, namely, providing disease management programs to others; philanthropic services in the nature of donating medicine and medical equipment to victims of disasters and humanitarian crises; philanthropic services in the nature of donating medicine and medical equipment for medical missions; providing an online computer database, namely, a repository of information in the field of medical data and healthcare information accessible to healthcare providers, including clinical studies, case studies, white papers and reference ; technical consultation in the field of medical and surgical equipment, apparatus and appliances and instruments, namely, consultation regarding the selection and purchase thereof, and medical care, medical therapy and surgery; providing personal support services for patients and their families, namely, providing follow-up medical information to patients after surgery; Providing medical services, namely, hearing loss treatment through use of medical hearing implants and instruments	
<b>BluBook Medtronic</b>	3530248	<b>April 20, 2017</b>	<b><u>Class 09:</u></b>  Computer application software for mobile phones, tablet computers and hand-held computers that can be downloaded to view information relating to diabetes	<b><u>Registered</u></b>

The Complainant submitted that its complaint was based on the following grounds:

**A. The domain name is identical or confusingly similar to a trademark or service**



**mark in which Complainant has rights:**

1. Complainant submitted that it is one of the largest medical device and technology companies in the world and offers a wide variety of medical and health-related goods and services under its MEDTRONIC® marks since as early as 1949. Further, that the Complainant's MEDTRONIC®-branded goods and services are advertised and sold on a global scale. Complainant further submitted that it sells MEDTRONIC® -branded goods and services in over 150 countries and earns tens of billions of dollars in revenues annually from the sale of MEDTRONIC®-branded goods and services. Complainant further submitted that it owns over 75 manufacturing sites worldwide and has offices in the United States and other countries, employing tens of thousands of persons around the world, including **India**. Complainant further submitted that over the last 70 years, it had invested hundreds of millions of dollars advertising and promoting MEDTRONIC®-branded goods and services. Complainant further submitted that its MEDTRONIC® marks has acquired goodwill and recognition and that for generations, the public has associated MEDTRONIC®-branded goods and services exclusively with the Complainant only.
2. Complainant submitted that it owns dozens of U.S. registrations for MEDTRONIC® and formatives thereof for medical devices and related goods and services, many of which issued decades ago and the earliest of which registered in 1974. Copy of the true and correct copies of the certificates for certain of these U.S. registrations was annexed and marked as **ANNEXURE 4**. Complainant further submitted that in the United States Patent and Trademark Office, Complainant is the sole owner of registrations for MEDTRONIC®; and that no third party owns a registered mark for MEDTRONIC® for any type of good or service. That it also owns common law rights and many dozens of trademark registrations and applications for MEDTRONIC® for medical devices and related goods and services in over 100 jurisdictions throughout the world, including India, many of which date back decades. [See Annex 4.]
3. The Complainant submitted that for decades, Complainant has continuously used the domain medtronic.com to offer and promote its medical devices and related goods and services. Copy of the WHOIS record for Complainant's medtronic.com domain was annexed and marked as **ANNEXURE 5**. Copy of Complainant's website at medtronic.com was annexed and marked as **ANNEXURE 6**. Complainant further submitted the Respondent's domain name <medtronic.in> is identical and confusingly similar to Complainant's MEDTRONIC® marks.
4. The Complainant submitted that the Respondent's domain name <medtronic.in> incorporates Complainant's famous MEDTRONIC® mark in its entirety. "In cases where a domain name incorporates the entirety of a trademark . . . the domain name will normally be considered identical or confusingly similar to that mark for purposes of the Policy." *Vertex Pharmaceuticals Inc. v. Private Data Domains Ltd./AnonymousSpeech, Anonymous Speech, Michael Weber*, Case No. D2019-1259 (WIPO July 25, 2019); *Reliance Industries Ltd. et al. v. jiomartfranchise.in et al.*, Case No. INDRP/1264 (NIXI Oct. 7, 2020) (domain name identical and confusingly similar where complainant's registered trademark "entirely contained





in the disputed domain name of the Respondent”); *Merryvale Ltd. v. Vikramaditya Ashtikar*, Case No. INDRP/1258 (NIXI Sept. 10, 2020) (“As regards the first element, the Arbitrator notes that the dominant part of the disputed domain name is BETWAY which is identical to Complainant’s trademark. ...The Arbitrator finds that the first element is satisfied.”).

5. The Complainant further submitted that Respondent used Complainant’s entire MEDTRONIC® mark without changing a single letter. *See, e.g., Singapore Airlines Ltd. v. Wang Liqun*, Case No. INDRP/1227 (NIXI June 29, 2020) (finding <singaporeair.in> confusingly similar to complainant’s SINGAPOREAIR trademark because “[t]he disputed domain bears the Complainant’s trademark and domain SINGAPOREAIR in its entirety without there being even a one letter difference. The word/mark SINGAPOREAIR is the essential, dominant and distinguishing feature of the disputed domain.”); *Incase Designs Corp. v. Stavros Fernandes*, Case No. INDRP/1209 (NIXI March 27, 2020) (finding <incase.in> confusingly similar to complainant’s INCASE trademark because “[t]he disputed domain name is identical to the trade mark/trade name INCASE of the Complainant”).
6. The Complainant further submitted the Country Code Top-Level Domain “.in” does not reduce the virtual identity between Complainant’s MEDTRONIC® mark and Respondent’s domain name <medtronic.in>. *See, e.g., Incase Designs Corp. v. Stavros Fernandes*, Case No. INDRP/1209 (NIXI March 27, 2020) (finding <incase.in> confusingly similar to complainant’s trademark INCASE because “the mere addition of the Country Code Top Level Domain ‘.in’ does not add any distinctive or distinguishing element, so in essence, the disputed domain name is identical to the Complainant’s INCASE mark”).

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

7. The Complainant submitted that Respondent has no rights or legitimate interests in <medtronic.in> and that there is no evidence that Respondent is commonly known by Medtronic or any other similar name. The Complainant further submitted that there is no evidence that Respondent has used or is preparing to use <medtronic.in> in connection with the bona fide offering of goods or services or is making a legitimate non-commercial or fair use of <medtronic.in>. The Complainant further submitted that the Complainant has not authorized Respondent to register or use Complainant’s MEDTRONIC® mark. Complainant and Respondent are not affiliated, connected or associated with one another. *See, e.g., Aditya Birla Management Corp. v. Chinmay*, Case No. INDRP/1197 (NIXI Feb. 18, 2020) (no bona fide use where the complainant had “not licensed or otherwise authorized the Respondent” to use Complainant’s trademark).
8. The Complainant further submitted that it had coined the mark MEDTRONIC® and thus it is fanciful for medical devices and related services because the term does not describe an attribute or characteristic of those goods and services. The Complainant further submitted the United States Patent and Trademark Office has



acknowledged Complainant's MEDTRONIC® marks are inherently distinctive because it has repeatedly registered those marks without proof of acquired distinctiveness. [See Annex 4 (no claim of acquired distinctiveness noted on the registration certificates)]. The Complainant further submitted it was evident that, <medtronic.in> is not a domain that Respondent "would legitimately choose unless seeking to create an impression of an association with Complainant." *Sbarro Franchise Co., LLC v. Domain Admin Domain Admin whoisprotection.biz/Burc Caglayan*, Case No. D2016-1837 (WIPO Nov. 3, 2016); *Vertex Pharmaceuticals Inc. v. Private Data Domains Ltd./AnonymousSpeech, Anonymous Speech, Michael Weber*, Case No. D2019-1259 (WIPO July 25, 2019); *Reliance Industries Ltd. et al. v. jiomartfranchise.in et al.*, Case No. INDRP/1264 (NIXI Oct. 7, 2020) ("[T]he Arbitrator notes that the Respondent has no legitimate interest in the disputed domain name as the Respondent is likely to be trading on the fame and recognition of the Complainant's registered trademark JIO and will lead to deceive the users. Therefore, the disputed domain name is registered with intent for commercial gain to misleadingly divert consumers or to tarnish the trade/service mark JIO. ...I find the requirement of the INDRP Policy paragraph 4(ii) also satisfied").

9. The Complainant further submitted the website at Respondent's domain name <medtronic.in> displays pay-per-click (PPC) links to competitors, including through links titled "Medtronic Diabetes" and "Medtronic Insulin Pump." A true and correct copy of a printout of Respondent's website at <medtronic.in> was annexed and marked as **ANNEXURE 7**. The Complainant further submitted that the Respondent is attempting to trade off of the goodwill in Complainant's MEDTRONIC® marks through Respondent's registration of <medtronic.in> and that the Respondent's use of a confusingly similar domain name to resolve to a parked webpage, which includes pay-per-link advertising links to competing medical device companies, is neither a bona fide offering of goods or services, nor is it a legitimate non-commercial or fair use. *See, e.g., Skyscanner Limited v. Kadeer Razeen*, Case No. D2019-2825 (WIPO Dec. 17, 2019) (no bona fide use where respondent registered confusingly similar domain, which resolved to a parked webpage containing links to third party businesses containing links to competitors of complainant); *Ustream.TV, Inc. v. Vertical Axis, Inc.*, Case No. D2008-0598 (WIPO July 29, 2008) ("It is by now well established that PPC pages built around a trademark . . . do not constitute a legitimate non-commercial or fair use[.]"); *De'Longhi Appliances S.r.l v. Ye Genrong*, Case No. INDRP/1262 (NIXI Sept. 8, 2020) (domain used in bad faith where the domain resolved to a parked page containing advertising links).
10. The Complainant further submitted that the Respondent registered and is using <medtronic.in> in bad faith (as described in Section C below), meaning that it lacks rights or legitimate interests in the domain. *See N.C.P. Marketing Group, Inc. v. Entredomains*, Case No. D2000-0387 (WIPO July 5, 2000) ("Bad faith registration and use of domains does not establish rights or legitimate interests in the names.").
11. The Complainant finally submitted The registrations for the Complainant's Mark and **MEDTRONIC** formative marks in the table above are valid and subsisting and that the grant of the aforementioned trademark registrations in favour of the Complainant

for the trademark **MEDTRONIC** is in itself adequate recognition of the Complainant's proprietary rights in the trademark **MEDTRONIC**.

4. **PARTIES CONTENTIONS:**

**A. COMPLAINANT**

- A. The Domain Name is identical or confusingly similar to a Trademark of the Complainant
- B. Respondent had no legitimate interest in the domain name
- C. Respondent had registered the domain name in bad faith

**B. RESPONDENT**

The Respondent did not file its reply to contest the claims of the Complainant and thus this award is based on pleadings and documents filed by the Complainant only.

5. **DISCUSSION AND FINDINGS:**

I hold that the Respondent's domain name is identical to the trademark/ trade name in which the Complainant has absolute and sole rights.

**A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant had rights:**

I find that the Respondent's domain name < medtronic.in > is confusingly similar/ identical to the well-known trade/service mark of the Complainant, **MEDTRONIC**. I hold that the Complainant overwhelming common law as well as statutory rights in its trade/service mark **MEDTRONIC** in India and foreign jurisdictions. Therefore, the Complainant is the sole legitimate owner of the trade/service mark **MEDTRONIC**.

I hold that the Respondent's registration of domain **medtronic.in** will induce members of the public and trade to believe that the website belongs to the Complainant or that the Respondent has a trade connection, association, relationship or approval with/of the Complainant, when it is not so.

**B. The Respondent had no rights or legitimate interests in respect of the domain name**

I find that the Complainant submitted that the Respondent had no rights/ legitimate interest in the domain name <**medtronic.in**> for the following reasons:

I find that the Respondent admittedly and evidently has no connection whatsoever with the Complainant and the Complainant has not licensed or otherwise permitted the Respondent to apply for any domain name incorporating the trade/service mark "MEDTRONIC" and/or "medtronicityre".

I find that the Respondent had not made any legitimate offering of goods or services under the mark "MEDTRONIC" and/or "medtronicityre" through the disputed domain name. I find that the Respondent's intention is only to cheat general public pretending to be a



website hosted by the Complainant. The only purpose of the website very apparently is an invitation to the public in general to start their tyre dealership business in their town with just a low investment. The contents of the website clearly support the above views and findings.

I find that there is no plausible explanation for the adoption and registration of the domain name <medtronic.in> by the Respondent, since the Complainant's trade/service mark **MEDTRONIC** is an invented word other than the intention of the Respondent to misappropriate the reputation of the Complainant's trade/service mark **MEDTRONIC** and confuse and deceive the unwary customer of the Complainant.

Therefore, I hold that the sole purpose of the Respondent's registration of the disputed domain name is to defraud general public in making them believe that it is a website hosted by the Complainant and to divert traffic from the Complainant's websites and that proves the fact that the Respondent had no rights or legitimate interest in the disputed domain name.

**C. The domain name was registered in bad faith:**

I hold that the Respondent had registered the impugned domain name in bad faith for the following reasons:

I find that it owns over one hundred trademark registrations throughout the world for MEDTRONIC®, including in the United States and India, the oldest of which issued decades before Respondent registered <medtronic.in>. [See Annex 4]. That Given Complainant's (i) substantially exclusive use of the mark MEDTRONIC® for 70 years, (ii) annual revenues of tens of billions of dollars from goods and services sold under the brand, (iii) ownership of more than 100 trademark registrations for MEDTRONIC® in over 100 jurisdictions throughout the world, including in the United States and India, as well as (iv) the substantial identity of Respondent's domain <medtronic.in> to Complainant's MEDTRONIC® marks, and (v) the MEDTRONIC® brand's ranking as among the most valuable and well-known medical device brands in the world, it is "not plausible to conceive of a plausible circumstance in which the Respondent would have been unaware of [these facts]" at the time Respondent registered <medtronic.in>. *Telstra Corp. Ltd. v. Nuclear Marshmallows*, Case No. D2000-0003 (WIPO Feb. 18, 2000); see *SIEMENS AG v. Tech Narayana Software Pvt. Ltd.*, Case No. INDRP/1260 (NIXI Sept. 1, 2020) ("The Complainant has been using the mark 'SIEMENS' in India since 1867...and as there is no evidence or justification provided by the Respondent for registering the disputed name in [Complainant's] name while not being the 'actual owner' shows that the Respondent misappropriated/misused the Complainant's mark to mislead the public to create a false affiliation with the Complainant.").

I find that the Respondent registered the domain name <medtronic.in> in bad faith. Respondent's domain name incorporates Complainant's MEDTRONIC® mark in full and is virtually identical to Complainant's MEDTRONIC® mark. See, e.g., *Johnson & Johnson v. Daniel Wistbacka*, Case No. D2017-0709 (WIPO May 24, 2017) (finding bad faith registration where "the integral reproduction of [complainant's trademark] within the disputed domain name can hardly be the result of coincidence"). "[I]t is not possible to conceive of a plausible circumstance in which the Respondent could legitimately use" <medtronic.in>. *Telstra Corp. Ltd. v. Nuclear Marshmallows*, WIPO



Case No. D2000-0003 (WIPO Feb. 18, 2000); *Reliance Industries Ltd. et al. v. jiomartfranchise.in et al.*, Case No. INDRP/1264 (NIXI Oct. 7, 2020) (finding bad faith registration where the respondent registered <jiomartfranchise.in>, which included the complainant's registered trademark JIO in full).

I find that through its use of <**medtronic.in**>, the Respondent intentionally seeks to cause confusion and divert Internet traffic from Complainant to Respondent's website, which includes pay-per-link advertising links to competing medical device companies, for commercial gain. *See, e.g., Skyscanner Ltd. v. Kadeer Razeen*, Case No. D2019-2825 (WIPO Dec. 17, 2019) (domain used in bad faith where the domain resolved to a parked page containing links to businesses competing with complainant in the travel industry); *De'Longhi Appliances S.r.l v. Ye Genrong*, Case No. INDRP/1262 (NIXI Sept. 8, 2020) (domain used in bad faith where the domain resolved to a parked page containing advertising links).

I hold that the Respondent has registered and used <**medtronic.in**> in bad faith in violation of Paragraph 4(b)(vi) of the Rules, and Paragraph 4(c) of the Policy.

I hold that none of the exemptions provided under paragraph 7 of the .IN Domain Dispute Resolution Policy (INDRP) apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Domain Name or to use the MEDTRONIC trademark. The Complainant has prior rights in the trademark MEDTRONIC which precedes the registration of the disputed domain name by the Respondent.

That the Complainant had therefore established a *prima facie* case that the Respondent have no rights and legitimate interests in the disputed domain name and thereby the burden of proof shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Domain Name.

Under paragraph 6(iii) of the IN Domain Dispute Resolution Policy (INDRP), if by using the domain name, the Registrant had intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location, it shall be evidence that the Registrant's registration and use of the domain name is in bad faith.

I hold that the disputed domain name is deceptively similar to the Complainant's registered trademark MEDTRONIC, in which the Respondent cannot have any rights or legitimate interest.

It is clear from the fact that Respondent had registered the disputed domain name for sole purpose of creating a likelihood of confusion with the Complainant's registered trademark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name. I hold that the well-known status of the trademark MEDTRONIC, which was adopted and applied by the Complainant well prior to the registration of the disputed domain, makes it extremely unlikely that Respondent created the disputed domain name independently without any knowledge of Complainant's trademark.



That it had been consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can itself create a presumption of bad faith and so it opined about the Respondent's registration of the impugned domain name.

That I did not receive a Response/ Reply to the Complaint dated January 28, 2021 on behalf of the Respondent, hence I am constrained to pass this award on the basis of available information and documents submitted by the Complainant only.

6. DECISION

- a) In view of the above facts and circumstances, it is clear that the Complainant had succeeded in its complaint.
- b) That the .IN Registry of NIXI is hereby directed to transfer the domain name/URL of the Respondent “ [www.medtronic.in](http://www.medtronic.in) ” to the Complainant;
- c) In the facts and circumstances of the case no cost or penalty is imposed upon the Respondent. The Award is accordingly passed on this 7<sup>th</sup> April, 2021.

Date: 07/04/2021



Sridharan Rajan Ramkumar  
Sole Arbitrator