



ఆంధ్రప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH

Sl. No. 2293 Date 15/12/2021

Sub: to V. Gopinath S/o V.K. Chenu

For Whom: self

B. Arun Kumar
DA 014225

B. ARUN KUMAR
LICENCED STAMP VENDOR

L.No.03-13-002/2000, R.L.No.03-013-008/2021
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BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)
.IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

Dr. Vedula Gopinath, Sole Arbitrator

Arbitration Award No. INDRP/1494 dated February 8, 2022

In the matter of Arbitration Between :

Novartis AG
4002 Basel,
Switzerland

Complainant

And

Jack M, Godsmak
Vashi Navi Mumbai Sector - 17
Mumbai -Maharashtra India
Pin code 400705.



Dr. Vedula Gopinath
ARBITRAL TRIBUNAL
Dr. VEDULA GOPINATH
SOLE ARIBITRATOR

I. THE PARTIES :

- a. Complainant M/s NOVARTIS AG Authorised representative in this administrative proceedings is:

Ms. Mamta R. Jha INTTL ADVOCARE Express Trade Tower B-36/
Sector -132 Noida Expressway/ Noida - 201303 National Capital
Region of Delhi, INDIA Phones +91120 2470200 +91120 2470299
mamta@intladvocare.com

II. DISPUTED DOMAIN NAME & REGISTRY:

- a) The following Domain name is the subject of this Complaint is
www.novartis-pharma.in created on 22.04. 2021.
b)The Registry is the National Internet Exchange of India (NIXI).
c) The details of the sponsoring Registrar are given below :
GoDaddy.com/ LLC Phone +1.4806242505 abuse@ odadd .com

III. PROCEDURAL HISTORY / BACK GROUND :

25-01-2022	The .1N REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator
25-01-2022	Consent of the Sole Arbitrator along with declaration was given to the .1N REGISTRY
24-01-2022	.1N REGISTRY sent an email to all the concerned intimating the appointment of arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexure was sent to Respondent. Later Respondent also served complaint to Respondent om 02-02-2022
27-01-2022	Notice of Arbitration was sent to all concern by the Sole Arbitrator.
28-01-2022	Notice sent to Respondent directing him to file response which was replied by him on 03-02-2022.



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IV. COMPLAINANT'S DETAILS

1. The Complainant is a global healthcare Company, incorporated in Switzerland, which provides solutions to cater needs of patients worldwide. It was created in 1996 through a merger of Ciba-Geigy and Sandoz. Novartis and its predecessor companies trace roots back more than 250 years

2 The Complainant claimed to be the world leader in the healthcare industry and specializes in innovation through the research and development of products that improve health and well-being of patients around the world. The Complainant's products are available in more than 150 countries. In 2020, the Group claimed to have achieved net sales of USD 48. 7 billion. The Complainant spent around USD 9.0 billion on research and development in 2020 itself. The Complainant has received several international awards for progress in research and development, working environment and corporate responsivity activities. The Complainant has also received several awards in India/ in the area of social responsibility. (details given Annexure -E of complaint).

3. In the year 1997, Novartis Healthcare Private Ltd. was incorporated on 13.10. 1997 in India. Another subsidiary Novartis India Private Limited was incorporated . The word NOVARTIS is a coined word/ having no dictionary meaning, and is entitled to the highest degree of protection. The Complainant has been using the corporate name NOVARTIS and also using same as trade mark/ house mark/ domain name for its activities and Services internationally as well as in India



V. Complainant's Contentions

1. The trade mark NOVARTIS is a registered trade mark internationally as well as in India. The earliest international registration of the trade mark NOVARTIS dates back to 15.02.1996 in Switzerland. The said trade mark is registered in over 70 countries. The international protection list of some of the earliest trade mark registrations as downloaded from the WIPO Global Brand Database is attached as Annexure – F of complaint. The trade mark NOVARTIS and its formative marks are registered trade marks in India since the year 1996. Several other registrations for the trade mark NOVARTIS and its formative marks are given as per Annexure – G of complaint.
2. It was contended that the Complainant is a lawful proprietor the aforesaid trademarks. Further it was contended that the Complainant has the exclusive statutory right to use the trade mark NOVARTIS in India and internationally.
- 3.. The Complainant/ to its credit/ also has domain name registrations for various domain names for its Company name/trade / trade mark/ such as www.novartis.com www.novartis.in www.novartis.com.ar www.andino www.nv.novartis.com.br www.novartis.ca : www.novartis.ca .and others (details given as per annexure H of complaint).




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4.. It was contended that a click on the disputed domain name www.novartis-pharma.in redirects the viewers to a disputed page. Screenshot of the page also submitted along with printouts from the said website and collectively marked as Annexure 0 of the complaint. .

5. It was alleged that the disputed domain name www.novartis-pharma.in in itself suggests that it has been registered with bad intention and ulterior motive. 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 name suggests that it is the complainant's Novartis pharmaceutical department. Considering that NOVARTIS has been recognised as one of the best pharmaceutical companies in the world/ the disputed domain name can be misused to deceive the consumers with respect to its products and Services. There is thus, an imminent likelihood of damage which may be caused to the public at large and also cause irreparable damage to the Complainant's reputation and goodwill through the disputed domain name.

VI . RESPONDENT'S EXPLANATION

Respondent vide email dated 3rd February 2022 categorically stated that it was his error (mistake) to register the alleged disputed name and that the same is not utilised for any commercial purposes. He is deemed to have expressed his willingness for transfer of the disputed named. In view of the admission of respondent, there is no need for further examination of the issues involved.




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VI DISCUSSION AND FINDINGs / REASONING:

(I) .IN Domain Name Dispute Resolution Policy (INDRP).

The Arbitral Tribunal after examination of the matter in details arrived the following conclusion of Complainant's Compliance under INDRP Policy. In order to obtain the transfer of the Disputed Domain Name, Complainant should, accordingly, prove all the three elements to paragraph 4 of the Policy. The complainant proved all the elements of Paragraphs 4 of the Policy. Further pursuant to paragraph 6 & 7 of INDRP Policy, the Respondent have no legitimate interest.

(II) The explanation given by the Respondent clearly states that the disputed name has not been used by him for commercial purposes and that the impugned domain name was created by mistake. The Arbitration Tribunal accepted the explanation and admission of Respondent.

(III) The allegations levelled by Complainant against Respondent on the evidential value of the documents submitted by complainant were considered by the Arbitral Tribunal.




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VII. In view of the foregoing discussion, the Arbitral Tribunal arrives at a Logical conclusion of accepting the prayer of the Complainant.

VIII.DECISION: For all the foregoing reasons, in accordance with paragraph 10 of the .INDRP, the Arbitral Tribunal orders that the Respondent shall cease to use the mark NOVARTIS and also the disputed Domain Name <http://www.NOVARTIS-PHARMA.IN> be transferred to the Complainant. There is no order as to costs.

This is adjudicated.

National Internet Exchange of India (NIXI) are advised to take ancillary and incidental action required for transfer of the disputed domain name in favour of complainant.

Visakhapatnam

Dated 8th February 2022




Dr. Vedula Gopinath

Sole Arbitrator

Dr. Vedula Gopinath
B.L., F.C.S., F.I.C.A., Ph.D
Advocate(High Court) & Corporate Advisor
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