



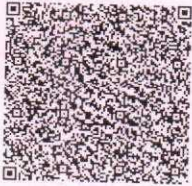
सत्यमेव जयते

INDIA NON JUDICIAL

Chandigarh Administration

e-Stamp

Certificate No. : IN-CH51749796416684W
Certificate Issued Date : 23-Aug-2024 02:54 PM
Certificate Issued By : chjeevanu
Account Reference : NEWIMPACC (GV)/ chspicg07/ E-SMP KIOSK SEC-43/ CH-CH
Unique Doc. Reference : SUBIN-CHCHSPICG0700520284593904W
Purchased by : RAJESH KUMAR
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. 1887 OF 2024

DISPUTED DOMAIN NAME: <NOGRAPHARMA.IN>

IRD 00216213.79

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3. In case of any discrepancy please inform the Competent Authority.

**NOGRA PHARMA LIMITED, 33 Sir John Rogerson's Quay, Dublin 2
D02 Xk09, Ireland.**

...Complainant

Versus

**Nogra Pharma, C/o.Endurance Digital Domain Technology LLP, Plot
No.8-15, Wisdom Heights, Ground Floor, Road no.10, Banjara Hills,
Hyderabad, Telangana - 500034. Email: support@nographarma.in.**

...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 07.08.2024, appointing undersigned as an Arbitrator in response to which vide email of the same day dated 07.08.2024, the undersigned submitted Statement of Acceptance and Declaration of Impartiality and Independence.
- ii) Thereafter, vide email dated 09.08.2024 from NIXI, undersigned received copies of the complaint along with the annexures, which were also emailed/sent to the Respondent at its email ID.

- iii) That subsequent thereto vide mail dated 09.08.2024, Complainant submitted amended complaint with details of the Respondent/Registrant based on the Whols details sent by NIXI.
- iii) That thereafter, vide email dated 10.08.2024, a fresh Notice to the Respondent was issued in accordance with INDRP Rules of Procedure calling upon the Respondent to furnish reply/response within 15 days from the date of this notice.
- iv) That as the Respondent did not file any reply/response within the stipulated period of 15 days, thereafter, vide order dated 26.08.2024, the opportunity given to the Respondent to file reply/response, if any, to the Complaint was closed by order and the case was fixed for passing award, exparte.

3. THE PARTIES, DOMAIN NAME AND REGISTRAR:

The present Complaint is REGARDING DISPUTED DOMAIN NAME <nographarma.in>. The Complainant in this administrative proceeding is Nogra Pharma Limited, a company incorporated under the laws of Ireland, of the address 33 Sir John Rogerson's Quay, Dublin 2 D02 Xk09 Ireland. (hereinafter referred to as "Complainant"). Further details including the contact details of the Complainant is mentioned in para 2 (a) to (c) of the Complaint. The Respondent's contact details are mentioned in para 2 (d) and (e) of the Complaint. The domain name and registrar is mentioned in para 3 of the Complaint. As per the Complainant, the present dispute is properly within the scope of the Policy and the Administrative Panel has Jurisdiction to decide the dispute. The registration agreement, pursuant to which the domain name that is the subject of this

Complaint is registered and incorporates the Policy. A true and accurate copy, to the best of the Complainant's knowledge, of the registration agreement and domain name dispute policy that applies to the domain name in question has been annexed as **Annexure-D** with the Complaint.

4. FACTS AND LEGAL BACKGROUND:

As per the averments made in the Complaint, the Complainant is a pharmaceutical company based in Dublin, Ireland. The company specializes in the development and management of new therapeutic agents for the treatment and management of immune-inflammatory-mediated diseases. The Complainant engages in research and development (R&D) from target validation to Phase II proof-of-concept clinical studies. Further, it is averred that the Complainant focuses on several platforms and therapeutic areas such as (i) an Oligonucleotides Platform which involves developing oligonucleotides-based therapeutics aimed at modulating disease-associated protein expression, particularly for immune-inflammatory diseases. This includes the development of specific drugs designed based on DNA/RNA sequences (ii) an AhR Platform which explores the aryl hydrocarbon receptor (AhR), which is crucial in regulating immune responses in skin and mucosal tissues which targets conditions like psoriasis, atopic dermatitis, and ulcerative colitis and (iii) an SPPARM Platform which focuses on selective peroxisome proliferator-activated receptor diseases. This involves the regulation of organ homeostasis, inflammation, and fibrosis.

It is further case of the Complainant that the Complainant's business model is centered on establishing long-term R&D partnerships with

universities and research institutes to source innovative therapeutic targets. The Complainant also collaborates with pharmaceutical and biotech companies to complete the development process and commercialize products. The company uses strategic outsourcing for R&D, manufacturing, and distribution while retaining control over strategic planning and management of clinical, nonclinical, regulatory activities, and intellectual property. The details of the same are in their website, are attached as **Annexure - A** with the Complaint.

Further according to the Complainant, the Complainant has been providing products and services under the trademark Nogra Pharma/Nogra since 2012 globally. The complainant's rights in the mark are further evidenced by it is trademark registrations and applications worldwide, India including, without limitation, the following applications, the copies of which are attached as **Annexure - B** with the Complaint. The Complainant has also submitted in tabular form the details of the trademarks listed worldwide in various countries including India.

The Complainant has submitted that despite of above, the Respondent had registered the disputed domain name in 2022 and subsequently went live in 2024 and falsely claims association with the complainant as the impugned domain redirects to the Complainant' website. This misrepresentation can mislead customers and partners into believing an association with the Complainant, causing potential reputational damage and business loss to Complainant. The Respondent had registered the disputed domain name www.nographarma.in without any authorization whatsoever from the Complainant.



In view of the above facts, the complainant has filed the present complaint on the following grounds:

1. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.
2. The Respondent has no rights or legitimate interests in respect of the domain name.
3. The domain name was registered and is being used in bad faith.

Now, the averments made by the Complainant towards the fulfillment of requirements as provided in para 4 (a) to (c) of the IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP) is taken one by one as under:-

A) THE DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO A TRADEMARK OR SERVICE MARK IN WHICH THE COMPLAINANT HAS RIGHTS

It is submitted by the Complainant that the disputed domain www.nographarma.in is identical to the Complainant's domain name www.nographarma.com in its entirety and is identical to the Complainant's trademarks globally and in India as specified above. The Respondent has adopted such a deceptively similar domain name with an ill-intent to ride on the Complainant's hard-earned reputation and misuse the well-recognized and globally popular mark. The mark has been highly publicized by the complainant and has earned a considerable reputation in the market. It is further case of the complainant that based on the Respondent's adoption and use of domain names that is identical to the complainant's domain

name, in its entirety, the Complainant believes that Respondent is using and has used the disputed domain name to intentionally attempt to attract internet users and consumers looking for legitimate complainant's services by creating a likelihood of confusion with the Complainant, all for commercial gain. According to the Complainant, such Confusion may cause the Internet users to associate the word "nogra pharma" with the goods and services of the complainant and the web users would reasonably expect to find the complainant's products and services at the disputed domain and they may believe it is an official website of the complainant and the services being offered/advertised are associated or licensed by the complainant.

B) THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DOMAIN NAME

Complainant in the Complaint has stated that the Respondent has no rights or legitimate interests in respect of the domain name as the complainant has not authorized the Respondent's registration of the disputed domain name. Further, according to the Complainant, there is no evidence to suggest that the Respondent has used or made any demonstrable preparations to use the domain name in connection with a bona fide offering of goods or services prior to any notice of the dispute. In fact, the Respondent has redirected to the website traffic to the Complainant's website. However, while retaining the domain, the Respondent can use the impugned domain as an email



address to pass of their products and services and create a false impression of association with the Complainant.

C) THE DOMAIN NAME WAS REGISTERED AND IS BEING USED IN BAD FAITH

To fulfill this requirement, it is mentioned in the complaint that initially, the Respondent appears to have registered the domain name without providing any relevant information and it was only a "parked domain," however it has recently begun redirecting to the complainant's domain and this redirection is not authorized and has serious consequences, including misleading consumers, potentially compromising the complainant's reputation, and causing potential disruption to the complainant's business operations. This unauthorized use and redirection are indicators of bad faith, which proves that the respondent the disputed domain without any legitimate purpose, intending to misleadingly divert consumers for commercial gain or to tarnish and infringe the complainant's trademarks, hard earned reputation and goodwill in India and around the world.

The Complainant further submits that these circumstances indicate that the Respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the registration to the owner of the trademark or service mark (the Complainant) or to a competitor of the Complainant for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the domain name. Also, the Respondent registered the domain name to

prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, and the Respondent has engaged in a pattern of such conduct. It is also averred by the Complainant in the Complaint that the domain name was registered primarily to disrupt the business of a competitor. By using the disputed domain name, the Respondent intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other online location by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location, or of a product or service on the Respondent's website or location. This registration in bad faith is evident, especially since the domain name registration occurred after the Complainant's trademark rights had accrued.

In support of above averments and submissions the Complainant has relied upon the following cases:

1. LEGO Juris A/s. V. Martin, IDR/125 (2008)
2. Starbucks Corp. V. Mohanraj, INDR/118 (2009)
3. Standard & Poor's Financial Services LLC V. Gao Gou, INDR/576(2014)

Based upon above, the Complainant has prayed for the transfer of the disputed domain name <NOGRAPHARMA.IN>.

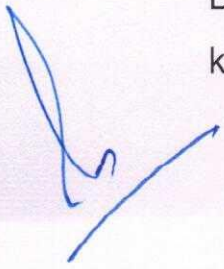
5. RESPONSE/REPLY OF THE RESPONDENT:

As already stated since the Respondent has not submitted any reply/response, thereby, legally speaking, the contents of the

Complaint and the annexures thereto have gone unrebutted and unchallenged, giving them the status of being admitted which is the form of best evidence, however, as the Complainant is also legally required to prove its case even if the same is being decided ex-parte, therefore, the undersigned has carefully gone through the contents of the Complaint and supported documents.

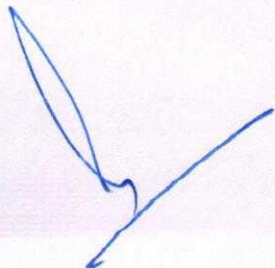
6. **DISCUSSION/FINDINGS OF THE ARBITRATOR:**

From the pleadings supported by documents on record, the Complainant has been sufficiently able to prove its case and also fulfilled the essential ingredients of the INDRP Policy in the legal and factual grounds. The decisions cited also support the case of the Complainant. From the averments and documents on record as evidenced by the Complainant, it has been established that the complainant has sufficiently established its rights in and to the ownership of the NOGRAPHARMA Trademarks and that the Complainant has acquired the exclusive right to the use of the NOGRAPHARMA mark and also the Complainant has been able to prove that the mark " NOGRAPHARMA" is a well- established name in India and other countries. The Complainant has further established that the "NOGRAPHARMA", is popularly known exclusively concerning the Complainant and as the mark NOGRAPHARMA of the Complainant is well-known, the inclusion of the well- known mark "NOGRAPHARMA" in the Disputed Domain Name reflects the malafide intention of the Respondent to use the Disputed Domain Name) and the Respondent's registration of a Disputed Domain Name wholly incorporating the Complainant's well-known trademark tantamount to create confusion in the minds of the



public at large. Also, as the contents of the Complaint and documents annexed which have gone unrebutted, the Complainant has been able to prove the ingredients of sub paras (a) to (c) of Clause 4 of the INDRP dispute Resolution Policy. From the contents and grounds mentioned in the Complaint, it has been proved on record that the Disputed Domain name is identically similar to the trademark/domain name in which the Complainant has full ownership rights. It has also been proved that the Respondent has no rights or legitimate interest in respect of the Domain name and also that the domain name has been registered by the Respondent malafidely as well as dishonestly and is being used in bad faith. The Complainant has been able to prove its case in terms of relevant mandatory clauses of the INDRP as and wherever applicable. Since, the Respondent has not chosen to contest the present case, therefore, this Tribunal has no other alternative but to consider and accept the unrebutted contentions of the Complainant as made out in the Complaint which, however, are supported and proved by the documents on record.

Though, the Complainant has omitted to comply with certain conditions as provided in clauses (viii) and (ix) of the INDRP Procedure which relates to certain certification/declaration, however, since, it is settled law that the rules of procedure are handmaid of justice, essentially intended to sub serve the cause of justice, therefore, the said omission will not come in way of the complainant who otherwise has proved his case which otherwise also has gone uncontested.



7. **CONCLUSION:**

In wake of the abovementioned facts, documents, response of the Respondent, discussions and findings given above, the present Complaint is allowed and the following award is being passed in favour of the complainant and against the Respondent.

8. **AWARD:**

In view of above, it is awarded that the disputed domain name <NOGRAPHARMA.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 <NOGRAPHARMA.IN> and therefore, shall immediately be ceased to use the said domain name in any manner whatsoever.

9. **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
28.08.2024