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BEFORE ALOK KUMAR JAIN, SOLE ARBITRATOR

INDRP Case No. 1646

Disputed Domain Name: www.anantarathaispa.in

Please write or type below this line

ARBITRATION AWARD

MHG IP HOLDING (SINGAPORE)

PTE. LTD.,

Complainant

Versus

ANANTARA THAI SPA

Respondent

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**BEFORE ALOK KUMAR JAIN, SOLE ARBITRATOR
.IN REGISTRY
NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)
INDRP ARBITRATION
INDRP Case No. 1646**

Disputed Domain Name: www.ANANTARATHAISPA.IN

ARBITRATION AWARD

Dated 9.2.2023

IN THE MATTER OF:

**MHG IP HOLDING (SINGAPORE)
PTE. LTD.,**

having its registered office at
2, Alexandra Road,
#05-04/05, DeltaHouse,
Singapore, 159919

Complainant

Versus

**ANANTARA Thai Spa
Shop No: 1&2, Second Floor, Navaratna**

Jewel Square, Dwaraka Nag,
Besides Jyoti Book Depo
Visakhapatnam
Andhra Pradesh
530016
Email: anantarathaispavizag@gmail.com

...Respondent

1.1 The Complainant in this arbitration proceeding is **MHG IP HOLDING(SINGAPORE) PTE. LTD.**, having its registered office at 2, Alexandra Road, #05-04/05, DeltaHouse, Singapore, 159919. The Complainant is represented through its Authorized representative, Mr. Jesse Lieberman, who is duly authorized to act on behalf of the Complainant in the present proceedings. Email: jliberman@minor.com

2 **Domain Name and Registrar:-**

2.1 The Disputed Domain name is <www.ANANTARATHaispa.in> which was registered on 23rd August 2022

2.2 The accredited Registrar with whom the Disputed Domain Name is registered is GoDaddy.com, LLC

3 **Procedure History:**

3.1. This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (the "Policy")

adopted by the National Internet Exchange of India ("NIXI") and the INDRP Rules of Procedure (the "Rules") which were approved in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the Disputed Domain Name with a NIXI accredited Registrar, the Respondent agreed to the resolution of disputes pursuant to the said Policy and the Rules.

As per the information received from NIXI, the history of the proceedings is as follows:

- 3.2. The Complaint was filed by the Complainant with NIXI against the Respondent. On 4.1.2023 I was appointed as Sole Arbitrator to decide the disputes between the parties. I submitted statement of Acceptance and Declaration of Impartiality and Independence same day as required by rules to ensure compliance with Paragraph 6 of the Rules.

NIXI notified the Parties of my appointment as Arbitrator *via* email dated 4.1.2023 and served by email an electronic Copy of the Complaint with Annexures on the Respondent at the email addresses of the Respondent.

- 3.3. I issued notice to the parties *vide* email dated 6.1.2023 directing the Complainant to serve complete set of Complaint on the Respondent in soft copies as well as in physical via courier /Post. The Complainant served the

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copies of the Complaint (including Annexures) in electronic form at the email addresses of the Respondent and also sent copy of the Complaint to the Respondent by Speed Post. The Respondent was directed to file its response within 7 days from the date of notice. No response was received from the Respondent. Therefore, on 15.1.2023, I granted further time to Respondent directing the Respondent to file response within 7 days failing which the matter shall be decided on merit. The extra time of one week given to the Respondent expired on 22.1.2023. On 27.1.2023, I informed the parties that the time for filing reply has expired and now the complaint shall be decided on merit. No personal hearing was requested.

- 3.4 A Complete set of Complaint was sent by NIXI in electronic form by email to the Respondent on 4.1.2023 while informing the parties about my appointment as Arbitrator. There after a complete set of complaint was again sent to the Respondent in electronic form by email by the Complainant as per directions of the tribunal. 7 days time given to the Respondent to file response expired on 13.1.2023. on 15.1.2023 the tribunal granted further 7 days time to the Respondent to file its response. All communications were sent to Complainant, Respondent and NIXI by email. Therefore I hold that there is sufficient service on the Respondent through email as per INDRP rules. The Respondent has not filed any response to the Complaint

despite two opportunities and there has been no communication from the Respondent till date.

- 3.5. Clause 8(b) of the INDRP Rules requires that the Arbitrator shall at all times treat the Parties with equality and provide each one of them with a fair opportunity to present their case.
- 3.6. Clause 12 of INDRP Rules provides that in event any party breaches the provisions of INDRP rules and/or directions of the Arbitrator, the matter can be decided ex-parte by the Arbitrator and such arbitral award shall be binding in accordance to law.
- 3.7 As stated above, Initially I gave 7 days time to the Respondent to file a Response and additional 7 days time to file response, but the Respondent failed to file any Response to the Complaint despite opportunities and chose not to answer the Complainant's assertions or controvert the Complaint and the contentions raised. As a result, I find that the Respondent has been given a fair opportunity to present his case but has chosen not to come forward and defend itself.
- 3.8 Further Clause 13(a) of the Rules provides that an Arbitrator shall decide a Complaint on the basis of the pleadings submitted and in accordance with the Arbitration & Conciliation Act, 1996 amended as per the Arbitration and Conciliation (Amendment) Act, 2015 read with the

Arbitration & Conciliation Rules, Dispute Resolution Policy, the Rules of Procedure and any by-laws, and guidelines and any law that the Arbitrator deems to be applicable, as amended from time to time.

In these circumstances the Tribunal proceeds to decide the complaint on merit in accordance with said Act, Policy and Rules in absence of the Respondent on Respondent's failure to submit a response despite having been given sufficient opportunity and time to do so.

4. Grounds for Arbitration Proceedings.

INDRP Policy para 4. Class of Disputes provides as under:

Any Person who considers that a registered domain name conflicts with his/her legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

- (a) the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
- (b) the Registrant has no rights or legitimate interests in respect of the domain name; and
- (c) the Registrant's domain name has been registered or is being used in bad faith.

5. The Case of the Complainant :-

The Complainant submits that the Disputed Domain Name is in complete disregard to clause 3 (The Registrant's Representations) of the Policy and attracts, inter-alia, the provisions of Clause 4 (Types of Disputes). The Complainant has prayed inter alia that the Disputed Domain name be transferred to the Complainant.

In support of its case, the Complainant has stated inter alia as under:

- 5.1. The Complainant has averred that the Complainant owns and operates resorts and spas which combine luxury with the culture and natural beauty in the most enchanting destinations in the world. The Complainant is a subsidiary of Minor International PCL which currently operates over 530 hotels, resorts and serviced suites and over 2,000 restaurants that they have built and developed over the course of over 50 years of operation, in 56 countries across the Asia Pacific, the Middle East, Europe, South America, Africa and the Indian ocean. The Complainant is amongst the largest hospitality and leisure companies in the Asia Pacific region and also own and operate a highly successful spa business, consisting of over 70 branded spas in various parts of the world. It is further averred that The Complainant, among other things, is the owner of the trademarks "ANANTARA", (hereinafter collectively referred to as the "ANANTARA Trademarks"). It is stated that the Complainant, through their group

companies, operates and manages hotels, resorts and spas, including those under the ANANTARA Trademarks. In addition, to the Complainant's hotels and resorts under the well-known ANANTARA Trademarks, the Complainant operates hotels under many other prestigious brands, i.e. AVANI, TIVOLI, NH, NH Collection, NHow, Oaks Hotels & Resorts, Elewana Collection, JW Marriott, Four Seasons Hotels & Resorts, St. Regis, Radisson and Minor International.

5.2 It is further stated in the Complaint that the Complainant adopted the ANANTARA Trademarks in respect of their resorts and spas in the year 2000, and since then, have continuously expanded their business under the said trademarks by opening ANANTARA resorts and spas in a number of countries around the world. Today, the Complainant owns, operates and/or manages over 50 luxury hotels, resorts and premium serviced apartments and over 30 spas under the ANANTARA Trademarks in Asia, the Middle East, Africa and Europe ETC. The Complainant has been using its brand and various trademarks continuously and extensively during the course of its business. Each of the Complainant's "ANANTARA" resorts is prefixed with the trademark ANANTARA. For example, 'ANANTARA Resort and Spa Hua Hin', 'ANANTARA Koh Samui', ANANTARADhigu, ANANTARA Phuket Villas etc. Similarly, the standalone spas of the Complainant under the

"ANANTARA" brand also have the trademark ANANTARA prefixed to the name of the spa, for example, 'ANANTARA Spa at the Kempinski Zamani Resort, Zanzibar', 'ANANTARA Spa at the Kilimanjaro Hotel', etc.

5.3 ANANTARA resorts and spas have become immensely popular and attract huge tourist traffic from all around the world, including from India. The worldwide revenues earned by the Complainant through their various ANANTARA resorts and spas has been increasing every year and had a turn over of 316.2 million US Dollars in the year 2021. The use of the ANANTARA Trademarks have been extensive and continuous since their respective adoptions. Besides having a significant presence in offline business, the Complainant has extensive presence and outreach to global customer base, through its dedicated website, <https://www.ANANTARA.com/en> which website was created in the year 2000. The said website has been accessible from India since its inception and it has been possible at all times for residents in India to book their stay at the Complainant's ANANTARA resorts through this website. Documents evidencing the same are enclosed along with the complaint as **Annexure C**. That the by virtue of such extensive and widespread use, advertisement and promotional activities, public renown of ANANTARA and goodwill and reputation arising therefrom, internationally including in India, the ANANTARA Trademarks have acquired a very high degree of distinctiveness and qualify to be considered as well-known

trademarks. In view of the above, it is submitted that the ANANTARA Trademarks have become exclusively associated with the Complainant and are identified by the members of the public and trade across the globe, as well as in India, solely with the Complainant and the goods and services provided by them.

5.4 The Complainant also actively promotes and advertises its ANANTARA Trademarks and goods and services thereunder through numerous social media sites/platforms such as Facebook, YouTube, Instagram, Twitter etc. The popularity of ANANTARA is also evident from the popularity of its social media pages. Notably, the Complainant's Facebook page has over a lakh follower as of June 2022, their YouTube page over eighteenthousand subscribers as of June 2022. The Complainant also maintains Twitter and Instagram pages with an average of more than nineteen thousand followers each. Extracts from the Complainant's social media pages are being filed with the present proceedings and marked as **Annexure D**. The Complainant has obtained several trade mark registrations for the well-known mark "ANANTARA" and its formatives in various relevant classes of products and services in India and in over 65 jurisdictions of the world including in Australia, New Zealand, European Union, Indonesia, Malaysia, Philippines, to name a few. A comprehensive list entailing details of various trademarks registrations obtained in relation to the ANANTARA Trademarks, as available on the WIPO global brand database, and copies of a few registrations obtained are

attached hereto and marked as **Annexure E**. On account of its global popularity and immense reputation, the Complainant's brand, ANANTARA also, at times, attracts unauthorized and illegal use by infringing parties, such as the Respondent herein. The Complainant regularly checks such misuse and takes appropriate legal actions against unscrupulous third parties. The Complainant has in fact obtained injunction orders and decree from Indian Courts against infringement and misuse of its trademark, ANANTARA. A Copy of the decree passed by the Karnataka High Court is annexed herewith as **Annexure F**

5.5 Recently, the Complainant came across the domain name- www.ANANTARATHAISPA.IN. The Complainant learned that the Respondent has been promoting, marketing and offering its wellness services to potential customers and public at large, through the said domain, which is the impugned domain herein. From the bare perusal of the website, hosted from the impugned domain name, it is apparent that the Respondent is flagrantly and prominently using the Complainant well-known brand and registered mark, ANANTARA, in respect to identical services being spa and wellness. It is apparent that owing to the Complainant's global popularity and impeccable reputation, the Respondent has adopted and is using the Complainant's well-known brand and trademark, ANANTARA. Moreover, the Respondent has no reason to adopt the same for providing identical services, establishing the malicious intentions and dishonest adoption of the Complainant's trademark. These acts

of Respondent are causing grave loss of revenue and reputation to the Complainant as also severe loss to the unwary customers. It is submitted that both the Complainant and consumers would continue to incur losses unless the Respondent's website is taken down and the domain name is transferred to the Complainant / suspended immediately. The Complainant was concerned to note that the Respondent has wantonly adopted the impugned domain name incorporating 'ANANTARA' which is identical to the Complainant's well-known, registered and earlier trademark and trade name. The malafide adoption of the impugned domain name is a blatant violation of the Complainant's valuable rights in the well-known, registered and earlier mark ANANTARA, since any use of the well-known trademark and trade name ANANTARA as a company name and/ or in any other manner whatsoever is likely to cause confusion and deception amongst the purchasing public and members of the trade. Further, such malafide adoption of the impugned domain name is also likely to dilute the distinctive character of the Complainant's well-known, registered and earlier trademark and trade name ANANTARA. Being concerned with the same, the Complainant has now been constrained to initiate the subject proceedings with urgency.

Discussions and findings:

The Complainant has invoked Clause 4 of the Policy to initiate the Arbitration Proceeding.

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Clause 4 of the INDRP Policy provides as under:

4. Class of disputes:

Any Person who considers that a registered domain name conflicts with his/her legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

- (a) the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
- (b) the Registrant has no rights or legitimate interests in respect of the domain name; and
- (c) the Registrant's domain name has been registered or is being used in bad faith.

Therefore in order to succeed in the Complaint, the Complainant has to satisfy inter alia all the three conditions provided in clauses 4(a), 4(b) and 4(c) quoted above.

6.1.1.1 Condition 4(a):) the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights;

The Complainant stated that the Complainant came across the domain name- www.anantarathaispa.in recently. The Complainant learned that the Respondent has been promoting, marketing and offering its wellness services to potential customers and public at large, through the said domain, which is

the impugned domain herein. From the bare perusal of the website, hosted from the impugned domain name, it is apparent that the Respondent is flagrantly and prominently using the Complainant well-known brand and registered mark, ANANTARA, in respect to identical services being spa and wellness. it is apparent that the Complainant's well-known brand and registered mark, 'ANANTARA' is the most prominent and in fact, the essential feature of the impugned domain i.e. www.anantarathaispa.in. Moreover, the Respondent is using the Complainant's mark, in association with the term, 'spa', which is commonly used in respect to the services offered by the Complainant. From the website, it is also apparent that the Respondent has given significant emphasis on the Complainant's mark, thereby giving an impression that the Respondent is in fact, ANANTARA. That the Complainant enjoys both statutory and common law rights qua the trademark ANANTARA in India and throughout the world. It is submitted that the Respondent has adopted and is using the impugned domain name, to clearly denote that the Respondent is associated with or is affiliated to the Complainant. Pertinently, the Respondent is using the Complainant's trademark, as part of its domain name, company name and trading style, in respect to identical services i.e. wellness and spas. This leaves no or very less doubt in the mind of the consumers that the Respondent is either the Complainant itself or is closely associated with the Complainant. On account of use of identical mark for identical

services, the Respondent is clearly infringing upon the Complainant's well-known brand and trademark, ANANTARA. It is submitted, as is the modus operandi of the Respondent to cheat the consumers is apparent from the fact that the Respondent has adopted and is using the impugned identity of ANANTARA Thai Spa, and is using the same, also as part of the impugned domain name, to piggy ride the Complainant's immense goodwill and reputation. The Complainant further stated that the disputed domain name is identical to the Complainant's registered trademark, 'ANANTARA' and is used in order to attract the internet users and consumers for its own commercial gain by abusing the goodwill and reputation of the Complainant's 'ANANTARA' Trademarks. It is pertinent to note here that the Complainant had registered its domain name, www.ANANTARA.COM in the year 2000 and thus has much prior, continuous and extensive use of its well-known brand and trademark, even in terms of online presence. Owing to identical / confusing similarity of the disputed domain name with the Complainant's well-known brand, registered marks and even domain name, the Respondent's adoption and use of the impugned domain name is highly prejudicial to the Complainant's exclusive and proprietary rights and interest.

I have gone through the averments made in the complaint and has perused the documents filed with the Complaint. As per averments made in the Complaint, the Complainant is the

inventor and bonafide adopter of the trading name and trademark ANANTARA since as early as 2000. The Complainant is also the proprietor of the trademark ANANTARA in numerous countries around the world since as early as 2000 including India . The Complainant is the registered proprietor of the trademarks ANANTARA on a world wide basis in numerous countries around the world and including in India.

The Respondent has not filed any response to the complaint as such all the averments of the complainant has remained un rebutted.

It is evident from above submissions and documents annexed with the complaint that the complainant has sufficiently established its rights in and to the ownership of the ANANTARA Trademarks.

The Complainant further stated that the Registrant has unlawfully and substantially subsequently adopted the Disputed Domain Name 'anantarathaispa.in. The Disputed Domain Name is substantially identical and confusingly and deceptively similar to and wholly incorporates the registered and reputed trademark ANANTARA and is in direct conflict with the corresponding trading name and domain name of the Complainant. The use of the Complainant's trading name in its entirety in the Disputed Domain Name will inevitably lead

consumers to believe that the Disputed Domain Name is affiliated in some way to the Complainant.

A mere perusal of the disputed domain name 'anantarathaispa.in' of the Registrant/Respondent shows that the Respondent has used the Complainant's trading mark 'ANANTARA' in its entirety in conjunction with thai spa. It is evident that the Respondent is using the Complainant's mark, in association with the term, 'spa', which is commonly used in respect to the services offered by the Complainant it is well established that the mere addition of the Country Code Top Level Domain '.in' does not add any distinctive or distinguishing element.

In this regard, following cases may be referred:

- i. *Lego Juris AIS v. Robert Martin (INDRI/125)* wherein the Learned Arbitrator observed that it is well recognized that incorporating a trademark in its entirety, particularly if the mark is an internationally well-known mark, is sufficient to establish that the domain name is identical or confusingly similar to the Complainant's registered mark.
 - a. *Incase Designs Corp v. Stavros Fernandes (INDRP/1209)* wherein the Learned Arbitrator observed that it is well established that the mere addition of the Country Code Top Level Domain '.in' does not add any distinctive

or distinguishing element. In view of the same the Learned Arbitrator adjudged that the domain name *www.incase.in* of the respondent was identical to the trade mark *INCASE* of the Complainant.

- ii. *The Gillette Company v. Mr Gaurav Kana (INDRJI/049)* wherein the disputed domain name was *www.gillete.in* and the complainant was the proprietor of the trademark and trading name *GILLETTE*. The Learned Arbitrator in the matter observed that:

"The Complainant has been using the trade name GILLETTE in many countries including the United States. As such, consumers looking for GILLETTE may instead reach the Respondent's website. Therefore I hold that the domain name www.gillette.in is confusingly similar to the Complainant's trademark."

In view of the above facts and submissions of the complainant, and on perusal of the documents annexed with the Complaint, I hold that the Disputed Domain Name '*www.anantarathaispa.in*' of the Registrant is identical to the trademark *ANANTARA* of the Complainant and the domain name *www.anantara.com*.

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Condition no.4 (b) the Registrant has no rights or legitimate interests in respect of the domain name;

The Complainant submits that there is no credible or legitimate reason for the Respondent to have chosen to adopt a domain name consisting of the identical 'ANANTARA' mark. It is apparent that the Respondent has adopted the disputed domain name with the sole intention to use the fame of the Complainant's 'ANANTARA' Trademarks to generate web traffic and confuse the internet users and the public at large. Such use by the Respondent is neither bonafide, nor a legitimate fair use of the disputed domain name. It is apparent that the Respondent has registered and is using the impugned domain name to attract the internet users who will believe that the Respondent's services have been authorized and/or licensed by the Complainant. And Misappropriate the Complainant's reputation, goodwill and customer loyalty for its own wrongful profits. The aforementioned facts clearly establish a prima facie case that the Respondent has no right or legitimate interest in the disputed domain and that the burden shifts to the Respondent to show that it does have rights or legitimate interest in the disputed domain name.

The trademark ANANTARA is a coined and invented word which has no dictionary meaning. The said trademark has been derived by the Complainant from its corresponding

trading name which dates back to 2000. The Complainant has now proved and established its extensive rights in the trademark ANANTARA . Accordingly, the Registrant has no basis, reason or justification for having adopted a substantially identical disputed domain name. The Complainant has not licensed, authorized or otherwise permitted the Registrant to use its trading name or trademark or to apply for or use the domain name incorporating said name.

The Respondent has not filed any response as such the facts stated in the complaint had remained unrebutted. Further the Respondent has failed to satisfy the conditions contained in clause 6(a), (b) and 6(c) of INDRP Policy.

On the contrary the Complainant has established that the Registrant has no rights or legitimate interest in respect of the Disputed Domain Name and has never been identified with the Disputed Domain Name or any variation thereof. The Registrant's use of the Disputed Domain Name is dishonest and with the sole intention to divert and mislead customers onto unrelated and sponsored links belonging to third parties including Competitors.

Therefore, in view of the submissions made in the complaint and on perusal of the accompanying documents, I am of the opinion that the Respondent has no rights or legitimate interests in respect of the domain name;

Accordingly I hold that the Registrant has no rights or legitimate interests in respect of the Disputed Domain Name.

6.3

Condition 4(C):the Registrant's domain name has been registered or is being used in bad faith

The Complainant submits that The Respondent's bad faith is writ large from the fact that the Respondent has deliberately registered the impugned domain name, www.anantarathaispa.in and is flagrantly using the Complainant's brand on its website, to create public confusion as to the source of the services. That It is apparent that the Respondent has illegally adopted and is using the infringing domain name / website to pass off their unregulated and assumingly, illegal wellness and spa services, under the garb of being the Complainant itself or an entity, affiliated, associated or endorsed by the Complainant. Besides, causing grave harm and loss of revenue and reputation to the Complainant, the Respondent is causing severe losses to the users/ consumers, who may use the Respondent's services, under a belief that the same are provided by the Complainant and thereby duping them off heavy monetary losses. It is apparent from the above, the Respondent has unauthorizedly adopted the Complainant's prior and well-known trademark and is using the same, with ulterior motive to deceive unwary customers, including those who are interested in availing the quality services offered by

the Complainant. In view of the serious loss caused to the Complainant as well as consumers, the impugned domain name be immediately transferred to the Complainant, to cease these illegal activities of the Respondent.

It is further stated that the Respondent can have no plausible explanation as to how it came to adopt the impugned domain name www.anantarathaispa.in in the first place except to have picked up the Complainant's identical trademark ANANTARA in its entirety and making the same part of the domain name to draw an apparent association with them and to depict to the public at large that they are the authorized service provider, partner/affiliate or related entity for the Complainant when that is not the case. As the Respondent is not affiliated or authorized by the Complainant, it is apparent that they are impersonating the Complainant's business and brand, to usurp illegal profits. The Respondent has no right to be exploiting or encashing upon the goodwill and reputation earned by the Complainant in its earlier and well-known trademark ANANTARA, and use of the same as part of the domain name has been done only in bad faith. The Respondent can neither have any explanation whatsoever for adoption of the impugned domain name nor can any explanation be accepted in such a case of blatant copying of the Complainant's rights in its well-known, registered and earlier trademark ANANTARA. In the above circumstances, it is clearly evident that the Respondent has malafidely

adopted the impugned domain name, being totally aware of the trade name and trademark ANANTARA.

It is submitted that the evidence submitted so far overwhelmingly supports the conclusion that the impugned domain name is being registered and used in bad faith, in light of the Complainant's extensive prior use and registration of its 'ANANTARA' marks and its domain www.anantara.com. It is further submitted that given the prominence and well-known stature of the Complainant's services under its house mark, it is incomprehensible that the Respondent would have been unaware of the Complainant's brand and trademark 'ANANTARA', at the time when the disputed domain name was registered. This behavior of the Respondent constitutes bad faith use and may tarnish the Complainant's reputation by, *inter alia*, attracting Internet users to a webpage that appears to be endorsed by the Complainant when there is no such endorsement.

The Complainant submits that despite the prior knowledge of the Complainant's 'ANANTARA' mark, the Respondent registered the disputed domain name www.anantarathaispa.in in year 2022, which is virtually identical to the Complainant's registered trademarks. In light thereof, it is submitted that the Respondent's conduct and adoption of the identical domain name amounts to bad faith. Having said so, it is further submitted that the Respondent intentionally adopted the identical domain name in order to

attract the internet users to the disputed domain and its website thereon with a view to derive unfair monetary advantage. Additionally, in registering the impugned domain name www.anantarathaispa.in, the Respondent has blatantly contravened the provisions of Paragraph 3 of the INDRP.

Clause 7 of INDRP Policy provides as under:

Clause 7. Evidence of Registration and use of Domain Name in Bad Faith

For the purposes of Clause 4(c), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:

(a) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or

(b) the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or

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(c) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.

It is shown by the complainant that the Complainant is a well knownreputed and global entity with extensive operations around the world and has adopted the mark ANANTARA since 2000. The Registrant was most certainly aware of the repute and goodwill of the Complainant. Therefore adoption of the substantially identical Disputed Domain Name by the Registrant in 2022 is with the sole intention to trade upon and derive unlawful benefits from the goodwill accruing to the Complainant. The Registrant has in fact knowingly adopted the Disputed Domain Name which wholly -contains the Complainant's prior trademark ANANTARA to attract customers to the Disputed Domain Name by creating confusion with the Complainant's reputed trademark ANANTARA and corresponding domain name.

Following cases may be referred in this regard:

Samsung Electronics Co. Ltd v. Vishal Didwania(NDRP/141)
wherein the rights of the complainant Samsung Electronics Co.
Ltd. in the trading name and trademark SAMSUNG were

protected from the unlawful adoption of the domain name www.samsung.in and the disputed domain name was ordered to be transferred to the complainant.

PepsiCo .. Inc. v Mr. Wang S!nwnng (fNDRP/400) wherein the rights of PepsiCo .. Inc. in the reputed PEPSI marks were protected from the unlawful adoption of the domain name www.pepsi.in and the disputed domain name was ordered to be transferred to the Complainant.'

In view of above facts, submissions of the Complainant and on perusal of the documents annexed with the Complaint ,I find that the Complaint has proved the circumstances referred in Clause 7(a)(b) and (c) of INDRP policy and has established that the registration of disputed domain name is in bad faith.

Accordingly I hold that the Registrant's Domain Name has been registered in bad faith.

Decision

- 7.1. In view of the foregoing, I hold that the Disputed Domain Name is identical and or confusingly similar to the Complainant's well-known 'ANANTARA' Trademarks and that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and that the Disputed Domain Name was registered in bad faith.

Ab K Kumar Jain

In accordance with the INDRP Policy and Rules, I direct
that the Disputed Domain Name registration be transferred
to the Complainant,

Delhi

Dated 09.02.2023

Alok Kumar Jain

Alok Kumar Jain

Sole Arbitrator