



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

₹100

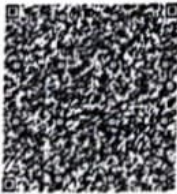
e-Stamp

Certificate No.
Certificate Issued Date
Account Reference
Unique Doc. Reference
Purchased by
Description of Document
Property Description
Consideration Price (Rs.)

First Party
Second Party
Stamp Duty Paid By
Stamp Duty Amount(Rs.)

: IN-DL27365116655948X
: 30-Jan-2025 03:33 PM
: IMPACC (IV)/ dl886703/ DELHI/ DL-DLH
: SUBIN-DL88670398997563758339X
: V P PATHAK
: Article 12 Award
: Not Applicable
: 0
: (Zero)
: V P PATHAK
: Not Applicable
: V P PATHAK
: 100
: (One Hundred only)

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IN-DL27365116655948X

Statutory Alert:

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V. P. PATHAK
H.J.S.
Former Judge
Sole Arbitrator

**BEFORE THE .IN REGISTRY OF INDIA
INDRP CASE NO. 2002
IN THE MATTER OF AN ARBITRATION UNDER THE .IN DOMAIN NAME
DISPUTE RESOLUTION POLICY; THE INDRP RULES OF PROCEDURE
AND THE ARBITRATION CONCILIATION ACT, 1996**

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**BEFORE THE .IN REGISTRY OF INDIA
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AND THE ARBITRATION CONCILIATION ACT, 1996**

Abbott GmbH

Max-Planck-Ring 2, Wiesbaden 65205, Germany

.... Complainant

Versus

Suncare Formulations Pvt. Ltd.

113, Basement, DSIDC Complex,
Okhla Industrial Area 1,
New Delhi - 110020, India

....Respondent

**DISPUTE RELATING IN THE DOMAIN DISPUTE NAME
www.digene.in**

Award Dated- 27.06.2025

**BEFORE V.P. PATHAK
SOLE ARBITRATOR
AT NEW DELHI**

⇒ DISPUTED DOMAIN NAME & REGISTRAR-

The disputed domain name is registered through the Registrar of the disputed domain name www.GoDaddy.com LLC, which is accredited with the .IN registry and is listed on the of the website of the .IN registry.

⇒ ARBITRATION TRIBUNAL-

1. The Complainant has filed this Complaint for the disputed domain name, to be transferred to it. To decide this Complaint, NIXI has appointed the undersigned as Arbitrator. A consent letter with a declaration of impartiality by the undersigned to decide this case was sent to NIXI on 16.05.2025.

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2. NIXI appointed the undersigned as Arbitrator on 21.05.2025, and on the same day this Tribunal ordered the Complainant to send the hard and soft copies of the Complaint along with annexures to the Respondent. The order was followed by the Complainant and the soft and hard copies, along with the annexures, were served to the Respondent on 22.05.2025, through email and a postal receipt of the hard copy dated 22.05.2025 was attached. The Tribunal sent notice to the Respondent on 29.05.2025 for a reply, but no reply was filed. In the interest of justice, the Tribunal gave an extension to the Respondent for 5 days on 14.06.2025.
3. As per **Rule 5 of the INDRP Rules** the Tribunal issued a notice dated 29.04.2025 calling upon the Respondent to file its reply on the Complaint within fifteen days from the date of receipt of the notice and rejoinder within fifteen days thereafter, and the Respondent complied with the above directions and replied to the extension notice sent to it on 14.06.2025 by replying to it on the same day.
4. The Tribunal is constituted under the INDRP Policy and Rules. Under rule 13, the arbitration proceedings must be conducted according to the Arbitration and Conciliation Act, 2019 (as amended up to date), read with the Arbitration & Conciliation Act, Rules, Dispute Resolution Policy and its by-laws, and guidelines, as amended from time to time.
5. As mentioned above, the Respondent has replied to the extension notice on 14.06.2025. Based on the facts of the case, the Tribunal will decide the present award.

⇒ **PARTIES TO THE ARBITRATION-**

6. The Complainant herein, Abbott GmbH, is a company organized and incorporated under the laws of Germany, having its registered office at the address Max-Planck-Ring 2, Wiesbaden 65205, Germany. The Complainant is a part of Abbott Laboratories, one of the leading global pharmaceutical and healthcare companies, incorporated in **1888** and headquartered in Abbott Park, Illinois, United States of America. The Complainant is the German headquartered wing of Abbott Laboratories, which develops and manufactures pharmaceuticals as well as diagnostics in Germany.
7. The Complainant's group companies are amongst the founders of the scientific practice of pharmacy and are a leading worldwide healthcare company devoted to the discovery, development, manufacture, and sale of healthcare products and services, including diagnostics, pharmaceuticals, nutritional and hospital products.
8. The Complainant's group of companies employs over 114,000 people carrying out operations in over 160 countries, including India for over 135 years and the consumers are well aware of the Complainant's existence and its products.
9. The Complainant's group company's core businesses focus on pharmaceuticals, medical diagnostics, medical devices and nutritional products, which have been supplemented through several notable acquisitions. The primary business areas are segregated into the following divisions:

Pharmaceuticals: High-quality branded generic pharmaceuticals for numerous areas, including the digestive system, heart health, women's health, respiratory illness, central nervous system/pain and influenza vaccines;

Diabetes Care: Glucose monitoring devices and medicine;

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Diagnostics: Haematology, immunodiagnostic, oncology and clinical chemistry;

Molecular: Analysis of DNA, RNA, and proteins at the molecular level;

Nutrition: Baby nutrition, adult health products and special dietary needs for patients with identified medical needs;

Vascular: Stents, vessel closure devices, endovascular and coronary technologies

10. The Complainant's group company/affiliate was established in India in the year **1910** and reaches customers through a large network of distribution points, catering to multiple stockists and retail outlets, in India alone.
11. The Complainant is positioned as a market leader for its key brands in pharmaceuticals, nutrition, devices, and diagnostics, which occupy top positions in relevant categories. The relevant section of the public, trade and medical fraternity is, thus, well aware of the existence of the Complainant and the goods and services offered by them.
12. The Complainant has a long and significant presence on the World Wide Web and is the registered owner of the domain names <https://www.abbott.com/> (registered on 19th April 1988) and <https://www.abbott.co.in/>, (registered on 04th June 2002) wherein detailed information on the Complainant and its group companies along with global operations can be viewed. **Annexure B**
13. The Complainant's predecessor in interest, right and title, the Boots Pure Drug Company Limited, coined the inherently distinctive and unique trade mark **DIGENE**. The Complainant's adoption of the said inherently distinctive trade mark **DIGENE** dates back to 1942, at a time when no such mark was known or in use in respect of Class 05 goods, and the Complainant/its predecessors have extensively and continuously used the trade mark in India for several decades.
14. The Complainant has been using the trade mark **DIGENE** as an antacid, which has enjoyed the position of a market leader since its launch. On today's date, **DIGENE** has established itself in India as a heritage brand, which has become a household name. **Annexure C**
15. The products under the trade mark **DIGENE** are trusted and recommended by doctors and medical practitioners, which distinctly corroborates the fame and phenomenal reputation enjoyed by the Complainant's brands, including under the said inherently distinctive mark **DIGENE**. The Complainant's products under the trade mark **DIGENE** are widely available through their authorized distributors, pharmacies, independent e-commerce platforms and online pharmacies. It is pertinent to mention that **DIGENE** is a flagship product of the Complainant.
16. The trade mark **DIGENE** finds mention on several third-party websites. Moreover, the Complainant has carried out various awareness campaigns through different means and modes like- **DIGENE** #ControlKar campaign, Tapsee Pannu, notable actor also promoted the brand and many more such ads and campaigns. **Annexure D**
17. The Complainant is the proprietor and/or owner of the well-recognized and reputed trade mark **DIGENE**. In this regard, the Complainant, being conscious, particular, and vigilant of its Intellectual Property Rights, and to acquire statutory rights (in addition to pre-existing common law rights), has applied for and obtained registrations in respect of the trade mark **DIGENE** and various other **DIGENE**-formative marks in India. The Complainant is the owner of a domain name incorporating the trade mark **DIGENE** under both the generic top-level domain (TLD) '.com' (in the English language and vernacular). The Complainant's website <www.digeneindia.com> (which was registered on 12th January

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2007) prominently displays the various products and information related to the famous trade mark **DIGENE**. **Annexure E & F.**

18. Around February 2025, the Complainant discovered that the Respondent had unauthorizedly and illegally used and registered the disputed domain name, which incorporates the Complainant's registered trade mark **DIGENE**, without its consent as part of the Respondent's domain name <www.digene.in> (*hereinafter referred to as "impugned domain name"*) in connection with a website offering identical goods to those provided by the Complainant under the trademark DIGENE, specifically an antacid pharmaceutical preparation 'STOMAFIT'. Accessing the impugned domain name redirects the users to <www.suncareformulations.com/products/stomafit-liquid>. **Annexure G**
19. In the light of the glaring identity between the impugned domain name and the Complainant's registered trademark, an internet user may be misled when coming across the impugned domain name. Given that the Complainant's distinctive trademark DIGENE is blatantly and entirely copied by the Respondent in the impugned domain name, is sufficient to establish confusion.
20. The Complainant, Abbott GmbH, is part of Abbott Laboratories, an established global healthcare and pharmaceutical company. Its products span diagnostics, pharmaceuticals, nutrition, and medical devices. Abbott has been active in India since 1910 and holds a strong market presence with operations through Abbott India Ltd. and Abbott Healthcare Pvt. Ltd.
21. The Complainant is the registered proprietor of the trademark **DIGENE** and several DIGENE-formative marks in India, including registrations dating back to 1942 under Class 5 for pharmaceutical products.
22. **DIGENE** is a leading antacid brand in India and has been extensively used, marketed, and advertised for decades. It is a well-known mark and a flagship brand of the Complainant, widely available via authorized distributors, pharmacies, and online platforms. The brand has also been promoted through large-scale digital and media campaigns involving public personalities.
23. The Complainant also owns the domain name <www.digeneindia.com>, registered in 2007, which displays the DIGENE product line and relevant information.
24. In February 2025, the Complainant discovered that the Respondent, Suncare Formulations Pvt. Ltd., had registered the domain name <www.digene.in> on 30th January 2024. This domain redirected users to a page marketing 'Stomafit', an antacid product, which is similar to DIGENE and directly competes in the same market segment.
25. The impugned domain name <www.digene.in> is confusingly similar to the Complainant's registered mark and domain <www.digeneindia.com>. The only difference is the absence of the word "India" and the use of the ".in" country code, which adds to the likelihood of confusion.
26. The Complainant alleges that the Respondent has no legitimate rights in the trademark DIGENE, nor any authorization from the Complainant. The Respondent's use of the impugned domain name is asserted to be in bad faith and with the intent to ride on the goodwill and reputation of the Complainant's mark to promote competing goods.
27. The Complainant asserts that the Respondent's conduct disrupts its business, confuses consumers, and causes dilution of its well-known trademark. It has therefore initiated arbitration proceedings seeking the transfer of the impugned domain and costs.

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28. **Rule 2 of the INDRP Rules of Procedure** provides for communication/services of the Complaint. Per this rule, the Respondent was sent a copy of the Complaint at the email shown in the domain name registration data in the .IN Registry's WHOIS database.
29. On 21.05.2025, the Tribunal had ordered the Complainant to send the Respondent the soft and hard copy of the Complaint along with annexures. On 22.05.2025, the Complainant sent the hard and soft copy of the Complaint to the Respondent and intimated the Tribunal about the same. In another following email dated 22.05.2025, the Complainant sent an email which stated that "the Complaint was officially submitted to the .IN Registry on 3.04.2025, and the Respondent was copied in that email."
30. Further, on 15.04.2025, the Complainant received an email from the Respondent in which it mentioned that "they received the Complaint and are willing to deactivate and surrender the domain www.digene.in immediately, accepting that the domain was purchased inadvertently (by mistake) & requested that the Complainant withdraw the Complaint." However, the Complainant mentioned that it did not reply to the email and have not taken any action, and on 17.04.2025, the IN Registry locked the domain, meaning no changes (like transfer or deletion) can be made to it.
31. After this, the Respondent was sent a notice by the Tribunal dated 29.05.2025 to file a reply to the Complaint but no reply was sent. The Tribunal, in the interest of justice, again on 14.06.2025, sent an extension notice to the Respondent wherein the Respondent stated that due to a typographical error in the email address, the mail could not be sent earlier and hence on 14.06.2025, the Respondent sent its reply again.
32. The Respondent in its reply has mentioned the following-
- The Respondent has authorized Mr. Ravi Ranjan Verma (Office Manager) via a Board Resolution dated 17.08.2018 to handle legal matters on its behalf.
 - Upon receiving the Complainant's email, the Respondent acted promptly, admitting that the domain name www.digene.in was inadvertently purchased. An email dated 15.04.2025 was sent to the Complainant confirming this, along with a request for deactivation.
 - The Respondent states that the domain has been fully surrendered and deactivated & regret the unintentional registration and confirms that necessary steps have been taken to avoid recurrence.
 - The Respondent has prayed to this Tribunal that, since the domain has been deactivated and there is no ongoing dispute, the Tribunal is requested to not pass any adverse orders, damages, or costs. They also suggest that the Complaint may now be withdrawn.
33. The same email was sent to the Complainant, and there was no objection from it. Hence, the Tribunal has now moved forward with the passing of the Award.

⇒ **CONCLUSION-**

34. Considering the above facts, the Tribunal is of the view that since the Respondent has acknowledged its mistake as soon as the Complaint was sent to it, the Respondent has taken down the domain name and deleted it. The relief sought has already been achieved, and hence there is nothing more to decide.

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35. In addition to everything mentioned above, it is pertinent to mention that the Respondent is not using the Complainant's domain name anymore and has admitted the fact that it was mistakenly bought by their marketing team.
36. The Complainant has the full right and ownership of the domain name "DIGENE" & "digene.in."
37. In the interests of natural justice, the Tribunal is of the view that since both parties have joined hands, the Complaint should be allowed.
38. This Award is being passed as per Clause 5 (e) of the INDRP Rules and the Arbitration Act, 1996.

ORDER-

- a. The.IN Registry of NIXI is directed to transfer the disputed domain name "DIGENE.IN", if so far not deleted or transferred, to the Complainant forthwith. Registry to do the needful.
- b. Parties to bear their own costs.
- c. This Award is passed today at New Delhi on 27.06.2025.

V.P.Pathak
V. P. PATHAK
H.J.S.
Former Judge
Sole Arbitrator
VP Pathak
Date- 27.06.2025