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ARBITRATION AWARD

.IN REGISTRY – NATIONAL INTERNET EXCHANGE OF INDIA
.IN domain Name Dispute Resolution Policy
INDRP Rules of Procedure

IN THE MATTER OF:

SUN PHARAMACEAUTICAL INDUSTRIES LTD.
Sun House, Plot No.201 B/ 1,
Western Express Highway,
Goregaon (E), Mumbai 400 063 .....Complainant

VERSUS

Mr. Suresh Nallagundla,
Flat no 6 15, Vasant Nagar,
Kukatpally, Hyderabad -500081,
Andra Pradesh ..... Respondent

1. The Complainant in this administrative proceeding is Sun Pharamaceautical Industries Ltd., Sun House, Plot No.201 B/ 1, Western Express Highway, Goregaon (E), Mumbai 400 063 represented through Mr. Prashant Mule, Legal Manager and Constituted Attorney. The Respondent is Mr. Suresh Nallagundla, Flat no 6 15, Vasant Nagar, Kukatpally, Hyderabad -500081, Andra Pradesh.

2. The disputed domain name www.sunpharma.co.in has been registered by the Respondent. The Registrar with whom the disputed domain is registered is GoDaddy.com, LLC.

3. The Complaint was filed with the. In Registry, National Internet Exchange of India (NIXI), against Mr. Suresh Nallagundla, Flat No. 615, Vasant

Nagar, Kukatpally, Hyderabad -500081, Andra Pradesh. The NIXI verified that the Complaint together with the Annexures to the Complaint and satisfied itself about the compliances of the formal requirements of the .in Domain Name Dispute Resolution Policy ("The Policy") and the Rules of Procedure ("The Rules"). In accordance with the Rules, Paragraph-2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed me as a Sole Arbitrator for adjudicating upon the dispute in accordance with The Arbitration and Conciliation Act, 1996, Rules framed there under .In Dispute Resolution Policy and Rules framed there under on December 7, 2016. The parties were notified about the appointment of an Arbitrator on December 7, 2016. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by NIXI to ensure compliance with the Rules (paragraph-6).

4. The Complainant is engaged in the manufacturing, marketing and exporting wide range of pharmaceutical and medicinal preparations and is the 4th largest Generic Pharmaceutical Industry since the year 1978 and is claimed to be known as "SUN"/ "SUN PHARMA"/ SUN PHARMA-GROUP with a total income to the tune of 2,88,867 (Million Rupees) for the Financial Year 2016. The Complainant is referred to and known in the market and by all relevant section of the consumers as SUN PHARMA. The complainant is also referred to as SUN PHARMA in the stock market. The trademark

"SUN PHARMA" is registered under no. 1564369 in class 5 as of in the name of the complainant in respect of Medicinal and Pharmaceutical Preparations and Substances. In addition, the complainant is registered proprietor of various trademarks in consisting of the word SUN and/or SUN PHARMA in respect of variety of goods and/or services falling in different classes, as detailed in paragraph 20 of the complaint. The complainant has also obtained registration of the trademark SUN and/or SUN PHARMA in different countries in the world as detailed in paragraph-21 of the complaint. The domain names containing the mark SUN PHARMA as an essential feature are also registered in the name of the complainant as per details mentioned in paragraph-22 of the complaint. Large number of subsidiary companies have also been established by the complainant by using the mark SUN/SUN PHARMA as an essential and leading portion of its corporate name as detailed in paragraph-23 of the complainant. On the basis of the prior use, registrations and the goodwill acquired by the mark SUN PHARMA, the complainant has claimed an exclusive right to the use thereof as a trademark/trade name or as part of its domain name. The averments made in the complaint are duly supported by the documents marked as Exhibit-A to Exhibit-I to the complaint.

5. The respondent obtained registration of domain name www.sunpharma.co.in on 22.08.2016 and was put to sale within 8 minutes of securing registration. A cease and desist notice dated

27.08.2016 was served on the respondent to surrender the impugned domain name, however, no response to the notice was received. Consequently, the complainant proceeded to file the present complaint.

6. On service of the copy of the complaint, documents attached thereto and notification for the appointment and commencement of arbitration proceedings, the respondent vide e-mail of December 9, 2016 communicated his consent for transfer of the disputed domain name <www.sunpharma.co.in> in favour of the complainant.

7. Since the respondent has not disputed any of the claims made by the complainant and has voluntarily agreed to transfer the impugned domain name <www.sunpharma.co.in> in favour of the complainant, this panel do not consider it necessary to elaborate the fulfilment of the three elements under the policy.

i. that the respondent's domain name is identical or confusingly similar to the trade mark/service mark in which the complainant has a right;

ii. that the respondent has no right or legitimate interest in the impugned domain name;

iii. that the domain name was registered or is being used in bad faith, for determination of

the proceedings are not disputed by the respondent and are deemed to have been admitted. Consequently, this panel does not consider it necessary to enter into debate on the establishment of all three elements of the policy.

8. The deemed admissions made by the respondent to the averments made in the complaint and submitting to the order for transfer of the disputed domain name in favour of the complainant clearly demonstrate the fulfilment of all three elements of the policy.

9. In view of the above this panel direct to transfer of impugned domain name <www.sunpharma.co.in> in favour of the complainant, with no order as to costs.

AMARJIT SINGH
Sole Arbitrator

Dated:21st January, 2017