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SI.No. 13001

Date: 19/5/2022

Sold to

For whom

Dr. Vedula. Gopinath s/o (L) V.K. Chenudu.

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BOLAGANA RAMA RAO
LICENCED STAMP VENDOR

L.No. 03/11/001, 1990 RL.No. 03/11/05/2020
51-4-3/1, Seethammadhara
Visakhapatnam, Cell: 9849243254

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**BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA
IN DOMAIN NAME DISPUTE POLICY (INDRP)**

**Dr. Vedula Gopinath, Sole Arbitrator
Arbitration Award in Case No.1564 dated 5th July 2022
In the Matter of Arbitration**

Between

M/s. Khadi & Village Industries Commission,
"Gramodaya", 3, Irla Road, Vile
Parle (West), Mumbai,
Maharashtra, India.
Pin - 400056.

(Complainant)

And

Ranjit Singh
C-5, Satsang Vihar
Jagadhari
YAMUNANAGAR 135003 India

(Respondent)

I. The Parties

a. The Complainant viz., Khadi & Village Industries Commission's
Authorized representatives in these administrative proceedings are

Attorneys Shweta Sree Majumder/Shreya Ganguly

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F-12, Ground Floor,
Sector 8, Noida-201301
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b. Respondents

Respondent has not authorized any legal representative.

II. Disputed Domain Name & Registrar

a. The following domain name is the subject of this Complaint.
<khadihealthcare.in>




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- b. The registry is the National Internet Exchange of India (henceforth referred to as NIXI).
- c. The sponsoring Registrar with whom the domain name is registered is indicated below
- Endurance Digital Domain Technology Limited
501, IT Building No.3, NESCO IT Park, NESCO Complex
Western Express Highway, Gorgeon (East)
Mumbai 400003 India
email compliance@publicdomainregistry.com

III. PROCEDURAL HISTORY / BACKGROUND:

06-06-2022	The .1N REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator from its panel as per paragraph 5 of INDRP Rules of Procedure.
07-06-2022	Consent of the Sole Arbitrator along with declaration was given to the .1N REGISTRY according to the INDRP Rules of Procedure.
06-06-2022	.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 Respondent.
07-06-2022	Notice of Arbitration was sent to all concerned by the Sole Arbitrator
08-06-2022	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.
10-06-2022	The complainant has served the complaint on the Respondent which was duly noted by the Tribunal.

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




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IV. Complainant's Business Activities.

1. The Complainant is a statutory body formed in April 1957 by the Government of India, under the Act of Parliament, 'Khadi and Village Industries Commission Act of 1956, and the apex organization established under the Ministry of Micro, Small and Medium Enterprises ("MSME") having objectives of rural employment, self-reliance and building rural community spirit.
2. The Complainant plays an important role in the Indian economy as it generates employment in about 2.48 lakh villages throughout the country creating vast employment. Its head office is in Mumbai, and having six zonal offices at various Metros, and has an offices network in all 28 states of India.
3. The Complainant has been carrying on work related to the implementation of programs for the development of Khadi and other Village Industries ("KVI") in the rural areas. The programs offered by the Complainant are to promote products under the trademark KHADI. The Complainant implements all Government social welfare schemes for the improvement of the rural economy.

V, Complainant's Use of The Khadi Trademarks.

- 1.. The Complainant is engaged in the promotion and development of the KHADI brand and the products under the KHADI trademark through the institutions authorized and certified by the Complainant. It regulates, controls, certifies and authorizes specifically to deal with the Khadi products and use of its Trade Mark/Name Khadi products.
2. The KHADI trademarks are prominently featured on boards and hoardings of each store that is authorized to sell products under the KHADI trademarks. Wider publicity is given to Khadi Products and its trademark through hoardings, Display boards, and participation in Exhibitions, Fashion Shows, and collaboration with other reputed Brands to further the image of Khadi products and its Trade Names/Marks by participation in exhibitions in India and abroad.
3. The Complainant's products under the KHADI trademarks have been widely promoted through print and electronic media which includes television programs, advertisements, articles, and write-ups appearing in leading newspapers, magazines, journals, shopping festivals, and exhibitions. It also operates social media platforms such as FaceBook, Twitter, YouTube, etc.




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4. Complainant strongly believes that long Years of continuous efforts, time, capital, painstaking efforts, and resources have been invested under which the KHADI trademarks have attained immeasurable goodwill and reputation so much so that the "KHADI" trademarks have attained a paramount position and are identified exclusively with the Complainant.

5. The Complaint is based on Trademarks KHADI and its variations, registered in favor of the Complainant and used in connection with goods sold and services offered by the Complainant and its authorized/approved/licensed members. The complainant owns various registrations under various classifications for the word mark **KHADI INDIA** (both in English and Hindi versions) and all,1 registrations are claimed to be currently valid and subsisting. Details of registrations of KHADI trademarks have been furnished and marked as Annexure A&D to the complaint. Few representative marks are appended below.



6) The Complaint's **KHADI** Trademarks are also registered in other jurisdictions/ regions including International Registration and Australia Registration. Details are furnished marked as Annexure E. of Complaint.

7) By its adoption more than sixty years ago, and extensive use thereof, the trademark **KHADI** has become exclusively and globally associated with the Complainant in the eyes of consumers. deception among the patrons, members of the trade, consumers, and the general public.

VI. PARTIES' CONTENTIONS/AVERMENTS

- a) The complainant has alleged that the domain name of the respondent is identical and confusingly similar to their trademark in which it has rights.
- b) The complainant has alleged that the respondent does not have rights or legitimate interest in respect of the domain name and also the respondent has no registered trademark rights of the said domain name. The complainant has



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further alleged that the respondent is seeking the advantage of the well-known trade name and trademark of the complainant (KHADI) by suffixing the word "healthcare" and is thereby tarnishing the reputation and trademark at issue.

- b. The complainant has further alleged that the disputed domain name is registered by the respondent and is used in bad faith. The complainant has submitted that its trademarks are well known in India and abroad. The complainant has alleged that the respondent is misleading potential customers about their website. The complainant has further alleged that the respondent is tarnishing the complainant's reputation. The complainant has further alleged that the intention of the respondent could be the creation of a likelihood of confusion with the complainant's company name and trademark and therefore the respondent has registered the disputed Domain name in bad faith. The complainant has further alleged that the respondent's intention is not to act in good faith but has got registered the disputed Domain name in bad faith.
- c. The complainant stated that in many INDRP and WIPO cases their trademark rights have been recognized and decisions were given in their favor.

VII 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 in 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 is being used in bad faith.

The Complainant has proved the aforesaid aspects to the satisfaction of the Arbitral Tribunal.

II. Further under paragraphs 6 & 7 of INDRP Policy, the Respondent have no legitimate interest and the disputed name is used in bad



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faith. The Arbitral Tribunal agrees with the points of view of the complainant.

(III) 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.

(VIII) The allegations levelled by Complainant against Respondent appear to have been proved based on the evidential value of the documents submitted.

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

X. DECISION: For all the foregoing reasons, and as per paragraph 10 of the INDRP, the Arbitral Tribunal orders that the Respondent shall cease to use the mark KHADI and also the disputed Domain name <khadihealthcare.in> be transferred to Complainant.

There is no order as to costs.

National Internet Exchange of India is advised to take necessary and incidental steps for transferring the disputed name in favor of the Complainant.

This is adjudicated.

July 5, 2022


Dr. Vedula Gopinath,
Sole Arbitrator

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