



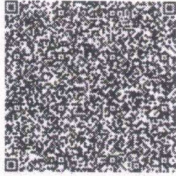
INDIA NON JUDICIAL

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Purchased by : SHEETAL VOHRA
Description of Document : Article 4 Affidavit
Property Description : AFFIDAVIT FOR NIXI ARBITRAL AWARD
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(One Hundred And One only)
First Party : SHEETAL VOHRA
Second Party : SHEETAL VOHRA
Stamp Duty Paid By : SHEETAL VOHRA
Stamp Duty Amount(Rs.) : 101
(One Hundred And One only)

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Sheetal Vohra

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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.

BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN
NAME DISPUTE RESOLUTION POLICY
INDRP ARBITRATION
THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]
INDRP CASE NO: 1493
ARBITRAL TRIBUNAL CONSISTING OF SOLE ARBITRATOR
DR. SHEETAL VOHRA, LLB, LLM, PHD (LAW) ADVOCATE,
DELHI HIGH COURT
COMPLAINT UNDER .IN DOMAIN NAME DISPUTE
RESOLUTION POLICY (INDRP)

IN THE MATTER OF:

Novartis AG
4002 Basel,
Switzerland
corporate.trademarks@novartis.com

...Complainant

versus

Godsmak
Postal Name: Jack M
ssmbbc8@gmail.com

...Respondent

ARBITRATION AWARD

I. THE PARTIES:

1. COMPLAINANT

The Complainant in these administrative proceedings is Novartis AG, a company incorporated under the laws of Switzerland, having its registered office at 4002 Basel, Switzerland, which has filed the present complaint under the rules framed under the INDRP. A copy of the .IN

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Domain Dispute Resolution Policy & Rules of Procedure was annexed with the Complaint and marked as **Annexure A**. The present Complaint has been filed under the sign of Mr. David Lossignol who is the authorized signatory of the Complainant. Letter of Authorization dated 01st July, 2021 in favour of Mr. David Lossignol was annexed with the complaint and marked as **Annexure B**.

The Complainant's counsel in this administrative proceeding is:

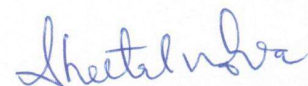
Mamta R. Jha
Inttl Advocare
Express Trade Tower
B-36, Sector – 132,
Noida Expressway, Noida – 201303
Ph: +91 120 2470200
Email: mamta@inttladvocare.com; mbhadu@inttladvocare.com

2. RESPONDENT

The Respondent/Registrant of the Disputed Domain Name as given in the Complaint is Godsmak of the address Vashi, Navi Mumbai, Sector 17, Mumbai, Maharashtra – 400705. The Complainant submitted that the disputed domain name has been registered by Godsmak, the details in relation to address of the said party are not available. Such partial information about the Respondent was annexed with the Complaint and marked as **Annexure C**. A copy of the complete WHOIS details of the Respondent was provided by Learned Legal officer of NIXI as the Complainant was able to pull out only limited information about the Respondent which was publicly available on the WHOIS website. Thereafter, updated domain name complaint was filed.

The Respondent's complete contact details are:

Jack M
Postal Organization: Godsmak
Vashi, Navi Mumbai, Sector – 17
Mumbai, Maharashtra – 400705
India



Email: ssmbbc8@gmail.com;

Phone: +91.8820184228

The Respondent did not engage any counsel / advocate and represented himself in these administrative proceedings.

II. THE DOMAIN NAME AND REGISTRAR:

The Disputed Domain Name is: WWW.NOVARTIS-HEALTHCARE.CO.IN

The Domain Name is registered with the IN Registry.

The Domain Name is registered with the Registrar GoDaddy.com, LLC.

The Registrar's contact information is as under:

GoDaddy.com, LLC

Phone: +1.4806242505

Email: abuse@godaddy.com;

III. PROCEDURAL HISTORY:

DATE	PARTICULARS
17 th January 2022	Date of Complaint
24 th January 2022	Ld. Sole Arbitrator was appointed to adjudicate the dispute
24 th January 2022	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.

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31 st January 2022	Updated domain name Complaint filed
3 rd February, 2022	Respondent submitted its Reply to the Complaint through email
3 rd February, 2022	Completion of Pleadings notified to both parties by the Ld. Sole Arbitrator

This award is proceeded with on basis of the available pleadings and documents filed by both the Complainant and the Respondent.

IV. CASE OF THE COMPLAINANT

The Complainant has provided a table of its relevant registered trademarks in India as follows:

S. no.	Trademark	Application no.	Class(es)	Date of Application
1	NOVARTIS	700020	05	28.02.1996
2.	NOVARTIS	3574875	09, 10, 41, 42, 44, 45	29.11.2016
3.	NOVARTIS	1953515 IRDI-3050272	01, 03, 05, 09, 10, 16, 29, 30, 31, 32, 35, 40, 41, 42, 44	28.04.2015
4.	NOVARTIS	702108	09	18.03.1996

Copy of these and several other relevant trade mark registrations certificates of NOVARTIS and its formative marks in this regard were annexed with the Complaint and marked as **Annexure G (Colly)**. I have perused the records and find that trademark NOVARTIS is a valid and subsisting trademark in India and the Complainant is lawful proprietor thereof. I further note that earliest registration being 700020 in class 05 dates back to 28.02.1996.

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A. FACTUAL AND LEGAL BACKGROUND

About the Complainant:

1. The Complainant submitted that it is a world leader in the healthcare industry and that it specializes in innovation through the research and development of products that improve the health and well-being of patients around the world. It was submitted that the Complainant's products are available in more than 150 countries. It was submitted that in 2020, the Complainant Group achieved net sales of USD 48.7 billion. It was submitted that the Complainant spent around USD 9.0 billion on R&D in 2020 itself. Copies of annual reports of the Complainant were annexed with the complaint and marked as **Annexure D**.
2. It was submitted that the Complainant has received several international awards for progress in research and development, working environment and corporate responsibility activities. It was submitted that the Complainant has also received several awards in India, in the area of social responsibility. Copies of website and other relevant extracts listing several Indian and International awards in favour of the Complainant were annexed with the Complaint and collectively marked as **Annexure E**.

B. ABOUT COMPLAINANT'S TRADE MARK NOVARTIS

3. It was submitted that the Complainant is a global healthcare company, based in Switzerland, which provides solutions to address the evolving needs of patients worldwide. It was submitted that the Complainant was created in 1996 through a merger of Ciba-Geigy and Sandoz. It was submitted that Novartis and its predecessor companies trace roots back more than 250 years.
4. It was submitted that in the year 1997, Novartis Healthcare Pvt. Ltd. was incorporated on 13.10.1997 in India. It was submitted that another Indian subsidiary of the Complainant was incorporated in the year 1947. It was submitted that the word NOVARTIS is a coined word, having no dictionary meaning, and is entitled to

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highest degree of protection It was submitted that the Complainant has been using the corporate name NOVARTIS and also using the same as trade mark / house mark / domain name for all its activities and services internationally as well as in India.

5. The Complainant further submitted that the trademark NOVARTIS is a registered trade mark internationally as well as in India. It was submitted that earliest international registration of the trade mark NOVARTIS dates back to 15.02.1996 in Switzerland. It was submitted that the said trade mark is registered in over 70 countries, The international protection list of some of the earliest trademark registration as downloaded from the WIPO Global Brand Database was attached with the Complaint and marked as **Annexure – F(Colly)**.
6. I have already taken note of Complainants registered trademarks in India which are registered in India since 1996. In view of its registrations for the trademark NOVARTIS and the formative marks thereof annexed with the Complaint and marked as **Annexure G(Colly)**, the Complainant submitted that it has exclusive statutory right to use the NOVARTIS trade mark in India and internationally.
7. The Complainant also provided an illustrative list of its domain name registrations for various domain names for its company name / trade name / trade mark / house mark NOVARTIS as follows:

<https://www.novartis.com/>

<https://www.novartis.in/>

<https://www.novartis.is/>

<https://www.novartis.com.ar/>

<https://www.andino.novartis.com/>

<https://www.novartis.com.br/>

<https://www.novartis.ca/en>

<https://www.novartis.ca/fr>

<https://www.cac.novartis.com/>

<https://www.saludhable.novartis.com/>

<https://www.novartis.com.mx/>

<https://www.novartis.com.ve/>

<https://www.pharma.us.novartis.com/>

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<https://www.novartis.com.au/>
<https://www.novartis.bd/>
<https://www.novartis.com.cn/>
<https://www.novartis.com.hk/>
<https://www.id.novartis.com/>
<https://www.novartis.co.jp/>
<https://www.novartis.com.my/>
<https://www.novartis.co.kr/>
<https://www.novartis.com.ph/>
<https://www.novartis.com.tw/>
<https://www.novartis.at/>
<https://www.novartis.be/fr>
<https://www.novartis.be/nl>
<https://www.novartis.cz/cs>
<https://www.novartis.bg/>
<https://www.novartis.dk/>
<https://www.novartis.com.eg/en>
<https://www.novartis.ee/>
<https://www.novartis.fi/>
<https://www.novartis.fr/>
<https://www.novartis.de/>
<https://www.novartis.gr/>
<https://www.novartis.hu/>
<https://www.novartis.ie/>
<https://www.novartis.co.il/>
<https://www.novartis.it/>
<https://www.novartis.lv/>
<https://www.novartis.nl/>
<https://www.novartis.no/>
<https://www.novartis.pl/>
<https://www.novartis.com.ro/>
<https://www.novartis.ru/>
<https://www.novartis.rs/>
<https://www.novartis.com.sq/>

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<https://www.novartis.sk/>

<https://www.novartis.co.za/>

<https://www.novartis.es/>

<https://www.novartis.se/>

<https://www.novartis.ch/de>

<https://www.novartis.ch/fr>

<https://www.novartis.com.tr/>

<https://www.novartis.co.uk/>

It was submitted that it was evident from the above list of domain names that the company name/ trade name/ trade mark/ house mark **NOVARTIS** is forming part of domain name in almost all countries in the world for carrying on business activities of the Complainant. WHOIS printouts of the aforesaid domain names were annexed with the Complaint and collectively marked as **Annexure H(Colly)**.

8. It was submitted that the Complainant has extensively used the mark **NOVARTIS** as part of company name/ trade name/ trade mark/ house mark/ domain name internationally as well as in India in the field of pharmaceutical industries. It was submitted that 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 companies in the world. It was submitted that the Complainant is known for revolutionary drugs which have led to the eradication and / or treatment for several life threatening and lifestyle diseases. It was submitted that on account of the Complainant's 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 trade mark having huge reputation and goodwill internationally as well as in India. The annual report evidencing extensive use of the mark **NOVARTIS** by the Complainant and its wholly-owned subsidiary in India were annexed with the Complaint and collectively marked as **Annexure I (colly)**. The Complainant submitted that the said annual reports not only highlight the extensive use of the mark **NOVARTIS** as trade mark and house mark but also provides annual global and Indian sales. It was submitted that the annual sales and other information provided in the said annual report establishes beyond any doubt that the Complainant has huge reputation and goodwill associated with the mark

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9. It was submitted that considering the extensive use of NOVARTIS as part of company name/ trade name/ trade mark/ house mark / domain name throughout the world by the Complainant, including in India, the trade mark NOVARTIS has also been appearing in internet articles, pharmaceutical magazines, health magazines having circulation in the entire country and across the world. It was submitted that 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/ trade mark/ house mark/ domain name, and that it has acquired common law rights in the said trade mark to the exclusion of all others due to the abovesaid. Copies of such e-magazines, articles were annexed with the Complaint and collectively marked as **Annexure J(Colly)**.
10. It was submitted that the mark NOVARTIS forms an integral part of the Complainant and its group companies' names. It was submitted that the Complainant and its group companies have invested huge amounts to create their reputation and goodwill not only for the quality of goods and services they render but also for creating a world standard working place. It was submitted that the same has been duly recognized by several awards such as the global survey conducted by Top Employers Institute in the year 2021 whereby the Complainant has been enlisted as one of the top global employers in the world. It was submitted that yet another survey conducted by Bloomberg in the year 2021 whereby the Complainant's company has been included as one of the best companies having gender equality at the workplace. Printouts of such awards were annexed with the Complaint and collectively marked as **Annexure K(Colly)**. The Complainant submitted that such awards and recognition established that the Complainant has world-class human resource (HR) departments to manage and create the standard of world quality for its employees.
11. It was submitted that the trade mark NOVARTIS has been recognized as a well-known trade mark by several WIPO UDRP decisions. Copies of such WIPO UDRP decisions were annexed with the Complaint and marked as **Annexure L(Colly)**.
12. It was submitted that any unauthorized use of the mark NOVARTIS by a third party

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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 would be in violation of the Complainant's statutory and common law rights.

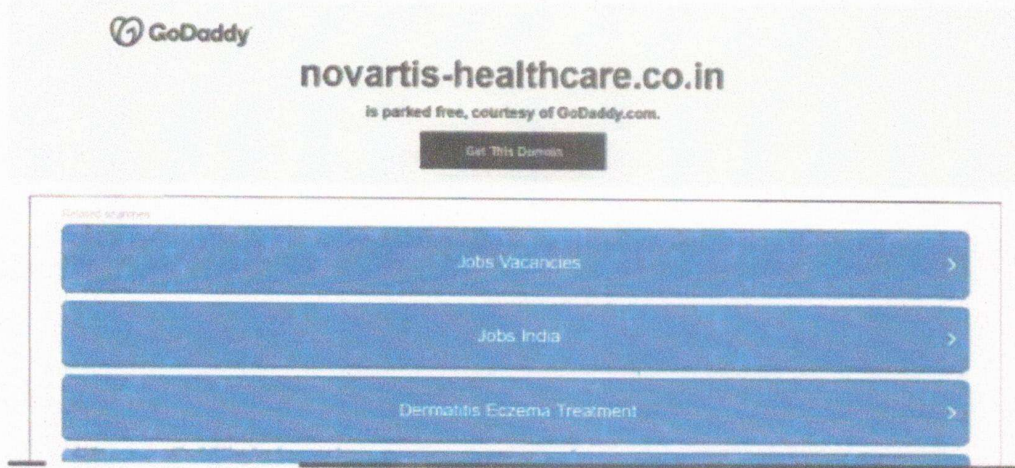
13. The Complainant further submitted that it has also successfully filed several UDRP complaints and obtained favorable orders. Some of such orders transferring the domain names of <http://novartisro.com/> and <http://novitas.us/> in favour of the Complainant were annexed with the Complaint and collectively marked as **Annexure M(Colly)**. Also, the order from the Casablanca Commercial Court of Appeal was annexed as **Annexure N** with the Complaint. It was submitted that the 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.

C. ABOUT THE RESPONDENT

14. It was submitted that the Complainant, to its utter surprise and shock, came to know that the Respondent has registered the disputed domain name **<WWW.NOVARTIS-HEALTHCARE.CO.IN>** wherein the Complainant's well-known trade name/ trade mark **NOVARTIS** has been used in a blatant manner. The Complainant submitted that it has several domain name registrations wherein the mark **NOVARTIS** forms an integral part of the domain, and therefore, the disputed domain name is identical to the Complainant's company name/ trade name/ trade mark/ house mark/ domain name. It was submitted that the disputed domain name contains the Complainant's trade mark **NOVARTIS** with a generic term "healthcare", ".co" indicating company, and ".in" indicating India. Therefore, the Complainant submitted that the disputed domain name is identical and a blatant copy of Complainant's well-known trade mark **NOVARTIS**.
15. It was submitted that a click on the disputed domain name **<WWW.NOVARTIS-HEALTHCARE.CO.IN>** redirects the viewers to a disputed page. Screenshot of the page was reproduced in the Complaint and was also annexed with the Complaint along with printouts from the said website which were collectively marked as

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Annexure O(Colly).



It was submitted that the disputed domain name has been created for the purposes of healthcare, which is the main operational sector of the complainant.

16. It was submitted that the disputed domain name <**WWW.NOVARTIS-HEALTHCARE.CO.IN**> has been registered with *malafide* intention and without any legitimate interest. It was submitted that the same has been registered by the Respondent with ulterior motives to ride upon the reputation and goodwill of the Complainant associated with its well-known trade mark NOVARTIS. It was submitted that the Respondent's disputed domain name can be mistaken to be as the domain name of the Complainant and can be used to deceive consumers as the disputed domain name suggests that it is the Complainant's Novartis healthcare domain name. It was submitted that considering the fact that NOVARTIS has been recognized as one of the best pharmaceutical companies in the world providing assistance in healthcare department, the disputed domain name can be misused to deceive the consumers. The Complainant submitted that there is 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. It was submitted that the disputed domain name is registered in bad faith and can be used for illegal and unlawful purposes and ought to be transferred in the name of the Complainant.

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17. It was submitted that the Complaint was filed in respect of the aforesaid violations seeking transfer of the domain name **<WWW.NOVARTIS-HEALTHCARE.CO.IN>**

V. LEGAL GROUNDS

The Complainant has based its Complaint on the following grounds:

A. The disputed domain name/mark "Novartis-healthcare.co.in" is identical to the trade mark NOVARTIS in which the Complainant has rights:

- i. It was submitted that a mere glance at the disputed domain name **<WWW.NOVARTIS-HEALTHCARE.CO.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/ trade mark **"NOVARTIS"**. It was submitted that 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**. It was submitted that the disputed domain name incorporates the Complainant's **NOVARTIS** mark, combined with a generic term "healthcare", "co" representing the company and ".in" representing the country India.
- ii. It was submitted that the registration of the disputed domain name by the Respondent using the generic term "healthcare" indicates that the course of trade of the Respondent and the Complainant are identical i.e., pharmaceutical and healthcare, which is likely to lead to confusion or deception about a trade connection, nexus or trade association, license or franchise arrangement between the Respondent and the Complainant. It was submitted that the pharmaceutical products and services under the trade mark **NOVARTIS** are produced under strict quality control, technology, knowhow, plant and machinery. It was submitted that any deficiency in quality, efficacy or administration of the product marketed

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by the Complainant through wrongful use of the disputed domain name will directly and adversely affect and impact and cause irreparable damage and injury to the goodwill and reputation that exists in the trade marks **NOVARTIS**. It was submitted that the use of confusingly similar domain name in the field of pharmaceuticals creates greater injury as compared to products and services in other fields. It was submitted that in the world of the internet where the orders for pharmaceutical and healthcare products are placed online, the confusion and deception amongst consumers/ traders cannot be ruled out on account of the deceptive similarity between Respondent's domain name and Complainant's trade mark/ trade name/ house mark/ company name/ domain name **NOVARTIS**. It was submitted that 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.

- iii. It was submitted that the Complainant has registrations over several domain names which incorporate the trade name **NOVARTIS**, as mentioned above. It was further submitted that 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**. It was submitted that 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.

- iv. Accordingly, the Complainant submitted that the disputed domain

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<WWW.NOVARTIS-HEALTHCARE.CO.IN> is liable to be considered identical/confusingly similar to the Complainant's trade mark **NOVARTIS** and its domain names, particularly www.novartis.in.

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

- i. It was submitted that the Respondent does not have rights or legitimate interests in the disputed domain names. It was submitted that the Complainant has never granted the Respondent any right to use the **NOVARTIS** mark. It was submitted that 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 names or to have any legitimate interests over them. It was submitted that the Respondent could have performed a search before registering the disputed domain names which would have disclosed the Complainant's interest. It was submitted that the Respondent's registration of the disputed domain name is contrary to the conditions outlined under the INDR 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. It was submitted that the disputed domain name is a deliberate unlawful impersonation representing it to be of the Complainant's healthcare site.
- ii. It was submitted 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 benefitting from the Complainant's worldwide renown and to confuse Internet users as to source or sponsorship. It was submitted that the Respondent cannot be considered to be making a bona fide offering of goods or services. It was submitted that the registration of the Complainant's marks pre-date the registration of the disputed domain names and that the Complainant has not authorized the Respondent to register the disputed domain

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names. It was submitted that the combination of the well-known **NOVARTIS** mark with the term "healthcare" can only be a deliberate and calculated attempt by the Respondent to benefit improperly from the Complainant's rights and to deceive consumers. It was submitted that the Respondent very likely knew about the Complainant and its mark, which is distinctive and well-known both worldwide and in India.

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

- i. The Complainant submitted that the Respondent's conduct clearly established that the disputed domain name was registered by the Respondent to misuse the proprietary and legitimate legal rights vested with the Complainant alone. It was submitted that the name of the disputed domain name **<WWW.NOVARTIS-HEALTHCARE.CO.IN>** was deliberately chosen by the Respondent to target the consumers and was a dishonest attempt to piggyback upon the enormous goodwill and reputation of the Complainant. It was submitted that the Respondent's disputed domain name can be mistaken to be the domain name of the Complainant and can be used to deceive consumers as the disputed domain name suggests that it is Novartis Healthcare department's domain name. There was thus, an imminent likelihood of damage which may be caused to public at large and also cause irreparable damage to the Complainant's reputation and goodwill through the disputed domain name in the opinion of the Complainant. It was also submitted that the disputed domain name had been registered in bad faith and could also be used for illegal and unlawful purposes. It was submitted that the disputed domain name ought to be transferred to the Complainant on this ground alone.
- ii. It was submitted that the *malafide* intent of the Respondent was writ large in as much as the said Respondent had no affiliation or connection with the Complainant, despite which the Respondent had registered the disputed domain name which contains the well-known and registered trade mark of the Complainant. It was submitted that the Respondent

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was, beyond a doubt, intentionally and methodically attempting to confuse and deceive the consumers and people across the globe. Furthermore, the Complainant also submitted that the Respondent has registered several domain names that contain the Complainant's coined mark **NOVARTIS** as an integral part, such as www.novartishealthcare.in, www.novartis-healthcare.in, www.novartis-hr.in, www.novartis-pharma.co.in and www.novartis-pharma.in which showcases the bad faith and *malafide* intent of the Respondent to ride upon the goodwill and reputation of the Complainant's well-known trade mark **NOVARTIS**. It was submitted that the Complaint is taking similar legal actions against all the above-mentioned domain names.

- iii. It was submitted that the illegality in the registration of the disputed domain name arises from the fact that domain names today are part and parcel of corporate identity. It was submitted that 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 was submitted that a domain name is also the internet address of a company. It was submitted that the domain name of the Complainant with "healthcare" conveys a corporate identity and exclusive domain name maintained for healthcare department, which if misused entails huge legal obligations. It was submitted that the Healthcare department of a company is regulated by several laws and if the same are breached then consequential civil and criminal liabilities can be attributed to the company. The Complainant submitted that if the disputed domain name is misused for any dubious purposes, it will expose the Complainant to several liabilities ruining its hard-earned reputation and goodwill. It was submitted that the disputed domain name ought to be cancelled from the name of the current registrant and transferred to the Complainant.
- iv. The Complainant placed reliance on the *WIPO Case No. D 2017-2232* and submitted that where a domain name incorporates a sufficiently well-known trade mark, and the Respondent knew, or ought to have

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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. Internet printout of the decision in WIPO Case No. D 2017-2232 were annexed with the Complaint and marked as **Annexure P**. The Complainant contended that the Respondent was 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.

- v. It was submitted 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.
- vi. It was submitted that the Respondent's registration and use of the disputed domain name is a clear case of cybersquatting, 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.
- vii. To conclude, the Complainant submitted that in light of its above submissions, it was clear that the Respondent's registration of the disputed domain name **<WWW.NOVARTIS-HEALTHCARE.CO.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.

VI. CASE OF THE RESPONDENT

- i. The Respondent submitted his reply to the Complaint vide his email dated 3rd February, 2022. The Respondent submitted a very skeletal reply to the averments of the Complainant. It was submitted by the

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Respondent that the disputed domain name was created in error.

- ii. It was submitted that the disputed domain name was, as a matter of fact, never used. It was submitted that the Respondent does not even have access to the GoDaddy Registrar account under which the disputed domain name was created.
- iii. The Respondent thereafter requested for a “peaceful amendment” and for a closure on the domain name dispute. The Respondent also gave an undertaking that the disputed domain name has not been functional. The Respondent also put it on record that the disputed domain name will not go live. He submitted that the disputed domain name has never been in use.

In a nutshell, I give herein below contentions of the Complainant and the Respondent:

VII. PARTIES CONTENTIONS:

A. COMPLAINANT’S CONTENTIONS

1. **The disputed domain name / mark “novartis-healthcare.co.in” is identical to the trademark NOVARTIS in which the Complainant has rights:**

- (a) The disputed domain name <WWW.NOVARTIS-HEALTHCARE.CO.IN> is identical and/or confusingly similar to the Complainant’s company name / trade name / trade mark / house mark / domain name NOVARTIS in which the Complainant has rights. The disputed domain name also gives rise to enormous confusion and deception *qua* the origin because the disputed domain name is using the Complainant’s trademark NOVARTIS as a whole being phonetically, visually and structurally identical to Complainant’s trademark NOVARTIS.

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(b) That the disputed domain name contains the Complainant's mark **NOVARTIS** with a generic term "healthcare", ".co" and ".in", which makes the disputed domain name identical and a blatant copy of the Complainant's well-known trade mark **NOVARTIS**. The registration of the disputed domain name by the Respondent using the generic term "healthcare" indicates that the course of trade of the Respondent and the Complainant are identical i.e. pharmaceutical and healthcare, which is likely to lead to confusion or deception about a trade connection/ nexus or trade association/ license or franchise arrangement between the Respondent and the Complainant. The pharmaceutical products and Services under the trade mark **NOVARTIS** are produced under strict quality control, technology, knowhow, plant and machinery. Any deficiency in quality/ efficacy or administration of the product marketed by the Complainant through wrongful use of the disputed domain name will directly and adversely affect and impact and cause irreparable damage and injury to the goodwill and reputation that exists in the trademarks **NOVARTIS**. The use of confusingly similar name in the field of pharmaceuticals creates greater injury compared to products and Services in other fields. In this world of the internet where the Orders for pharmaceutical and healthcare products are placed online, the confusion and deception amongst consumers/ traders cannot be ruled out on account of the deceptive similarity between Respondent's domain name and Complainant's trade mark/ trade name/ house mark/ Company name/ domain 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.

(c) The Complainant has several domain names registered which incorporate **NOVARTIS**, which 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 disputed domain name which is identical to the Complainant's trademark **NOVARTIS** as well as Complainant's websites www.novartis.com, www.novartis.in is misappropriation of Complainant's goodwill and reputation and constitutes acts of misrepresentation to 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.

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- (d) The Complainant has extensively used the **NOVARTIS** trademarks as part of the company name / trade name / house mark / domain name globally as well as in India in the field of pharmaceutical industries, and, owing to this, the **NOVARTIS** trademarks have acquired huge reputation and goodwill both internationally as well as in India.
- (e) The trade mark **NOVARTIS** of the Complainant has been recognized as a well-known trade mark by several WIPO UDRP decisions, copies of which decisions were annexed with the Complaint and marked as **Annexure L(Colly)**.
- (f) That the Complainant has exclusive statutory right over the **NOVARTIS** trademarks in India as well as internationally due to its national as well as international registrations over the **NOVARTIS** trademarks and formative marks, dating as far back as 1996 in India, and due to the numerous domain name registrations incorporating the **NOVARTIS**.
- (g) That the Complainant has acquired common law rights in the **NOVARTIS** trade mark to the exclusion of all others due to the extensive use of **NOVARTIS** as part of the company name / trade name/ trade mark / house mark / domain name throughout the world.

2. The Respondent has no legitimate interests in respect of disputed domain name:

- (h) The Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant has never granted the Respondent any rights to use **NOVARTIS** trademark, 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 have any legitimate interest in it. The Respondent could have conducted a search before registering the disputed domain name. The Respondent's registration

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of disputed domain name is contrary to the conditions outlined in the Policy and clearly shows that the Respondent has registered the disputed domain name 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 healthcare site.

- (i) The Respondent deliberately chose to use the Complainant's well-known trademark NOVARTIS to benefit from worldwide renown and confuse internet users as to source or sponsorship. It cannot be considered to be making a bonafide offering of goods or services. The registration of Complainant's marks predates the registration of the disputed domain name and the Complainant did not authorize the Respondent to register the registration of disputed domain name. The Complainant further submitted that the combination of well-known NOVARTIS trademark with the term "healthcare" can only be deliberate and calculated attempt to benefit improperly from the Complainant's rights and to deceive consumers. The Respondent very well knew about Complainant's mark NOVARTIS which is distinctive and well-known both worldwide and in India.

3. The disputed domain name was registered in bad faith:

- (j) The disputed domain name has been registered by the Respondent with the ulterior motive to ride upon the reputation and goodwill of the Complainant associated with its well-known NOVARTIS trademarks.
- (k) The disputed domain name has been registered by the Respondent to misuse the proprietary and legitimate rights vested with the Complainant and has been deliberately chosen to target the consumers and is a dishonest attempt to piggyback upon the enormous reputation and goodwill of the Complainant. The disputed domain name can be used to deceive consumers and suggests that it is a Novartis Healthcare Department's domain name. There is thus, an imminent likelihood of damage which may be caused to public at large and also to Complainant's reputation and goodwill. The disputed domain name is registered in bad faith and can be used for illegal

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and unlawful purpose. The disputed domain name ought to be transferred to the Complainant on this ground alone. It was further submitted that *malafide* intent of Respondent can be seen from the fact that the Respondent has no affiliation or connection with the Complainant, despite which the Respondent has registered the disputed domain name. Furthermore, this very Respondent has registered several domain names which contain the Complainant's coined mark NOVARTIS as an integral part, such as www.novartishealthcare.in, www.novartis-healthcare.in, www.novartis-hr.in, www.novartis-pharma.co.in and www.novartis-pharma.in which shows bad faith and malafide intent of the Respondent. It was further submitted that the domain name of the Complainant with "healthcare" conveys a corporate identity and exclusive domain name maintained for healthcare department which if misused, entails huge legal obligations. The healthcare department of a company is regulated by several laws and if breached, consequential civil and criminal liabilities can be attributed to the company. If the disputed domain name is misused for any dubious purpose, it will expose the Complainant to several liabilities ruining its hard-earned reputation and goodwill. It was submitted that the disputed domain name ought to be cancelled from the name of the current registrant to the Complainant. The Complainant placed reliance on the decision in *WIPO Case No. D 2017-2232* and filed the same as **Annexure-P**.

- (l) The disputed domain name of the Respondent can be mistaken to be as the domain name of the Complainant and can be used to deceive consumers as the disputed domain name suggests that it is Complainant's **NOVARTIS** healthcare domain name.
- (m) There is an imminent likelihood of damage which may be caused to the public at large due to the deceptive similarity of the disputed domain name to the Complainant's **NOVARTIS** trademarks.
- (n) Irreparable damage may be caused to the Complainant's reputation and goodwill through the disputed domain name.

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- (o) The use of the generic term "healthcare" in the disputed domain name indicates that the course of trade of the Complainant and the Respondent are identical, i.e., pharmaceutical and healthcare, which is likely to lead to confusion or deception about a trade connection or nexus between the Respondent and the Complainant.
- (p) Any deficiency in quality, efficacy, or administration of the product marketed by the Respondent through the wrongful use of the disputed domain name will directly and adversely affect and impact and cause irreparable damage and injury to the goodwill and reputation which exists in the **NOVARTIS** trademarks of the Complainant.
- (q) Consumers / internet users not entirely familiar with the exact web address of the Complainant's websites might be led to the Respondent's website at the disputed domain name, thereby prejudicing the interests and reputation of the Complainant.
- (r) 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**.
- (s) Adoption of the disputed domain name constitutes misappropriation of the Complainant's goodwill and reputation and also constitutes acts of misrepresentation to the members of public at large that the Respondent's disputed domain name is associated with the Complainant.
- (t) The Respondent does not have any rights or legitimate interests in the disputed domain name.
- (u) The disputed domain name is a deliberate unlawful impersonation representing it to be of the Complainant's healthcare site.

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- (v) The disputed domain name has been deliberately chosen by the Respondent to piggyback upon the enormous goodwill and reputation of the Complainant.
- (w) The Complainant is likely to be exposed to several liabilities which might ruin the hard-earned reputation and goodwill of the Complainant if the disputed domain name is misused for any dubious purposes by the Respondent.
- (x) The registration of the disputed domain name is a clear case of cybersquatting, 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.

B. RESPONDENT'S CONTENTIONS

The Respondent sent his reply, representing himself and only through email dated 3rd February 2022 and requested the matter to be settled as soon as possible and closed and gave below mentioned reasons:

- (a) That the disputed domain name was created in error.
- (b) That the disputed domain name has never been functional.
- (c) That the Respondent does not even have access to the GoDaddy account through which the disputed domain name was created.
- (d) That the Respondent stated he wanted a peaceful closure of the present complaint and put it on record that the disputed domain name will not go live. He reiterated that there has been no usage of the disputed domain name.

VIII. DISCUSSION AND FINDINGS:

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1. The INDRP (.IN Domain Name Dispute Resolution Policy), adopted by NIXI, provides that a domain name owner must transfer its domain name registration to a complainant/trademark owner if:
 - i. The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant have rights;
 - ii. The Registrant has no rights or legitimate interests in respect of the domain name; and
 - iii. The Registrant's domain name has been registered or is being used in bad faith.

I have gone through the pleadings i.e., the Complaint filed by Complainant and the Reply sent by Respondent. I have also gone through documents filed by the Complainant with its Complaint. Further, I have also gone through case law cited by the Complainant with the Complaint. After giving due consideration to pleadings, documents, fact and legally settled principles, I hold that in the present case all three requirements for transfer of the disputed domain name have been met. I further hold that the disputed domain name of the Respondent is visually, phonetically and structurally deceptively similar to the trademark and domain name of the Complainant over which the Complainant, who is prior adopter, prior user and registered proprietor of trademarks NOVARTIS and domain names with NOVARTIS over which the Complainant has absolute and sole rights. Consequently, the Respondent does not have any right or legitimate interest over <WWW.NOVARTIS-HEALTHCARE.CO.IN> and hence the same needs to be transferred to the Complainant. I hold that the company name / trade name / trade mark / house mark / domain name NOVARTIS has exclusively and solely become associated and recognized with the Complainant. I hold that due to such exclusive association of the NOVARTIS company name / trade name / trademarks / house marks, with the Complainant, and also considering the numerous prior registered domain names of the Complainant containing the NOVARTIS marks, the Complainant alone has the right to utilize the NOVARTIS company name / trade name / trademarks / house marks as a domain name registered with the .IN Registry.

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I hold that the Respondent is not entitled to register the disputed domain name as he has failed to establish any right over the NOVARTIS mark and the same is associated only with the Complainant.

A. The domain name <NOVARTIS-HEALTHCARE.CO.IN> is identical and/or confusingly similar to the trade mark NOVARTIS in which the Complainant has rights

1. I find that the Complainant is the registered proprietor of various NOVARTIS trademarks and formative marks in India as well as abroad. I find that the earliest trademark registrations of the Complainant in India are under Application nos. 700020 and 702108 filed in Class 5 and Class 9 dated 28.02.1996 and 18.03.1996 respectively. I find that the Complainant also has a number of international trademark registrations over the company name / trade name / trademark / house mark NOVARTIS, many of which date back to 1996 when the predecessor companies of the Complainant viz. Ciba-Geigy and Sandoz were merged to form the Complainant Novartis AG, copy of which trademarks were annexed with the Complaint and marked as **Annexure G(Colly)**. I find that the Complainant also has valid registrations over a number of domain names which incorporate the NOVARTIS mark / trade mark / house mark / company name / trade name. The domain name <www.novartis.in> of the Complainant was registered on as early as 16.02.2005. The registration of the Complainant's another domain <www.novartis.com> dates even further back to 02.04.1996. Further, the domain <www.novartis.us> of the Complainant was registered on 19.04.2002. The copy of WHOIS printouts of the domain names of the Complainant were annexed with the Complaint and collectively marked as **Annexure H(Colly)**. On the other hand, I note that the disputed domain name was registered only as late as 22.04.2021: I have perused the information and documents filed by the Complainant to denote its trademark rights and reputation attached to the NOVARTIS trademarks in jurisdictions over the world, including India viz. Indian trademark registration certificates, printouts of annual reports of the Complainant from 2004 to 2020, WIPO Global Brand Database list of NOVARTIS formative trademark registrations across the globe, Annual Report of NOVARTIS India Ltd., copies of articles showing goodwill and reputation of NOVARTIS, etc. I note that the Complainant has extensively used the mark

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NOVARTIS as part of company name/ trade name/ trade mark/ house mark/ domain name internationally as well as in India in the field of pharmaceutical industries. I further note that 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 trade mark having huge reputation and goodwill internationally as well as in India. In view of the same, I find that the Complainant has unquestionable prior and superior rights over the NOVARTIS trademarks / trade name / company name / house marks.

2. I find that a mere glance at the disputed domain name <WWW.NOVARTIS-HEALTHCARE.CO.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/ trade mark "NOVARTIS". I find that 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. I also find that the disputed domain name incorporates the Complainant's NOVARTIS mark, combined with a generic term "healthcare", "co" representing the company and ".in" representing the country, India.
3. I find that the registration of the disputed domain name by the Respondent using the generic term "healthcare" indicates that the course of trade of the Respondent and the Complainant are identical i.e., pharmaceutical and healthcare, which is likely to lead to confusion or deception about a trade connection, nexus or trade association, license or franchise arrangement between the Respondent and the Complainant. I find that any deficiency in quality, efficacy or administration of the product marketed by the Complainant through wrongful use of the disputed domain name will directly and adversely affect and impact and cause irreparable damage and injury to the goodwill and reputation that exists in the trade marks NOVARTIS. I note that the use of confusingly similar domain name in the

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field of pharmaceuticals can create greater injury as compared to products and services in other fields. I note that in the world of internet where the orders for pharmaceutical and healthcare products are placed online, the confusion and deception amongst consumers/ traders cannot be ruled out on account of the deceptive similarity between Respondent's domain name and Complainant's trade mark/ trade name/ house mark/ company name/ domain name NOVARTIS. I find that an unwary 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.

4. I find that the Complainant has several domain names registered which incorporate the trade name NOVARTIS, as mentioned in para 8 of the Complaint. I also find that 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. I find that 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.
5. In view of the above, I hold that the disputed domain <www.novartis-healthcare.co.in> is identical and / or confusingly similar to the Complainant's trade mark NOVARTIS and its domain names, particularly www.novartis.in.
6. Therefore, in view of the abovesaid findings, I hold that the conditions under Paragraph 4(a) of the INDRP stand suitably established.

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

I hold that the Complainant has successfully demonstrated by way of its Complaint that the Respondent has no right or legitimate interest in the disputed domain name <www.novartis-healthcare.co.in> for the following reasons:

1. I find that the Complainant has never granted the Respondent any right to use the NOVARTIS mark, 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 names or to have any legitimate interests over them. I find 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. I find that the disputed domain name is a deliberate unlawful impersonation representing it to be of the Complainant's healthcare site.
2. I find 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 benefitting from the Complainant's worldwide renown and to confuse Internet users as to source or sponsorship. I find that the Respondent cannot be considered to be making a bona fide offering of goods or services. I find that the registration of the Complainant's marks pre-dates the registration of the disputed domain names and that the Complainant has not authorized the Respondent to register the disputed domain names. I find that the combination of the well-known NOVARTIS mark with the term "healthcare" can only be a deliberate and calculated attempt to benefit improperly from the Complainant's rights and to deceive consumers. I find that the Respondent, in all likelihood, knew about the Complainant and its mark, which is distinctive and well-known both worldwide and in India.

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3. Further, I note that it is an admitted position that the Respondent has not made any legitimate use of the disputed domain name. The Respondent has admitted in its Reply dated 3rd February, 2022 that he does not even have access to the GoDaddy account under which the disputed domain name was created. I note that the Respondent has also given another statement vide its aforesaid Reply that the disputed domain name has neither been functional in the past, nor will it be made functional in the future.
4. Therefore, in view of the abovesaid findings and the Respondent's admissions, I hold that the Respondent has no rights or legitimate interests in respect of the disputed domain name under the provisions of Paragraph 4(b) and Paragraph 6 of .IN Policy.

C. The domain name was registered or is being used in bad faith

I hold that the Respondent had registered the impugned domain name in bad faith as per Paragraph 7(c) of the INDRP for the following reasons:

1. I find 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. I find that the name of the disputed domain name <www.novartis-healthcare.com> has been deliberately chosen to target the consumers and is a dishonest attempt to piggyback upon the enormous goodwill and reputation of the Complainant. I find that the Respondent's disputed domain name can be mistaken to be the domain name of the Complainant and can be used to deceive consumers as the disputed domain name suggests that it is Novartis Healthcare department's domain name. Thus, I hold that there is an imminent likelihood of damage which may be caused to public at large and also cause irreparable damage to the Complainant's reputation and goodwill through the disputed domain name. I hold that the disputed domain name is registered in bad faith and can be used for illegal and

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unlawful purposes.

2. The Respondent has chosen not to file proper reply or attach any documents with his reply. The only explanation given for registering the disputed domain name is that the said domain name was created in error. This explanation cannot be accepted.
3. I find 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 of the Complainant. I hold that the Respondent is beyond a doubt, intentionally and methodically attempting to confuse and deceive the consumers and people across the globe. Furthermore, I also find that the Respondent has also registered several domain names that contain the Complainant's coined mark NOVARTIS as an integral part, such as www.novartishealthcare.in, www.novartis-healthcare.in, www.novartis-hr.in, www.novartis-pharma.co.in, and www.novartis-pharma.in which showcases the bad faith and *malafide* intent of the Respondent to ride upon the goodwill and reputation of the Complainant's well-known trade mark NOVARTIS. The Complaint is taking similar legal actions against all the above- mentioned domain names.
4. I find that the illegality in the registration of the disputed domain name arises from the fact that domain names today are part and parcel of corporate identity. I note that 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. I note that a domain name is also the internet address of a company. I find that the domain name of the Complainant with "healthcare" conveys a corporate identity and exclusive domain name maintained for healthcare department, which if misused entails huge legal obligations. I find that the Healthcare department of a company is regulated by several laws which, if breached, can entail serious

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criminal and civil liabilities for the company. I find that if the disputed domain name is misused for any dubious purposes, it will expose the Complainant to several liabilities ruining its hard-earned reputation and goodwill.

5. I find it opportune at this juncture to place reliance on the WIPO Case no. D2017-2232 titled *Yahoo Holdings, Inc. v. Harry G* wherein it has been held that where a domain name incorporates a sufficiently well-known trade mark, 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. I find that the Respondent, in the case at hand, 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.
6. I hold 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.
7. I further hold that the Respondent's registration and use of the disputed domain name is a clear case of cybersquatting, 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.
8. Finally, in light of the above submissions, I hold that it is overwhelmingly clear that the Respondent's registration of the disputed domain name **<WWW.NOVARTIS-HEALTHCARE.CO.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.

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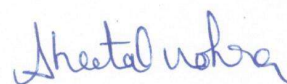
In view of all the above facts and well-known legal precedents, I find and hold as under:

- That the disputed domain name of the Respondent is identical and confusingly similar to the Complainant's company name / trade name / trade mark / house mark / domain name NOVARTIS.
- That the use of the disputed domain name <WWW.NOVARTIS-HEALTHCARE.CO.IN> is likely to give impetus to enormous confusion *qua* its origin due to the use of the Complainant's trade mark "NOVARTIS" as a whole in the disputed domain name being phonetically, visually and structurally identical to the Complainant's trade mark NOVARTIS.
- That the disputed domain name was registered in bad faith by the Respondent.
- That the disputed domain name is strictly identical to the Complainant's distinctive mark, consumers would certainly mistakenly assume that a website / disputed domain name www.novartis-healthcare.in is operated or endorsed by the Complainant, when such would not be the case.
- That the Respondent has deliberately attempted to create a false impression in the minds of the consumers that the Respondent is somehow associated with or endorsed by the Complainant to ride on the goodwill and reputation associated with the Complainant and to unjustly enrich from the same.
- That the Respondent has no rights or legitimate interests in respect of the disputed domain name.
- That there is also 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.
- That the Respondent does not have any affiliation or connection with the Complainant and/or its goods / services under the name/mark NOVARTIS and consequently it is inconceivable that the Respondent's adoption of the name <WWW.NOVARTIS-HEALTHCARE.CO.IN> which is identical to the Complainant's marks and domain name www.novartis.in and www.novartis.com amongst other trademarks and domain names with NOVARTIS can be seen as merely coincidental.

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IX. DECISION

- a) In view of the above facts and circumstances, it is clear that the Complainant has succeeded in its complaint.
- b) That the .IN Registry of NIXI is hereby directed to transfer the domain name/URL of the Respondent <WWW.NOVARTIS-HEALTHCARE.CO.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 22nd day of February, 2022.



Dr. Sheetal Vohra

Sole Arbitrator

Date: 22/02/2022