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Actavis Group PTC ehf, Iceland vs. Actavis Pharma, Bangalore, India
INDRP Case no. 1516
Arbitrator: Mr. P.K.Agrawal

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AWARD

1. The Parties

The Complainant is M/s Actavis Group PTC ehf, Reykjavikurvegi 76-78, Hafnarfjordur, IS-220, Iceland.

The Respondent is M/s Actavis Pharma, 1 No 15 80 feet Road 4th ST Bed, 1st Block Koramangala 5th sector HSR Layout, Bangalore, Karnataka 560095, India.

2. The Domain Name and Registrar

The disputed domain name is <actavispharma.in>. The said domain name is registered with the Registrar – GoDaddy.com, LLC (IANA ID: 146).

The details of registration of the disputed domain name (as per Annexure attached to the Complaint) are as follows:

- a. Domain ROID: D42C3E5007B734AD29C335CE16941F138-IN
- b. Date of creation: Oct 20, 2021
- c. Expiry date: Oct 20, 2022

3. Procedural History

(a) A Complaint dated 21st February, 2022 has been filed with the National Internet Exchange of India (NIXI). The Complainant has made the registrar verification in connection with the domain name at issue. The print outs confirmed that the Respondent is listed as the registrant and provided the contact details for the administrative, billing, and technical contact. The Exchange verified that the Complaint satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the "Policy") and the Rules framed thereunder.

(b) The Exchange appointed the undersigned Mr. P.K.Agrawal, Advocate and former Addl. Director General in the Government of India, as the sole Arbitrator in this matter. The Arbitrator finds that he has been properly appointed. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Exchange.

(c) In accordance with the Policy and the Rules, the copies of complaint with annexures were served by the National Internet Exchange of India on 4.3.2022 by email. The Arbitrator served the Notice under Rule 5(C) of INDRP Rules of procedure along-with copies of complaint and annexures to the parties through email on 5.3.2022. The Respondent was given 14 days for reply to the complaint. The Complainant, through his complaint and his emails 9.3.2022 and 15.3.2022 submitted that the WHOIS information is false and misleading as Actavis Pharma is not only similar to Complainant's trademark but also resembles the name of the Company incorporated in India on 23 August 2006, namely ACTAVIS Pharma Development Centre Private Limited. According to the Complainant, the Respondent has also used the official postal address of the Complainant's local Actavis company called Actavis Pharma Development Centre Private Limited (*the address used by Respondent is the same as Complainant's local Indian company.*) The Complainant has contended that - (i) Respondent has used an official address of the Complainant which is part of the impersonation scheme. Sending hard copies would result in the actual Complainant receiving the hard copies not the Respondent, (ii) Complainant is located overseas, it would be both be environmentally unfriendly sending hard copies to India and it would take additional time given that the airspace over Russia and Ukraine is closed for air freight. I accept these contentions. In view of this, the Complaint and its annexures may be deemed to have been served to the Respondents as per Arbitration and Conciliation Act, 1996 and INDRP rules. The Respondent has not responded to Complaint served to him through emails. Since the Respondent has not responded and presented any grounds in his defence, the present proceedings have to be conducted *ex parte* as per the Arbitration and Conciliation Act, 1996 and the .IN Domain Name Dispute Resolution Policy and the Rules of Procedures framed there under.

4. Factual Background

The Complainant in this arbitration proceedings is **Actavis Group PTC ehf**, Reykjavikurvegi 76-78, Hafnarfjordur, IS-220, Iceland. Actavis Pharmaceuticals originated in Iceland in the early twenty-first century. After a successful run for over a decade, it was acquired by American pharmaceutical company Watson in April 2012. In June 2015, Actavis Plc changed its name to Allergan Plc. But the company retained the ACTAVIS



name for selected geographical regions and products and has valid trademarks in India as well.

In August 2016, Teva Pharmaceutical Industries Ltd completed acquisition of Allergan's generics business ("Actavis Generics"). The Complainant companies are now an indirect wholly-owned subsidiary of Teva Pharmaceutical Industries Ltd, a leading global pharmaceutical company headquartered in Israel. TEVA was first established in 1901 with its global headquarters in Israel. Operating in sixty countries worldwide, Teva (NYSE and TASE: TEVA) (www.tevapharm.com) is ranked among the top pharmaceutical companies in the world.

TEVA Pharmaceuticals ("TEVA") is the world's largest generic medicines producer, leveraging its portfolio of more than 1,000 molecules to produce a wide range of generic products in nearly every therapeutic area.

According to the Complainant, the profile and popularity of the Complainant under the trademark "ACTAVIS" has been continuously increasing since the date of adoption and the trademark has received wide recognition. A simple Google search for the term "ACTAVIS" throws up a huge number of results, which exclusively pertain to the Complainant and its mark. Further, the Complainant has a huge social media following, especially on Twitter and LinkedIn (*with changed name 'Allergan Inc.'*).



The following are some of the domain names owned by the Complainant, while it owns more than 100 domain names incorporating the trademark, some of the important earliest registrations are as follows:

DOMAIN NAME	REGISTRATION DATE
actavis.com	2002-09-03
actavispharma.com	2003-11-17
actavis.net	2003-12-03
actavis.org	2003-12-03
actavis.us	2004-01-14
actavis.in	2005-02-16
myactavis.com	2005-11-30



actavis.info	2005-12-08
actavis.fr	2006-04-05

The Complainant submits that it is the exclusive owner and proprietor of the registration listed below under numerous classes for the marks **ACTAVIS** and **ACTAVIS PHARMA** in India starting 2003:

S.No.	Trade Mark	Reg No.	Date of Application	Class
1.	ACTAVIS	1256216	18 Dec. 2003	10
2.	ACTAVIS PHARMA	1256209 1256211 1256212	18 Dec. 2003	5 1 10
3.		1283749	12 May 2004	1, 3, 5, 10, 42
5.		2429214	19 Nov. 2012	1, 3, 5, 41, 42

The Complainant is also the registered proprietor of the trademark “**ACTAVIS**” as a word mark in various other jurisdictions including EUIPO and International registrations. The jurisdictions, to name a few, include the USA, Iceland, Australia, Philippines, UAE, Malaysia, Indonesia, Thailand, Vietnam, Mexico, New Zealand and more.

Respondent's Identity and Activities

The Respondent's activities are not known. He has submitted false address on WHOIS. The Respondent has not responded to the Notice and complaint served upon him through emails.



5. Parties Contentions

A.Complainant

The Complainant contends that each of the elements specified in the Policy are applicable to this dispute. In relation to **element (i)**, the Complainant contends that the Complainant was the first in the world to have conceived and adopted the mark **ACTAVIS** in respect to goods and services covered under various classes, that includes class 5 (pharmaceuticals). The Complainant is a registered proprietor of the trademark **ACTAVIS & ACTAVIS Pharma** in many countries around the world and has been continuously and exclusively using the same in relation to its business for many years. The Complainant first applied for the trademark **ACTAVIS** in India in 2003 i.e. almost 18 years prior to the date on which Respondent registered the domain name <actavispharma.in>. By virtue of long-standing use and registration, Complainant's Trademark **ACTAVIS** qualifies to be a well-known mark and is liable to be protected. In *Living Media, Limited v. India Services [WIPO D2000-0973]*, it has been held that "trademark registration is itself prima-facie evidence that the mark is distinctive".

The Complainant contends that in India, the Complainant has valid and subsisting trademarks **ACTAVIS** and **ACTAVIS Pharma** since 2005-06. The impugned domain name <actavispharma.in> is identical to Complainant's registered trademark, as well as .com domain name <actavispharma.com>. Reliance has been placed on the WIPO matter of *Actavis Group PTC ehf, Actavis Holdco US, INC. v. Withheld for Privacy Purposes*, Privacy service provided by Withheld for Privacy ehf / Terry Tatang, bagp import and export pty ltd, WIPO Case No. D2021-2834, it was held that the disputed domain name <actavispharma.health> wholly incorporates that trademark together with the dictionary word "pharma", which does not prevent a finding of confusing similarity between the disputed domain name and the Complainants' mark.

According to the Complainant, the impugned domain name is visually and phonetically identical and confusingly similar to the Complainant's trademark **ACTAVIS PHARMA** in which the complainant has statutory as well as common law rights. The Respondent has registered the disputed domain name <actavispharma.in>, which incorporates in its entirety the Complainant's reputed trademark **ACTAVIS Pharma**, to cause confusion and deception in the minds of the public. The numerous panels have held in so many decisions - *CEC Entertainment Concepts, L.P. v. Samir Vasaya [Domain: chuckecheese.in; INDRP/1154]*; *Havells India Limited v. Whois Foundation WIPO D2016-1775*] that a domain name which wholly

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incorporates a Complainant's registered mark may be sufficient to establish identicalness or confusing similarity.

The Complainant further contends that the ccTLD ".in" is necessary for India-specific top-level domains on the Internet and is not taken into consideration, while comparing the disputed domain name with the Complainant's well-known trademark. Thus, the disputed domain name is identical / confusingly similar to the Complainant's registered marks.

In relation to **element (ii)**, the Complainant contends that the Respondent does not have any legitimate interest in using the disputed domain name. The distinctive mark **ACTAVIS** is well known globally including India since the last two decades. As a result of its continuous and extensive use by the Complainant since the last many years, the mark **ACTAVIS** has acquired secondary meaning. In the matter of AOL LLC v. DiMarco, *FA1275978 (Forum Sept. 9, 2009)* "Secondary Meaning" is acquired when 'in the minds of the public, the primary significance of a product feature... is to identify the source of the product rather than the product itself.' It is indeed extremely difficult to foresee any justifiable use that the Respondent may have with the disputed domain name. Any person or entity using the trademark **ACTAVIS PHARMA** in a domain name is bound to lead customers and users to infer that its product or service has an association or nexus with the Complainant and leads to confusion and deception. The Complainant has referred to Actavis Group PTC ehf, Actavis Holdco US, INC. v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf/ Terry Tatang, bagp import and export pty ltd, WIPO Case No. D2021-2834.

The Complainant has contended that in the matter of Rohtas Goel And Anr. vs Somay Nayak And Ors on the 29th October, 2010 [CS(OS) 1108/2006], Hon'ble Delhi High Court laid down that "A person is well within his right to sell his goods or render services using any trade name for the purpose. With the passage of time the goods sold or the services rendered by him, as the case may be, may acquire certain reputation or goodwill in the market which becomes the property of that person and needs to be protected by the court. It is not permissible for any other person to start selling goods or rendering services either using the same name or imitating that name so as to cause injury to that person and enrich himself at the cost of the person who had already been using that name and had acquired a certain reputation with the passage of time and on account of the quality of the goods sold or services rendered by him. Any attempt on the part of a person to enrich upon the goodwill generated by any other person needs to be curbed by the court whenever approached by the aggrieved party in this

regard."

According to the Complainant, the Respondent was never authorised by the Complainant to register, hold the disputed domain name or make use of its Trademark(s) in any manner. The Respondent is deliberately trying to portray a connection between the disputed domain name and the Complainant, through the parked page at the disputed domain name. In a recent WIPO matter of *Cyrgo S.A.S. v. Domain Administrator, Absord*, [WIPO Case No. D2021-3721; February 2022], it was held that the use of the parking page in conjunction with the disputed Domain Name comprising the Complainant's products capitalises on the reputation and goodwill of that mark. It is reasonable to infer that the Respondent registered the disputed Domain Name in bad faith with a view to targeting the Complainant's distinctive mark.

The Complainant further contends that though WHOIS provides the organisation name as ACTAVIS PHARMA with a Karnataka address, the Respondent has deliberately provided false WHOIS information and the same refers to the Complainant only. Hence, the Respondent is not commonly known by the disputed domain name in terms of the Policy. Rather, the Respondent is trying to take advantage of the Complainant's reputation, giving a false impression that the Respondent has some authorisation or connection with the Complainant in terms of a direct nexus or affiliation but the same is not true. The Complainant has referred to the INDRP matter of *Velcro Industries B.V. v. Velcro Technologies* [INDRP/858; *VelcroTechnologies.in*]: "There is no showing that before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services. Rather, the website associated with the disputed domain name is not being used for any bonafide / legitimate purposes, but has been parked with the Domain Registrar, GoDaddy LLC only. It has been held that merely registering the domain name is not sufficient to establish rights or legitimate interests. [*Vestel Elecktronik Sanayi ve Ticaret AS v. Mehmet Kahveci*, WIPO-D2000-1244].

Based on the above-mentioned arguments, the Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name.

Regarding the **element (iii)**, the Complainant contends that the bad faith is implicit in the registration of the Disputed Domain Name. According to the Complainant, the above submissions prove beyond any doubt that the disputed domain name <**actavispharma.in**> was both registered and is being used by the Respondent in Bad Faith to cause confusion and mislead

the Complainant's customers as well as the general public. Given the immense popularity and goodwill enjoyed by the Complainant's trademark globally and their impeccable market reputation, it is clear that the Complainant's trademark **ACTAVIS** is well-known and has become distinctive of the Complainants' services, to instantly remind the general public of the Complainant.

The Complainant contends that even a preliminary search over the Internet or survey among the public in general reveals that the **ACTAVIS** brand is associated with the Complainant and it has been used by them in their trade and business for decades. The Complainant asserts that it is inconceivable that the registration of the disputed domain name was made without full knowledge of the existence of the Complainant and its 'well-known' trademark, which is evident from the simultaneous registration of a couple of domain names and their identical WHOIS information. The registration of a Domain Name which is identical to a trademark, with actual knowledge of the trademark holder's rights, is strong evidence that the domain name was registered in bad faith (ITC Limited v Travel India / INDRP Case No 065).

The Complainant submits that the Complainants' use of the trademark **ACTAVIS** goes back to the year 2002. As a result of its open, continuous and extensive use, the **ACTAVIS** trademark has acquired immense goodwill and popularity in the last two decades. While in India, it was first registered in 2005-06, but it has incorporated companies in India since last many years. In the WIPO matter of Paris Hilton v. Deepak Kumar [WIPO D2010-1364] it was held: "The Respondent's choice of the Domain Name here seems to be a clear attempt to unfairly capitalise on or otherwise take advantage of the Complainants' trademarks and resulting goodwill." Here, the Complainant owns various domain names, all incorporating its trademark **ACTAVIS** including <actavis.com>, <actavispharma.com>, <actavis.net>, <actavis.org>, <actavis.us> and also Indian specific ccTLD <actavis.in>. Hence, any individual coming across the disputed domain name or associated email ID ending with "@actavispharma.in" assumes it to be the Complainant's website for the Indian region and instantly associates the same with the Complainant.

The Complainant contends that in the UDRP matter of Alstom v. Guillermo Guillermo, WIPO Case No. D2021-3413, it was held that there is no doubt that the Respondent targeted the Complainant's mark when registering the disputed domain name, especially given the evidence of sending emails attempting to impersonate the Complainant. The Panel concludes that it would not be feasible to consider that the Respondent – at the time of the registration of the disputed domain name – could not have been aware of the Complainant's trademark, as well as that the adoption of the expression "alstomgroup" could be a mere coincidence. Currently, no

active website is linked to the disputed domain name, but this does not prevent the Panel from making a finding that the disputed domain name is also being used in bad faith. Similarly, as already provided, herein the knowledge on the part of the Respondent is evident from the WHOIS information making reference to the Complainant only. Though the Complainant humbly requests for a cautious approach in the matter as the reference to the '**Actavis Pharma**' as Respondent's name needs to be redacted in the final award, as this is a case for identity theft. In *Blackbaud, Inc. v. Registration Private, Domains By Proxy, LLC / Name Redacted* [WIPO Case No. D2021-4138; February 2022]: "The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted Respondent's name from this decision." The Complainant has also referred to *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. D2009-1788.

The Complainant contends that as regards the current use, the screenshot of the parked page at the disputed domain name displaying paid links, redirecting the visitors to the complainant's competitor websites, is clear evidence for bad faith. It was held in the matter of *L'Oréal, Biotherm, Lancôme Parfums et Beauté & Cie v. Unasi, Inc.* [WIPO Case No. D2005-0623], exploitation of the reputation of trademarks to obtain click-through commissions from the diversion of internet users is a common example of use in bad faith as referred to in paragraph 4(b)(iv) of the Policy and identified in many previous decisions: e.g. *Future Brands LLC v. Mario Dolzer*, WIPO Case No. D2004-0718; *ACCOR v. Mr. Young Gyoona Nah*, WIPO Case No. D2004-0681 and *Deloitte Touche Tohmatsu v. Henry Chan*, WIPO Case No. D2003-0584. Further, the pattern of conduct is also evident from the simultaneous registration of two domain names by the Respondent <tevaglobal.in> and the disputed domain name <actavispharma.in>. In the UDRP matter of *Giorgio Armani S.p.A. Milan Swiss Branch Mendrisio v. Lizhen Ye* [WIPO Case No. D2013-0808] the Panel found that there is beyond all doubt that the Respondent has registered the disputed domain names in order to prevent the owner of the trademark from reflecting the mark in the corresponding domain names and that the Respondent may have engaged in a pattern of such conduct. The Panel accepts the Complainant's arguments that the worldwide fame of the trademarks leaves no question of the Respondent's awareness of those at the time of the registration of the disputed domain names which wholly incorporates the Complainant's trademarks, as even recognized by numerous previous UDRP panels (see *Ga Modelfine, Giorgio Armani S.p.A. v. Kim Hontage*, WIPO Case No. D2007-0851). It is evident that the Respondent knowingly chose to register and use the disputed domain name <actavispharma.in> to divert customers from

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the Complainants' official website and cause harm to its goodwill and reputation. In the matter of Actavis Group PTC ehf, Actavis Holdco US, INC. v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Terry Tatang, bagp import and export pty ltd, WIPO Case No. D2021-2834, it was held "The Panel accepts the Complainants' submission that its trademark ACTAVIS constitutes an invented and distinctive term and finds it inconceivable that the Respondent registered the disputed domain name without knowledge of the Complainants' trademark and business." Also, in doing so, it also violated Rule 3 clause (b) of INDRP, whereby a domain registrant declared that he would not infringe the intellectual property rights of others.

The Complainant submits that hence in terms of INDRP, given the above facts, Respondent is guilty of willful misrepresentation and providing inaccurate / incorrect information to the Registry as well. The Complainant has a long and well-established reputation in the Complainant's mark through its exclusive use in the pharmaceutical industry. By registering the disputed domain name with actual knowledge of the Complainant's trademark, the Respondent has acted in bad faith by breaching its service agreement with the Registrar because the Respondent registered a domain name that infringes upon the Intellectual Property rights of another entity, which in the present scenario is the Complainant. [Relevant Decisions: Ray Marks Co. LLC v. Rachel Ray Techniques Pvt. Ltd., INDRP/215 (July 9th 2011); Kenneth Cole Production Inc. v. Viswas Infomedia, INDRP/93 (April 10, 2009)].

On these facts, the Complainant contends that the Respondent has registered the disputed domain name and is using it in bad faith.

B. Respondent

The Respondent did not submit any response (evidence or argument) indicating his relation with the disputed domain name <actavispharma.in> or any trademark right, domain name right or contractual right.

6. Discussion and Findings

The Rules instruct this arbitrator as to the principles to be used in rendering its decision. It says that, "a panel shall decide a complaint on the basis of the statements and documents submitted by the parties in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any

rules and principles of law that it deems applicable”.

According to the Policy, the Complainant must prove that:

- (i) The Registrant’s domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
- (ii) The Registrant’s has no rights or legitimate interests in respect of the domain name that is the subject of Complaint; and
- (iii) The Registrant’s domain name has been registered or is being used in bad faith.

Although Respondent has not offered any arguments to defend himself on this complaint, the default does not automatically result in a decision in favour of the Complainant. The burden remains with Complainant to establish the three elements of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

The disputed domain name <actavispharma.in> was registered by the Respondent on Oct 20, 2021.

The Complainant is an owner of the registered trademark “**ACTAVIS PHARMA**” for the last many years. The Complainant is also the owner of the several other similar domains as referred to in the Complaint. These domain names and the trademarks have been created by the Complainant much before the date of creation of the disputed domain name by the Respondent. In the present case the disputed domain name is <actavispharma.in>. Thus, the disputed domain name is very much similar to the name, activities and the trademark of the Complainant.

The Hon’ble Supreme Court of India has held that the domain name has become a business identifier. A domain name helps identify the subject of trade or service that an entity seeks to provide to its potential customers. Further that, there is a strong likelihood that a web browser looking for “ACTAVIS PHARMA” products would mistake the disputed domain name as of the Complainant.

In the case of *Wal Mart Stores, Inc. v. Richard MacLeod*, (WIPO Case No. D2000-0662) it has been held that “When the domain name includes the trademark, or a confusingly similar approximation, regardless of the other

terms in the domain name” it is identical or confusingly similar for purposes of the Policy.

Therefore, I hold that the domain name <actavispharma.in> is phonetically, visually and conceptually identical or confusingly similar to the trademark of the Complainant.

B. Rights or Legitimate Interests

The Respondent may demonstrate its rights to or legitimate interest in the domain name by proving any of the following circumstances:

- (i) before any notice to the Registrant of the dispute, the Registrant’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Registrant (as an individual, business or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or
- (iii) The Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In Case No. INDRP/776, *Amundi v. GaoGou*, the arbitration panel found that the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4 (II) of the INDRP Policy.

The Respondent has not responded in this case despite sufficient notice. There is also no evidence to suggest that the Respondent has become known by the disputed domain name anywhere in the world. The name of the Registrant / Respondent is not known as per Whois details. Based on the evidence adduced by the Complainant, it is concluded that the above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

Further, the Complainant has not consented, licensed or otherwise



permitted the Respondent to use its name or trademark "ACTAVIS PHARMA" or to apply for or use the domain name incorporating said trademark. The domain name bears no relationship with the Registrant. Further that, the Registrant has nothing to do remotely with the business of the Complainant.

As has been contended by the Complainant, the Respondent is not making a legitimate, fair or bona fide use of the said domain name for offering goods and services. The Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public.

I, therefore, find that the Respondent has no rights or legitimate interests in the domain name <actavispharma.in> under INDRP Policy, Para- 4(ii).

C. Registered and Used in Bad Faith

Any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) 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
- (ii) 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
- (iv) by using the domain name, the Registrant has intentionally attempted to attract the 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.



The contention of the Complainant is that the present case is covered by the circumstances mentioned herein above. There are circumstances indicating that the Respondent has intentionally attempted to attract, for commercial gain, internet users to its web site, by creating a likelihood of confusion with the Complainant's mark. It may also lead to deceiving and confusing the trade and the public.

In WIPO Case No. D2007-1695, Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe - "Respondent's use of a domain name confusingly similar to Complainant's trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use."

The circumstances as evident from the foregoing paragraphs lead to the conclusion that the domain name in dispute was registered and used by the Respondent in bad faith.

7. Decision

In light of the foregoing findings, namely, that the domain name is confusingly similar to the trademark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the domain name was registered in bad faith and is being used in bad faith, it is clear beyond doubt that the Respondent has violated the provisions of Rule-3 of the Policy. Therefore, in accordance with the Policy and the Rules, the Arbitrator orders that the domain name <actavispharma.in> be transferred to the Complainant.

No order to the costs.



Prabodha K. Agrawal
Sole Arbitrator

Dated: 21st March, 2022