



सत्यमेव जयते

INDIA NON JUDICIAL Chandigarh Administration

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Description of Document : Article 12 Award
Property Description : Not Applicable
Consideration Price (Rs.) : 0
(Zero)
First Party : SAJAL KOSER
Second Party : Not Applicable
Stamp Duty Paid By : SAJAL KOSER
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



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ARBITRATION AWARD

BEFORE SH. SAJAL KOSER, SOLE ARBITRATOR, CHANDIGARH

INDRP CASE NO. 1497 OF 2022

DISPUTED DOMAIN NAME: <NOVERTIS-HEALTHCARE.IN>

KC 0012636378

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Novartis AG 4002 Basel, Switzerland.

...Complainant

Versus

Godsmak, Vashi Navi Mumbai Sector – 17, Mumbai -Maharashtra India Pin 400705.

...Respondent

1. INTRODUCTION:

The above titled complaint was submitted to the undersigned for Arbitration in accordance with the .IN Domain name Dispute Resolution Policy (the INDRP), adopted by the National Internet Exchange of India (the NIXI), and the INDRP rules and Procedure (the Rules of Procedure).

2. THE PARTIES:

The Complainant has submitted the following information with regard to the status and details of the parties to the lis as well as disputed domain name as under:

A) The Complainant

The Complainant in this case is Navartis AG, a company incorporated under the Laws of Switzerland, having its registered office at 4002 Basel, Switzerland David Lossignol is the authorized signatory of the Complainant and is fully competent and authorized to institute the present complaint on behalf of the said Complainant. Copy of the letter of Authorization dated 01.07.2021 in favour of David Lossignol is annexed to the Complaint as **Annexure B**.

1. The Complainant's Contact details are:

Address: Navartis AG, 4002 Basel, Switzerland

Email: corporate.trademarks@navartis.com

2. The Complainant's authorized representative in this administrative proceeding is:

Name: Mamta R. Jha,

Address: Inttl Advocate, Express Trade Tower, B-36, Sector 132,
Noida Expressway, Noida 201303, National Capital
Region of Delhi, India

Phone: +911202470200-298 (Extn 101)

Fax: +911202470299

Email: mamta@inttladvocate.com,
mbhadu@inttladvocate.com

3. The Complainant's authorized representative's preferred method of communication in this administrative proceeding is:
Electronic only material

Method: Email

Address: mamta@inttladvocate.com,
mbhadu@inttladvocate.com

Contact: Mamta R. Jha

Material including hardcopy (where applicable)

Method: Courier

Address: INTTL Advocate, Express Trade Tower, B-36, Sector
132, Noida Expressway, Noida – 201303 India

Contact: Mamta R. Jha

B) The Respondent

1. In the complaint, according to the WHOIS details of the disputed domain name www.novartis-healthcare.in, the disputed domain has been registered by Godsmak, the details in relation to address of the said party are not available, therefore,, under such circumstances Complainant reserves its right to amend the complaint, as and when

any additional information is made available. Internet printout of the abovementioned 'WHOIS' details of the disputed domain name is annexed with the complaint as **Annexure C**. According to the Complainant, the Complainant is not aware about the correct and current legal/business constitution of the Respondent and therefore, it requested the Registrar is requested to reveal complete and correct details of the said party. The complainant reserved its right to amend the complaint, as and when any additional information is made available.

2. All information known to the Complainant regarding how to contact the Respondent as given in the complaint is as follows:

Name: Godsmak
Address: Vashi Navi Mumbai Sector 17, Mumbai –
Maharashtra India Pin 400705
Telephone: 08820184228
Fax: NA
Email ssmbbc8@gmail.com

C) The domain Name and Registrar

1. This dispute concerns the domain name identified below:
www.novartis-healthcare.in created on 19.05.2021.
2. The Registrar with which the domain name is registered is:

Name: GoDaddy.com, LLC
Address: -
Phone: +1.4806242505
Fax:
Email: abuse@godaddy.com

D) THE DISPUTED DOMAIN:

<NOVARTIS-HEALTHCARE.IN>

3. PROCEDURAL HISTORY:

- i) Vide mail dated 24.01.2022, the undersigned was appointed as an Arbitrator by National Internet Exchange of India (NIXI) to adjudicate and decide upon the dispute relating to the Domain name **NOVARTIS-HEALTHCARE.IN.**
- ii) Vide said mail dated 24.01.2022, the undersigned also received soft copies of Complaint and complete set of documents enclosed as Annexures which were also supplied to all the concerned parties.
- iii) That vide mail dated 25.01.2022, the undersigned submitted Statement of Acceptance and Declaration of Impartiality and Independence.
- iv) Thereafter, vide mail dated 29.01.2022, Complainant was asked to do compliance of Sub Rules (c) & (d) of Rule 3 which was complied with by the complainant as evident from the Affidavit of the complainant dated 31.01.2022.
- v) Thereafter, Notice to the Respondent was issued on 01.02.2022 in accordance with the INDRP Rules of Procedure.
- vi) That vide mail dated 03.02.2022, the Respondent submitted their response and vide order dated 09.02.2022, the matter was reserved for passing the Award.

4. CASE OF THE COMPLAINANT:

In the present Complaint, apart from claiming cost, compensatory/penal damages, the Complainant has asked for the transfer of the disputed domain name <**NOVARTIS-HEALTHCARE.IN**> in its favour.

5. FACTUAL MATRIX OF THE CASE AND GROUNDS TAKEN BY THE COMPLAINANT TO PROVE ITS CASE:

The Complainant has based its complaint on the main assertion that Complainant is the lawful proprietor of the trademark NOVARTIS which is a valid subsisting trademark in India. It is the case of the Complainant that it has exclusive statutory right to use the trademark NOVARTIS in India and Internationally. Under the heading, factual and legal grounds, the complainant has given details about the worldwide functioning and business activities of the Complainant company, awards received, details of registration of trademarks/various domain names and the extensive use of the trademark NOVARTIS as part of Complainant's name/trade name/trademark/ house mark/ domain name internationally as well as in India. The Complainant has also placed on record decisions of various UDRP complaints decided in favour of the Complainant. Supported with the documents Annexure C to Annexure M, Complainant has attempted to bring its case within the relevant provisions/legal grounds mentioned in the policy.

Since, in the present case, the Respondent in its response dated 03.02.2022 sent from mail id: ssmbbc8@gmail.com has admitted the case of the Complainant, therefore, the factual and legal grounds taken by the complainant are not being discussed in detail and the Award is passed on the basis of the Response of the Respondent which is reproduced as under:-

"Dear Concerned,

I acknowledge the receipt of your mail and the notice.



I request that this matter be settled as soon as possible and closed due to the following reasons

1. *The domain was created in error*
2. *The domain was never used and as matter of fact, we don't even have access to the account in GoDaddy under which these domains were created.*

I request for a peaceful amendment and closure on the above complaint and hereby do state on the record that the domain has not and will not go live. There has been no usage of this domain.

Kind Regards.

Response to the email on complaint on 3- Feb-2022"

6. **FINDING:**

The complainant has been able to prove its case on the basis of pleadings, legal grounds and the documents duly supporting its averments and also that the Respondent has admitted the case of the Complainant to the fact that the domain was created in error and was never used and that the domain has not and will never go live and that there has been no usage of the disputed domain and requested for the closure of the Complaint, but in view of the contents of the Complaint duly proved and supported by the documents and also in view of the Response of the Respondent, this Complaint is to be allowed and an award is to be passed in favour of the Complainant and against the Respondent.


8. **CONCLUSION:**

The Complaint no. 1497 relating to disputed domain name NOVARTIS-HEALTHCARE.IN is allowed and an award is passed in favour of the Complainant and against the Respondent.

8. AWARD:

In view of above, it is ordered that the disputed domain name NOVARTIS-HEALTHCARE.IN is transferred in favour of the Complainant. So far as awarding of costs is concern, though Respondent stated that the domain was created by an error, however, without commenting on the merits of the said Statement, it is a fact that the Complainant was led to filing of the present complaint and incur expenses, therefore, the costs of the proceedings is awarded in favour of the complainant and against the Respondent. No document or any proof has been placed on record by the Complainant qua suffering of any damages etc. so the said relief is declined.

Signed on this 22nd March 2022.



(Sajal Koser)
Arbitrator