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Description of Document : Article 12 Award
Property Description : Not Applicable
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ARBITRATION AWARD

BEFORE SH. SAJAL KOSER, SOLE ARBITRATOR, CHANDIGARH

INDRP CASE NO. 1784 OF 2023

DISPUTED DOMAIN NAME: <NESTLEPROFESSIONALS.CO.IN>

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Societe Des Produits Nestle SA, 55 Avenue Nestle, 1800 Vevey, Switzerland

...Complainant

Versus

Shekhar Suman, Hari Niwas Complex, Salt Lake Near HDFC, Kolkata, West Bengal - 70064 India

...Respondent

1. INTRODUCTION:

The above titled complaint was submitted to the undersigned for Arbitration in accordance with the .IN Domain Dispute Resolution Policy (INDRP), and the INDRP Rules of Procedure framed there under.

2. PROCEDURAL HISTORY:

- i) In response to the email dated 17.11.2023 appointing undersigned as an Arbitrator, vide email dated 18.11.2023, the undersigned submitted Statement of Acceptance and Declaration of Impartiality and Independence.
- ii) Vide email dated 22.11.2023, Notice to the Respondent was issued in the prescribe format calling upon the Respondent to give reply to the complaint within 15 days from the date of notice.
- iii) Since, the Respondent did not file any reply/response within the stipulated period of 15 days as required in the said notice and as some more days were given to the Respondent but no reply/response was filed, vide mail dated 11.12.2023, the opportunity given to the Respondent to file reply/response was



closed by order and the Complaint was reserved for passing award ex-parte.

3. THE PARTIES

- i) The Complainant in the present case is Société des Produits Nestlé SA, a company organized and existing under the Laws of Switzerland, having its principal place of business at 55 Avenue Nestlé 1800 Vevey, Switzerland. Complete details of the Complainant alongwith email IDs and Authorised Representative details have been given in the Complaint.
- ii) As far as the details of the Respondent is concern, it has been stated in the Complaint that according to the WHOIS information published in the public Whols database, the contact details of the actual Domain Name's Holder are only partially disclosed, as only the registrant's State/Province and Country (West Bengal, IN). Annexure 1 is annexed as contact details listed in the public Whols database, based on the search conducted on October 27, 2023. Further, in the Complaint, it is stated that according to the information provided by NIXI to Complainant's representative after the filing of the original Complaint (Annex 1.2), the Respondent's contact information is given as under:

Name:	Shekhar Suman
Organization:	NA
Address:	Hari Niwas complex, Salt lake near hdfc, Kolkata, West Bengal, 700064, India
Telephone:	(91).7386207511
Fax:	NA
Email:	<u>nestlebusiness2@gmail.com</u>

4. **DISPUTED DOMAIN NAME AND REGISTRAR INFORMATION**

- i) The following domain name is the subject of this Complaint
<nestleprofessionals.co.in>
- ii) As per the Complaint, the disputed domain name was registered on June 13, 2023 and the Registrar with which the Domain Name is registered is given in sub clause (c) of Clause 5 of the Complaint.

5. **TRADEMARK/SERVICE MARK INFORMATION**

In Compliance of Rule 4(b) (v) of the INDRP Rules of Procedure, the Complainant in the Complaint has averred that it is the owner of the trademark NESTLE in several countries and has been using it in connection with its on-going business. The details of some of Complainant's registrations in India have been mentioned in the Complaint and the Certificates are annexed as Annexures 2.1 to 2.5. the Complainant has also submitted that it is also the owner of several trademark registrations for "NESTLE" in other countries and has submitted various International and European Union Trademark Registrations, the details of which are mentioned in the complaint and the supporting documents have been annexed as Annexures 3.1 to 3.6 with the Complaint which are the official trademark registration certificates/excerpts of the trademark registration details in respect of the aforesaid mentioned jurisdictions. Complainant further states that it is also the owner of many additional registrations consisting of or including the distinctive sign NESTLE in other Countries, however, did not annexed any document in support of this contention.



6. **DOMAIN NAME REGISTRATIONS:**

The Complainant has also annexed printouts of Complainant's websites at www.nestle.com and www.nestle.in, and the Whois Records of nestle.com, nestle.in and nestle.co.in owned by Complainant as Annexes 4.1 and 4.2. The list of some domain names registered by Complainant and entirely incorporating the trademark NESTLE is also submitted as Annex 4.3 with the Complaint.

7. **FACTUAL MATRIX SUBMITTED BY THE COMPLAINANT:**

As stated in the Complaint, Complainant **Société des Produits Nestlé S.A.** (hereinafter referred in the Complaint as SPN), founded in the year 1866 by Henri Nestlé, is part of the Nestlé Group and is wholly owned by Nestlé S.A. and that is the registered owner of most of the trademarks of the Nestlé Group. According to the Complainant, today Nestlé Group sells products and services all over the world in various industries, primarily in the food industry, including baby foods, breakfast cereals, chocolate & confectionery, coffee & beverages, bottled water, dairy products, ice cream, prepared foods, food services as well as pet food.

Further, according to the Complainant Nestlé Group markets its products worldwide in 188 countries and has more than 275,000 employees and is present in more than 80 countries with about 400 production centers and that Complainant is the world's largest food consumer products company in terms of sales. The Complainant in the Complaint has submitted some figures indicatives of the volumes of Complainant's products present in the market, the sales metrics of the group in 2022 were 94.4 billion Swiss Francs (CHF) worldwide, whereas those in 2020 in India were about 134,958.8 million INR.



It has also been submitted in the Complaint that according to Fortune Magazine's annual ranking of the world's 500 largest companies, the "Fortune Global 500", the Complainant was the 48th biggest company in the world in 2009 and grew to the 44th largest in 2010. In 2022, Nestlé was positioned as the 106th company, as evidenced in the copy of the Fortune Global 500 list of that year which is annexed as Annex 5.1 with the Complaint. Further, as per the Complaint, according to Interbrand's annual Best Global Brands ranking for 2022 the trademark NESTLÉ can be valued at \$ 10,252 million and represents the 67th most valuable trademark in the world. NESTLE was included in said Interbrand's list as of 2002. The documents in support is annexed as Annexure 5.2.

As to the presence of Complainant in India, where Respondent is based, according to the Complaint, the existence of Complainant in India dates back to 1912, when Nestlé began trading as the Nestlé Anglo-Swiss Condensed Milk Company (Export) Limited, importing and selling finished products in the Indian market. Complainant set up its first factory in India in 1961 at Moga, Punjab, where the Government wanted Nestlé to develop the milk economy. Then, it opened manufacturing facilities at Choladi (Tamil Nadu), in 1967, Nanjangud (Karnataka), in 1989, Samalkha (Haryana), in 1992; Ponda and Bicholim (Goa), in 1995 and 1997, respectively, and Pantnagar (Uttarakhand), in 2006. In 2012, Nestlé India set up its 8th manufacturing facility at Tahliwal (Himachal Pradesh). Moreover, Complainant has also 4 Branch Offices located at Delhi, Mumbai, Chennai and Kolkata, facilitating the sales and marketing activities. The Nestlé India's Head Office is located in Gurgaon, Haryana.


It is further mentioned in the Complaint that the trademark NESTLÉ was and is presently strongly supported by global advertising

campaigns through television and other media such as with international magazines. Besides the traditional advertising channels, NESTLÉ company and products have been also widely promoted via Internet, in particular with a strong presence online through the most popular social media, i.e. on Facebook, Twitter, YouTube, Instagram and Pinterest which can be ascertained from social media platforms as mentioned in the Complaint.

Therefore, according to the Complainant, in light of Nestle Group's significant investments in R&D, marketing and sales, the regular use of the sign NESTLÉ for over 150 years, as well as the existence of the impressive client base for all products worldwide, NESTLÉ is undisputedly a well-known trademark worldwide, including in India.

In order to further support the protection of the "NESTLÉ" trademark on the Internet, Complainant registered the word "Nestle" and variations thereof as domain name in numerous gTLDs and ccTLDs, including .in and co.in., as per Annexes 4.2 and 4.3. Nestlé Group operates the website www.nestle.com as its primary web portal for global promotion, while the website dedicated to India is <https://www.nestle.in/>.

It has been further submitted by the Complainant that the Respondent registered the Domain Name , without authorization, on June 13, 2023, well after Complainant's registration of the NESTLÉ' trademarks cited above. Since the time of its registration, the Domain Name has been used to attract and mislead Internet users into believing that the corresponding website is being managed by Nestlé or a Complainant's affiliated entity with Complainant's consent. Further, according to the Complainant, indeed, on the website <https://www.nestleprofessionals.co.in/>, Complainant's trademarks are



published without authorization and no disclaimer of non-affiliation with Complainant is provided. Moreover, the impression that the website is either run or at least authorized/endorsed by Complainant is reinforced by the fact that i) information about Nestlé India Ltd in the home page and in the "About" section of the website are provided, thus inducing users to believe that the website is operated by the Nestlé Indian branch (which is not the case); and ii) the name and image of Mark Schneider, CEO of Nestlé, is reproduced on the home page. Furthermore, purported business opportunities are promoted on the website at the disputed domain name, and Internet users are invited to fill in a form with their personal data and express interest in one of the business models proposed, i.e. distributor points and Nescafe coffee shop. The complainant has provided Screenshots of the website in the Complaint and also annexed the same as Annexure 6 with the Complaint. Further, according to the Complainant the Domain Name has active MX records in its DNS configuration, as per screenshot given in the Complaint and annexed as Annexure 7 with the Complaint.

Further, according to the Complainant, despite the fact that no fraudulent email communication based on the abovementioned disputed domain name has been reported to date to Complainant but it is possible that such Domain Name may be used to communicate via email addresses based on the same, as the email address service@nestleprofessionals.co.in featured on the website suggests and also it cannot be ruled out that Internet users receiving messages sent via email addresses based on @nestleprofessionals.co.in would be very likely misled into believing that such messages are sent by Complainant or one of its affiliated entities.

It is also submitted by the Complainant that in view of the above-described unauthorized and fraudulent use of the Domain Name, which



is entirely encompassing the registered and well-known NESTLÉ trademark, Complainant instructed its Representative to start the reclaim activities against the Domain Name holder. On July 17, 2023, Respondent was contacted via the contact form available on the Registrar website and made aware that the Domain Name violated trademark rights (Annexed as Annexure 8.1 with the Complaint). On the same day, a Cease-and-Desist letter, requesting to immediately cease any infringing use of the Domain Name and to transfer it to Complainant free of any charge, was sent to Respondent, delivering it to the email address available on the infringing website, service@nestleprofessionals.co.in (annexed as Annexure 8.2 with the Complaint). Respondent, however, did not deem appropriate to reply to Complainant's formal communication and to its subsequent reminder, sent on October 06, 2023 (annexed as Annexure 8.3 with the Complaint). On July 17, 2023, an abuse report, requesting the disclosure of the registrant's information and the suspension of the infringing domain name, was addressed to the concerned Registrar by the Complainant (annexed as Annexure 9 with the complaint). Complainant also sent a cease-and-desist letter to the hosting provider, requesting the deactivation of the infringing website, but it refused to take action (annexed as Annexure 10 with the Complaint).

Complainant submits that due to Respondent's failure to comply with Complainant's requests and in view of the fact that Respondent, notwithstanding the receipt of the Cease and Desist letter and subsequent follow up correspondence, is continuing to actively use the disputed Domain Name, confusingly similar to Complainant's registered trademark, by redirecting it to a website pretending to be a Nestlé official portal for prima facie fraudulent purposes, Complainant filed the present complaint.

8. The Complainant has submitted the following submissions/grounds to comply with and prove the following 3 essential ingredients as envisaged in INDRP Policy and Procedure:

A. The Domain Name is confusingly similar to the trademarks "NESTLE" and "NESTLE PROFESSIONAL" in which the Complainant has rights for the following reasons: [Rule 4(b)(vi)(1) of the INDRP Rules of Procedure and Rule 4 (a) of the INDRP Policy]

- 1) According to the Complainant, the Domain Name entirely reproduces Complainant's trademark NESTLE, which has been registered by Complainant in India and several other Countries as mentioned above. The Complainant has referred to his case Perfetti Van Melle Benelux BV v. Jing Zi Xin [INDRP Case No. 665], wherein it was held that the registration of a domain name wholly incorporating a Complainant's registered trademark may be sufficient to establish identity or confusing similarity, despite the addition of other words to such marks, and that "if a well-known trademark is incorporated in its entirety, it may be sufficient to establish that a domain name is identical or confusingly similar to Complainant's registered mark. Complainant has further submitted that it has been held in the matter of Disney Enterprises, Inc. v. John Zuccarini, Cupcake City and Cupcake Patrol [WIPO Case No. D2001-0489] that "domain names that incorporate wellknown trademarks can be readily confused with those marks".

- ii) Further according to the Complainant, the fact that the Domain Name differs from NESTLÉ by the addition of the non-distinctive, descriptive suffix “professionals” followed by the ccTLD .co.in does not affect the confusing similarity and addition of the ccTLD .in to the word “professionals” cannot be considered as a distinguishing feature. Complainant has relied upon various decisions in support of its contentions. iii. In addition to the above, Complainant also submits that the combination in the Domain Name of “nestle” with the descriptive term “professionals”, while not affecting the confusing similarity (reference is made to the case of Hotels Company Limited vs. Mr. Sanjay Jha, INDRP Case No. 148, stating that “the domain wholly incorporating a Complainant’s registered mark may be sufficient to establish identity or confusing similarity”), is apt to further increase the risk of confusion with Complainant’s trademark. In fact, users could believe that the Domain Name is owned by Complainant and used by the same in connection with its official website dedicated to professionals in the field of food & beverage.
- iv) In addition to the above, the Domain Name is also confusingly similar to Complainant’s registered trademark NESTLE PROFESSIONAL which is entirely reproduced in the Domain Name with the mere addition of a single letter “s” and the ccTLD “.co.in”.
- v) The Complainant has relied upon various judgment/awards in support of its above contentions in the Complaint. The Complainant has also as annexed copy of an award passed in an another case filed by the Complainant against

some other person related to the same disputed domain name, case no. INDRP 1722 annexed as Annexure A-12

- vi) In light of the above, Complainant submits that it is clear that the Domain Name is confusingly similar to the prior registered trademarks in which Complainant has rights pursuant to Paragraph 4(a) of the INDRP.

B. The Respondent has no rights or legitimate interest in respect of the disputed domain name for the following reasons: [Rule 4(b) (vi) (2) of the INDRP Rules of Procedure and Rule 4(b) and 6 of the INDRP Policy] .

- i) In this ground, it is stated in the Complaint that Complainant has legitimate interest in the well-known trademark NESTLÉ as it registered said trademark since 1973 in many jurisdictions, including India, and has been openly, continuously and extensively using it world-wide for several years. Moreover, by virtue of its long and extensive use and advertising, including online via Complainant's website "www.nestle.com", the trademark NESTLÉ has become well-known worldwide.
- ii) Further, according to the Complainant, Respondent is not a licensee or an authorized agent of Complainant, or in any other way authorized to use Complainant's trademark NESTLÉ. As stated in, inter alia, Pharmacia & Upjohn Company v. Moreonline, [WIPO Case No. D2000-0134], "the mere registration, or earlier registration, does not establish rights or legitimate interests in the Domain Name." See also along these lines Perfetti Van Melle Benelux BV v. Jing Zi Xin [INDRP Case No. 665] wherein it

has been held that "merely registering the domain name is not sufficient to establish right or legitimate interests."

- iii) Further, Respondent is neither commonly / popularly known in the public by the Domain Name nor has applied for any registration of the trademark NESTLE or NESTLE PROFESSIONAL. On the contrary, Respondent's name, according to the information provided by NIXI after the filing of the original Complaint, is "Shekhar Suman".
- iv) Complainant further states that Respondent has not provided Complainant with any evidence of its use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services before any notice of the dispute and Respondent's use of the Domain Name does not amount to a legitimate non-commercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish Complainant's trademark. The Domain Name, entirely encompassing the NESTLÉ well-known trademark, was, in fact, intentionally registered and is used by Respondent, as described in the factual section and highlighted by the evidence in Annexes 6, for prima facie fraudulent purposes. Indeed, Respondent has been and still is redirecting the disputed Domain Name to a website which misappropriates Complainant's trademarks and provides information about Nestlé as well as the contact details of Nestlé India Ltd, falsely suggesting that the website is operated by Nestlé India Ltd. Furthermore, on said website Internet users are invited to file an expression of interest for allegedly official business opportunities with Nestlé and to fill in a form with their

personal data and the indication of the type of business they are interested in ("point of distribution or Nescafe coffee shop").

- v) Therefore, according to the Complainant such willful conduct clearly demonstrates that Respondent is not using the Domain Name for any legitimate purpose. Respondent's above-described use of the Domain Name to impersonate Complainant's affiliated Indian company is part of a fraudulent scheme which Respondent has adopted with the clear aim at obtaining personal data and possibly also payments from Internet users looking for business opportunities with Complainant. Complainant has relied upon *L'Oréal v. Contact Privacy Inc.* Customer 0149511181 / Jerry Peter [Case No. D2018-1937] and *PUMA SE v. Raghu Prem Telukuntla* [Case No. D2022-4507].
- vi) Finally, under this head, Complainant submits that as a final remark on the issue of rights or legitimate interest, it is a consolidated principle that the burden of proof lies on Complainant, however, satisfying the burden of proving a lack of Respondent's rights or legitimate interests in respect of the domain name according to Paragraph 4 (b) of the INDRP is quite onerous, since proving a negative circumstance is always more difficult than establishing a positive one. Accordingly, it is sufficient that Complainant shows a prima facie evidence in order to shift the burden of production on Respondent and relies upon *Bulgari S.p.A. v DomainBook* [INDRP/1002], *Croatia Airlines d.d. v. Modern Empire Internet Ltd.* WIPO Case No. D2003-0455, *Belupo*

d.d. v. WACHEM d.o.o. WIPO Case No. D2004- 0110,
Sampo plc v. Tom Staver WIPO Case No. D2006-1135,
Audi AG v. Dr. Alireza Fahimipour WIPO Case No.
DIR2006-0003).

- vii) In view of above Complainant concluded that Respondent has no rights or legitimate interests in respect of the Domain Name according to Paragraph 4(b) of the INDRP.

C. The Respondent has registered the disputed domain name in bad faith

[Rule 4(b)(vi)(3) of the INDRP Rules of Procedure and Rule 4 (c) and 7 (c) of the INDRP Policy]

- i) To bring its case within the ambit of third mandatory ingredient, in the ground as per the INDRP Policy, Complainant has submitted that Respondent was well aware of Complainant's trademark rights at the time of registration and that Respondent has been using the Domain Name in bad faith, even after being notified of the infringement of Complainant's rights via Complainant's contact request and Cease and Desist letter, sent on July 17, 2023, and the subsequent correspondence addressed to its attention.
- ii) Complainant states that indeed as already submitted, the trademark NESTLÉ was registered in 1973 and has been extensively used since many years and is certainly famous worldwide. The well-known character of the trademark NESTLÉ has been indeed also recognized, inter alia, in the various cases decided earlier the details of which have been given in the Complaint

- iii) Therefore, according to the Complainant, Respondent could not have possibly ignored the existence of Complainant's well known trademark when it registered the confusingly similar Domain Name . Several INDRP and UDRP decisions have confirmed that the well- known character of a trademark incorporated in a disputed domain name is a relevant circumstance in the assessment of bad faith registration. Decisions in support have been mentioned in the complaint.
- iv) Complainant has also submitted that another evidence of Respondent's knowledge of Complainant's trademark is the fact that Respondent created, using the Gmail mail service, the email address nestlebusiness2@gmail.com encompassing Complainant's trademark NESTLE, as per Respondent's contact information disclosed by NIXI to Complainant's representative after the filing of the original Complaint.
- v) Complainant further submitted that by using the Domain Name, Respondent has intentionally attempted to attract Internet users to its website, by creating a likelihood of confusion with Complainant's trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website or the activities promoted through the Respondent's website, according to Rule 7 (c) of INDRP Policy. Indeed, as highlighted above, the Domain Name has been (and still is) redirected to a website on which Complainant's trademarks are prominently featured and information on the NESTLE' group and products are provided, along with the contact details of Complainant's

Indian affiliated company. The name and image of Nestlé CEO are also featured on the home page. The content of such website demonstrates Respondent's actual knowledge of Complainant's trademark rights and appears to be designed to reinforce the impression that the Respondent's website is operated by Complainant or its Indian affiliated company. Furthermore, on said website Internet users are invited to apply to become official Nestlé distributors by submitting their personal information and an expression of interest in the type of business they are interested in.

- vi) It is further case of the Complainant that the circumstances of the case clearly suggest that Respondent's purpose in registering the Domain Name, which encompasses Complainant's mark NESTLÉ in its entirety, was to capitalize on the reputation of Complainant's trademark by diverting Internet users seeking business opportunities with Nestlé and/or information on NESTLÉ and its products to its own website, for commercial gain. Complainant has referred to the case titled Sparkol Limited v. Mr. Shripal [INDRP/1069] where it was held that "In light of the respondent's presumed knowledge of the complainant's rights, it is reasonable to infer that the respondent registered the disputed domain name without any intention of using it for genuine business or commercial activities. Also relied upon case titled Bulgari S.p.A. v DomainBook [INDRP/1002] (supra), where it was held that, "On perusal of the disputed domain name the Tribunal found out that the Respondent has used the disputed domain name to

intentionally attract internet website users to its website or the on-line location by creating a likelihood of confusion with the complainants Trade Marks as to source, sponsorship or affiliation or endorsement of the website 'www.bulgari.co.in'".

- vii) The Complainant further contended that from the facts of the case, there is no iota of doubt that Respondent has been using the Disputed Domain Name to obtain users' personal data, inducing them to believe that the activity promoted on Respondent's website is managed by Complainant or its Indian affiliated company. Such wilful conduct certainly cannot be considered as a bona fide use of the Domain Name, but to the contrary, besides tarnishing Complainant's trademark and company reputation, is also apt to further support the conclusion that the Respondent is acting in bad faith. Complainant has relied upon the decisions in the cases titled Amazon Technologies, Inc. vs. Jack Worli, INDRP Case No. 868, where the Panel confirmed that the fraudulent use of a domain name constitutes bad faith. See also, along the same lines, Juno Online Services, Inc. v. Carl Nelson, FA0402000241972, Amazon Technologies, Inc. v. Souders, FA 1503001610740, Veuve Clicquot Ponsardin v. The Polygenix Group Co., WIPO Case No. D2000-0163, Playboy Enterprises International, Inc. v. Hector Rodriguez, WIPO Case No. D2000-1016 in support of its contentions and averments.
- viii) Further, in addition to above, according to the Complainant, considering that MX records have been set up in the DNS

configuration of, it is likely that the Domain Name may be used for the receipt as well as for the sending of email communications from @nestleprofessionals.co.in addresses (like the one displayed on Respondent's website), which may mislead recipients into believing that the messages are sent by Complainant or one of its affiliated entities. Complainant again relied upon decisions in the cases titled bioMérieux v. Registration Private, Domains By Proxy, LLC / Milton Bardmess, WIPO Case No. D2020-3499 wherein it was held that "Given the Respondent's lack of rights or legitimate interests in the disputed domain name, and the confusing similarity of the disputed domain name to the Complainant's distinctive trademark, any use of the disputed domain by the Respondent for email communication would almost certainly imply an affiliation with the Complainant that does not exist, and so would be a use in bad faith. The establishment of MX records for a domain name is a use of it. Where the use of the disputed domain name sets up the Respondent to engage in behaviour that would falsely imply an affiliation with the Complainant that is a use of the disputed domain name in bad faith".

- ix) In view of the above, in the light of above, Complainant asserts that it is clear that the Domain Name was registered and is being used by Respondent in bad faith according to Paragraph 4(c) of the INDRP.

9. **REMEDIES SOUGHT:**

[As per Para 10 of the INDRP and Rule 4 (b) vii of the INDRP Rules of Procedure]

In accordance with Paragraph 10 of the INDRP Policy and Paragraph 4(b) (vii) of the Rules the Complainant prayed for the Transfer the disputed Domain Name to the Complainant Société des Produits Nestlé S.A. by Respondent.

10. **DISCUSSIONS AND FINDINGS:**

As in the present case, the Respondent has failed to submit any reply/response to the Complaint filed by the Complainant, therefore, the averments as well as contentions and documents annexed with the Complaint have gone unrebutted and unchallenged. However, it is well settled law that even in a case where the Defendant/Respondent chooses not to contest even then the Appellant/Plaintiff/Complainant is required to prove its case with cogent and reliable evidence. In the present case, the Complainant has been able to sufficiently prove its absolute ownership and complete authorization in respect of trademark "NESTLE" and its variations established worldwide. The Complainant has also been able to prove 3 ingredients of the policy and it has been established that: a) *The disputed domain name is confusingly similar to the trademark in which Complainant has right, and b) The respondent has no rights or legitimate interest in the domain name, and c) The respondent's domain name has been registered and is being used in bad faith.* The decisions cited by the Complainant are also applicable to the facts of the case. Further, the decision in INDRP Case No. 1722/2023 fully supports the case of the Complainant and in fact has put the matter in respect of the disputed domain name, to rest.



11. **CONCLUSION:**

As evident from the findings above, since, the Complainant has proven its case as required under the INDRP Dispute Resolution Policy, therefore, the Complaint is allowed and the following award is being passed in favour of the complainant and against the Respondent.

12. **AWARD:**

In view of above, it is awarded that the disputed domain name **<NESTLEPROFESSIONALS.CO.IN>** be transferred to the complainant. Accordingly, the registry is directed to transfer the said domain name in favour of the Complainant. It is further ordered that the Respondent is barred from using the mark **<NESTLEPROFESSIONALS.CO.IN>** and therefore, shall immediately be ceased to use the said domain name in any manner whatsoever.

13. **COST:**

In view of the facts and circumstances of the Complaint fully detailed in the Award, the cost of the proceedings are also awarded in favour of the Complainant and against the Respondent.



(Sajal Koser)
Arbitrator
19.01.2024