




తెలంగాణ తెలంగాణ TELANGANA
Sl.No: 7022; Date : 23-07-2022 Rs.100/-
Sold to: **Dr. VEDULA GOPINATH**
S/o Late V.K.CHENULU R/o HYD
For whom:SELF

 **AU 367568**
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LICENCED STAMP VENDOR
LIC No.15-11-031/2014,RL No.15-11-040/2020
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**THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)
IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)**

Dr. Vedula Gopinath, Sole Arbitrator

Arbitration Award No. INDRP/1594, September 14, 2022

In the matter of Arbitration Between

Wockhardt Limited
D-4, M.I.D.C. Chikhalthana, Aurangabad 431006
Global Headquarter at:
Wockhardt Tower
Bandra Kurla Complex Bandra (E),
Mumbai 400051 MS India

Claimant

AND
Kishore Tarachandani
Street: 201, Senate Square, Opp. Yash Complex
Vadodara
Gujarat 390021 India

Respondent




Dr. VEDULA GOPINATH
MEMBER-ICAF R

II. THE PARTIES: 1 Complainant's Authorized Representatives are as under:

M/s. S. Majumdar & Co., Patent and Trademark Attorneys.
Address: 5, Harish Mukherjee Road,
Kolkata - 700 025, West Bengal, India.

2. Respondent has not authorized any person for representation. Details of Respondent as per WHOIS are as under:

Kishore Tarachandani
Street: 201, Senate Square, Opp. Yash Complex
Vadodara
Gujarat 390021 India

III. Disputed Domain Name and Registry.

a. The following is the name under dispute in these proceedings

wockhardt.in


b. The Registry is the National Internet Exchange of India (NIXI).

c. The details of sponsoring Registrar are as under:

Endurance Digital Domain Technology LLP

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SOLE ARBITRATOR

III. PROCEDURAL HISTORY / BACKGROUND :

Aug.5, 2022	The .1N REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator from its panel as per paragraph 5 of INDRP Rules of Procedure.
Aug.5,2022	Consent of the Sole Arbitrator along with declaration was given to the .1N REGISTRY according to the INDRP Rules of Procedure.
Aug.5,2022	.1N REGISTRY sent an email to all the concerned intimating the appointment of the arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexure was sent to the Respondent.
Aug.7,2022	Notice of Arbitration was sent to all concerned by the Sole.
Aug.10,2022	Notice was sent by Arbitrator to the Respondent by mail directing him to file his response within 7 days, marking a copy of the same to the Complainant's representative and .1N Registry.
Aug.8,2022	Complainant has requested time for submitting the revised Complaint till Oct.10,2022.Arbitrator granted extension only till end August 2022
Aug. August 12, 2022	Complainant filed revised Complaint and served same on Respondent

The pleadings are communicated through electronic mail in the English language.



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IV. COMPLAINANT'S DETAILS

The Complainant claims that their company is a global pharmaceutical and biotechnology company, providing affordable, high-quality, and research-based enterprises. The Complainant has a workforce of 8000 consisting of 21 different nationalities having worldwide marketing operations. The Complainant has 3 research centers and 12 manufacturing plants, having an annual income of Rs.2894 crores (year 2020-21)

. II. The Complainant has been in marketing and/or manufacturing pharmaceutical preparations for more than the past 58 years, gaining a reputation in the pharmaceuticals trade. Details are given as per Annexure G of the Complaint.

V. CONTENTIONS OF COMPLAINANT

1. The Complainant, through its predecessor, is the first and bona fide adopter of the trade name and trademark "WOCKHARDT" for use in connection with goods covered under Class 5 in India for pharmaceutical and medicinal preparations and substances. The trademark "WOCKHARDT" is a coined word with no dictionary meaning. The said trademark of the Complainant is also the dominant, essential, and inalienable part of the Complainant's corporate name, i.e., Wockhardt Limited.

2. The trade name and trademark 'WOCKHARDT' are inherently distinctive of the products and business of the Complainant and is associated with no one other than the Complainant. The Complainant has achieved goodwill and reputation and effected large sales, and gained publicity in world media.



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4. The Complainant recognizing the value of brand recognition and conscious of its intellectual property rights, has obtained registrations of its trademark WOCKHARDT in respect of various goods and services. Trademark registrations/applications number 45 in India and 43 overseas, and the trademarks are currently valid. Details of some of such registrations are provided in the tables and annexures L & M of the Complaint.

5, It is contended that Complainant is the owner and registrant of the domain name www.wockhardt.com which was registered on 21-03-2000, and the same is valid. The said domain name is accessible worldwide to disseminate information and promote the offerings in the pharmaceutical business. The details of the domain name have been given as an annexure to the complaint.

7. The Complainant came across the domain name www.wockhardt.in while seeking to register its trademark and trading name WOCKHARDT under the ccTLD .IN was found that the impugned domain name was already registered by the Respondent. The Complainant conducted a WHOIS search and note that the impugned domain name was created in the year 2005, i.e., on 20.02.2005. Pursuance to the said discovery, the Complainant searched Web Archives on <https://archive.org/web/> and found that the impugned domain name has never been used.

8. It is contended that the Respondent who is not known by the coined word WOCKHARDT has no legitimate rights and interests in the disputed domain name and has never been known either by the trade name WOCKHARDT or in respect of any goods/services under the trademark WOCKHARDT. It is further alleged that the impugned domain name has been registered in bad faith with an ulterior motive, and the Respondent is not making any legitimate non-commercial fair use of the domain name without the intent of commercial gain.




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VI. RESPONSE OF THE RESPONDENT

The Respondent, despite the Notices, didn't submit any response to the notices and complaints served on him. However, on 5th August he sent the following message (via email).

Quote

I have NOT renewed this domain since 2013. The domain should not exist in my control panel or my name. However, when I checked this today (after I got this email), the domain shows it has been suspended since 2013. It is not possible for me to modify or renew the domain name since 2013. I have not paid any renewal fees since 2013.

Unquote.


VI DISCUSSION AND FINDINGS / REASONING:

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

The Arbitral Tribunal, after examination of the matter in detail, arrived at the following conclusion regarding the Complainant's Compliance with INDRP Policy. To obtain the transfer of the Disputed Domain Name, the Complainant should, accordingly, prove all the following three elements to paragraph 4 of the Policy.

- (i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark to which Complainant has rights.
- (ii) Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) The Disputed Domain Name has been registered and used in bad faith.




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The Complainant has established beyond doubt the grounds provided in the Policy for an aggrieved person to make out a bona fide case in its favor by satisfying the grounds contained in Paragraphs 6 & 7 of the Policy.

II. The Complainant has quoted a few precedents to support their case. The Arbitral Tribunal agrees with the decisions given by other Tribunals in the cases referred to by the Complainant.

III. The Respondent has not contested/opposed the pleas of the complainant and further confirmed that the disputed name was not renewed since a long time. Thus, the Arbitral Tribunal opined that the reply of the Respondent amounts to "deemed admission" of the pleas levelled by the Complainant.

IV In case of failure of default of Respondent in sending response or reply to the complaint, the Arbitrator is empowered to announce the judgment as he thinks proper and appropriate as per applicable laws.

V The allegations made by Complainant against the Respondent appears to have been proved basing on the evidential value of the documents submitted by complainant.

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




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VII. **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 WOCKHARDT and the disputed Domain Name **wockhardt.in** be transferred to the Complainant (Wockhardt Limited). There is no order as to Costs.

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

This is adjudicated.

Date September 14, 2022,




Dr. Vedula Gopinath
Sole Arbitrator

DR. VEDULA GOPINATH
MEMBER-ICADR
SOLE ARBITRATOR