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ARBITRATION AWARD

INDRP CASE No. 1485

Khadi & Village Industries Commission [Complainant] v Nikhil Tahlani [Respondent]

Disputed Domain Name: PRAKRITIKPAINTS.IN

BEFORE THE SOLE ARBITRATOR: VAKUL SHARMA

DATED: FEBRUARY 11, 2022

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ARBITRATION AWARD

In the matter of:

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

[Complainant]

-v-

Nikhil Tahlani 428

**Parnasree Pally Kolkata, West
Bengal, 700060 India**

[Respondent]

Disputed Domain Name:

www.prakritikpaints.in

INDRP CASE No. 1485

1. The Complainant

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. The



Complainant is the apex organization established under the Ministry of Micro, Small and Medium Enterprises ("MSME") formed with a wider objective of creating self-reliance amongst people and building up a strong rural community spirit. Complainant has been carrying on work related to implementation of programs for the development of Khadi and other Village Industries ("KVI") in the rural areas in coordination with other agencies. The programs offered by the Complainant are to promote products under the trademark KHADI. The Complaint is based on the trademark PRAKRITIK PAINT and its variations, used in connection with goods being eco-friendly paints offered by the Complainant and its authorized members. The complainant has filed various trademark applications for the wordmark KHADI PRAKRITIK PAINT, device marks, etc. The Complainant announced the launch of its products under the PRAKRITIK PAINT trademarks on 12th January 2021. It is the Complainants contention that by virtue of its adoption and extensive use thereof, the PRAKRITIK PAINT trademarks have become exclusively associated with the Complainant in the eyes of consumers. Therefore, use of this mark by any third party will lead to confusion and deception among the Complaint's patrons, members of trade, consumers and general public.

The Respondent

Respondent in this administrative proceeding is Nikhil Tahlani, as identified by the Complainant. According to the Complainant, the Respondent named above, has registered the domain name <praktikpaints.in> on 13/01/2021. The Complainant has placed reliance on WHOIS details [Annexure L of the Complaint]. The Complainant has alleged that the



disputed domain name is parked since its registration and is being used in violation of the conditions as laid down in the INDRP.

The Registrar with which the domain name is registered is: GoDaddy.com LLC

2. Disputed Domain Name

<PRAKRITIKPAINTS.IN>

3. Jurisdiction

The Complainant by filing the Complaint under the aforesaid INDRP Rules of Procedure [Rules] has accepted the subject matter jurisdiction of the .IN Domain Dispute Resolution Policy -.INDRP [Policy].

In view of the above, this domain name dispute is properly within the scope of the Policy. The registration agreement, pursuant to which the disputed domain name was registered, incorporates the Policy. Disputes between Registrants, as they relate to domain name registrations, are governed by the Policy.

4. Procedural History

- (i) 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 on June 28, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By submitting to the Policy and the Rules, the Complainant agreed to the resolution of the disputes pursuant to the Policy and the Rules.

Vakul Sharma
VAKUL SHARMA
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- (ii) The Complaint was filed by the Complainant with NIXI against the Respondent. NIXI verified the Complaint and its annexures for conformity with the requirements of the Policy and the Rules.
- (iii) I submitted the statement of acceptance on 07/01/2022 and subsequently appointed by NIXI as an Arbitrator in the above matter [INDRP No. 1485].
- (iv) Complainant submitted a Copy of the Complaint and Annexures to the Respondent on his email ID: postmaster@prakritikpaints.in and tahlani.nikhil@gmail.com and his postal address in accordance with the Rules.
- (v) In view of the completion of procedures related to Service of Complaint as mandated under the Rules, I issued a Notice dated 25/01/2022 to the Respondent to submit its reply to the above said complaint within 15 days from the date of the Notice.
- (vi) I received an email dated 25/01/2022 from the Respondent stating as follows:
- I am ready to transfer the domain to the party(complainant)."*
- (vii) Subsequently, I received another email dated 27/01/2022 from the Complainant stating as follows:
- "We would like to inform you that the Complainant is also willing to the settle the said dispute. Therefore, we request you to kindly suspend the proceedings for a period of 10 days, so that parties can enter into a settlement agreement."*
- (viii) Thereafter, the Complainant vide email dated 29/01/2022 informed me, as follows:
- "Complainant and the Respondent have entered into a settlement agreement with respect to the matter and the Respondent has agreed to transfer the domain name. The said executed settlement agreement is attached for your kind reference."*

Vakul Sharma
VAKUL SHARMA
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ARBITRATOR

- (ix) I examined the above mentioned Settlement dated 28/01/2022 (as received from the Complainant) purported to be an agreement reached between the contesting parties, and accepted the same in good faith and belief and accordingly terminated the arbitration proceedings under Rule 21 of the INDRP Rules of Procedure.

Part of the said Settlement Agreement dated 28/01/2022 duly signed by Vishal Vig, Constituted Attorney (Complainant - First Party) and Nikhil Tahlani (Respondent - Second Party) is reproduced below:

NOW, THEREFORE in consideration of the mutual agreement made by the parties hereto, the Parties, agree as follows:

- 1. The Second Party agrees to transfer the domain name: www.prakritikpaints.in to the First Party. The Second Party also undertakes to not adopt any domain name comprising any of the First Party's trademarks including but not limited to the trademark PRAKRITIKPAINTS.IN.*
- 2. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective successors and assigns.*

* * * * *

7. Decision

In terms of the Settlement Agreement dated 28/01/2022 arrived between the parties, I hereby direct that the disputed domain name <PRAKRITIKPAINTS.IN> be transferred to the Complainant; and the Respondent is also being directed to cooperate fully with NIXI in the

Vishal Vig


smooth transfer of the said domain name. In accordance with the Policy and Rules, I request NIXI to oversee the transfer to the Complainant.

The parties are to bear their own costs.

The original copy of the Award is being sent alongwith the records of the proceedings to the National Internet Exchange of India (NIXI) for its record and a copy of the Award are being sent to both the parties for their information and record.


Vakul Sharma
(Sole Arbitrator)



Dated: February 11, 2022