



सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

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Certificate Issued Date : 07-Dec-2023 04:58 PM  
Account Reference : IMPACC (IV)/ dl914503/ DELHI/ DL-DLH  
Unique Doc. Reference : SUBIN-DL91450382507891106811V  
Purchased by : SUDHIR KUMAR SENGAR  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : SUDHIR KUMAR SENGAR  
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Stamp Duty Amount(Rs.) : 100  
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#### INDRP ARBITRATION

THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]

ADMINISTRATIVE PANEL DECISION

SOLE ARBITRATOR: SUDHIR KUMAR SENGAR

Société des Produits Nestlé S.A

Vs

Dotpe Pvt. Ltd.

ARBITRATION AWARD Disputed Domain Name: < maagipicklesandspices.in >

#### Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

*Sudhir Kumar Sengar*



## 1. The Parties

The Complainant, in this administrative proceeding, is Société des Produits Nestlé S.A, 1800, Vevey, Switzerland. The Complainant is represented by Manish Kumar Mishra INTTL ADVOCARE Express Trade Tower B-36, Sector 132 Expressway, NOIDA, Uttar Pradesh-2001301 (Email : manish@inttladvocare.com, Telephone: +91 120 2470200 – 298).

The Respondent is Dotpe Pvt. Ltd. Paras Twin Towers Ground Floor Golf Course Rd Sector 54 Gurugram, Haryana – 122002 (Telephone(91) 8800990190, E-Mail: showroom@dotpe.in)

## 2. Domain Name and Registrar

(i) The disputed domain name is < maagipicklesandspices.in>.

(ii) The Registrar with whom the domain name is registered is Endurance Digital Domain Technology LLP, HD-016, WeWork Nesco IT Park, Building 4, Nesco IT Park Western Express Highway, Goregaon (East) Mumbai Maharashtra 400063

## 3. Procedural History

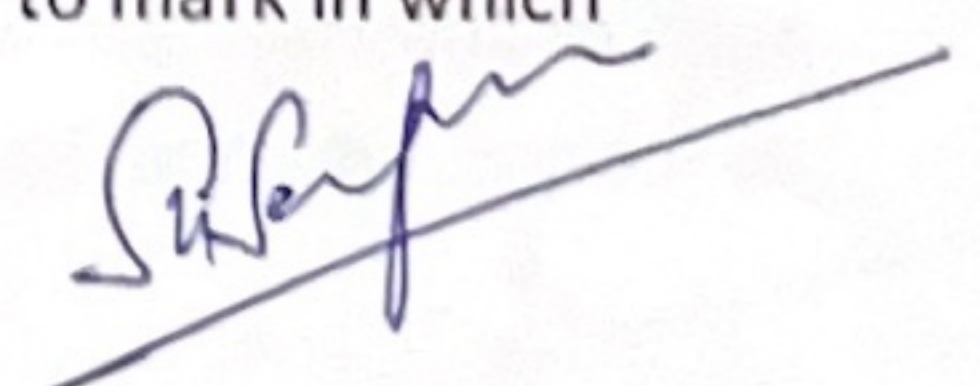
The arbitration proceedings is in accordance with the .IN Domain Name Dispute Resolution Policy (the policy) adopted by National Internet Exchange of India ("NIXI") and INDRP Rules of Procedure("the Rules") which were approved on June 28,2005 in accordance with the Indian Arbitration and Conciliation Act,1996. By registering disputed domain name with a NIXI registrar, the respondent agreed to the resolution of disputes pursuant to the Policy and the Rules.

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

On November 17, 2023, I submitted the statement of Acceptance and Declaration of impartiality and independence, as required by NIXI to ensure compliance with Paragraph 6 of Rules. NIXI notified the parties of my appointment as Arbitrator via email on November 17, 2023 and served an electronic copy of the complaint on the Respondent on November 17, 2023. I informed the Parties about commencement of arbitration proceeding on November 17, 2023 and the Respondent was directed to submit a response within 7(seven) days. The Respondent failed to submit any response to the arbitration issued on 17.11.2023. The Respondent was given another opportunity and directed to file his response within another 5 (five) days from the issue of this communication. The Respondent failed to submit his Response even within the extended time line. The Complainant has submitted proof of delivery of Complaint to the Respondent. The Respondent has not filed any response to the arbitration notice till date.

## 4. Grounds for Administrative Proceedings

1. The disputed domain name is identical and/or confusingly similar to mark in which the Complainant has rights.





2. The Respondent has no right or legitimate interest in the domain name.

3. The domain name has registered or used the domain name in bad faith.

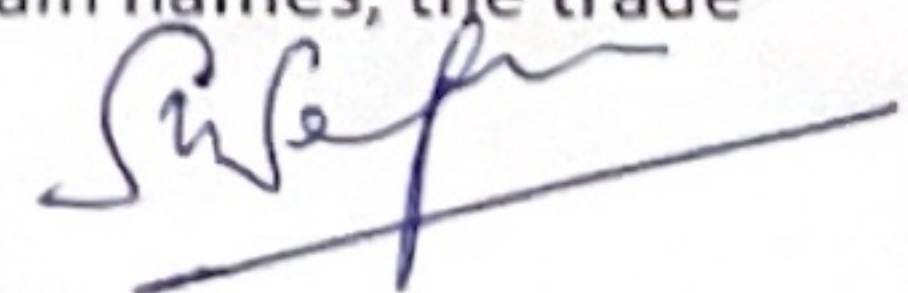
#### **5. Background of the Complainant**

The Complainant, Société des Produits Nestlé S.A., belongs to the Nestlé Group of companies (hereinafter referred to as "Nestlé"). The Complainant submitted that the Complainant is the registered owner of the trademarks and designs used by Nestlé around the world. The Complainant further submitted that Nestlé was founded in the year 1866 by Henri Nestlé and is today one of the largest food and beverage companies in the world. The Complainant further submitted that reference to the term "Nestlé" and/or "Complainant" in the present proceeding shall be deemed to mean and include reference to its predecessors in business, interest, affiliates, sister concerns, assignees, licensees, and its subsidiaries. The Complainant further submitted that Nestlé has evolved stringent norms for manufacturing its high quality products, which are well-known and have established its niche in the international markets and Nestlé has a significant geographical presence in almost every country of the world, employing approximately 275,000 persons in 2022, with sales in around 188 countries and having about 344 factories worldwide, 9 of which are in India. The Complainant further submitted that Nestlé's goods and services are available around the world under more than 2000 brands. The Complainant further submitted that Nestlé is engaged in the business of manufacture and sale of an extensive range of foods and other allied products such as cereals, beverages, chocolate and confectionery, culinary products (including pasta, noodles, sauce, soups and frozen products), dairy products (including milk, yogurt, ghee, etc.), ice cream, pet food, active lifestyle nutrition, food for special medical purposes, vitamins, minerals, supplements, medical nutrition, and pharmaceuticals etc. The Complainant further submitted that Nestlé is known worldwide for its innovative and high-quality products sold under well-known brands such as NESTLÉ, NESCAFÉ, MAGGI, PURINA, KITKAT, MUNCH, POLO, EVERYDAY etc and all these trade marks have a large international presence and international goodwill. The Complainant further submitted that the Complainant has been continuously involved in dedicated research and development, including innovation and renovation and is today a world leader in Nutrition, Health and Wellness with an annual group sale of CHF 94.4 billion in the year 2022. The Complainant further submitted that the Complainant has emerged as one of the world leaders in "food industries" and has been ranked amongst top companies in the "Fortune 500" magazine. One of the well-known and highly popular trade mark of the Complainant is MAGGI. The Complainant further submitted that the trade mark MAGGI of the Complainant has no meaning whatsoever in common parlance and is not a dictionary word and thus, the same enjoys highest degree of protection being inherently distinctiveness. The Complainant further submitted that the trade mark MAGGI has been used internationally since 1886 and the products



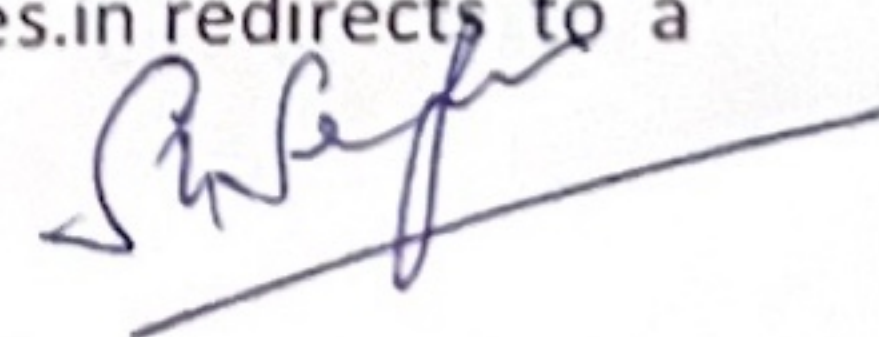


under MAGGI were sold in Switzerland as early as 1886 and in India since 1974. The Complainant further submitted that the trade mark MAGGI connotes and denotes source and origin of the goods, services and business of the Complainant exclusively and the Complainant is therefore, the proprietor of the trade mark MAGGI, having exclusive right to use thereof in relation to variety of goods, services or business. The Complainant has also submitted the document evidencing launch of MAGGI in the year 1886. The Complainant further submitted that the Complainant through its licensee, Nestlé India Limited has been manufacturing and selling variety of culinary products in India under the trade mark MAGGI since 1974 and the culinary products such as noodles, sauces, soups, seasonings, taste enhancer, readymade gravies, pasta, coconut milk powder etc. are manufactured and sold by Complainant's licensee, Nestlé India Limited under the trade mark MAGGI under strict quality control. The Complainant also submitted a copy of chart showing details of "the year of first use" i.e. use and first advertisement of the trade mark MAGGI. The Complainant further submitted that the trade mark MAGGI is used by the Complainant in promotion of the brand MAGGI and for enhanced experience in the field of cooking food, the Complainant has used the brands across kitchen utilities, recipe books, food service and restaurant utilities and other such cognate goods and services. The Complainant further submitted that, by way of license, Nestlé India Limited has been authorized to use the trade mark MAGGI in India. The Complainant further submitted that MAGGI Enterprises Limited is one of the Holding companies of Nestlé India Limited along with Nestlé S.A. The Complainant further submitted that apart from common law proprietary right, the Complainant also enjoys statutory right to the exclusive use of the trade mark MAGGI internationally as well as in India, conferred by The Trade Marks Act, 1999 (hereinafter referred to as the 'Act'). The Complainant further submitted that the trade mark MAGGI is registered in favour of the Complainant in various countries worldwide. The Complainant further submitted that the trade mark MAGGI is also registered in India in favour of the Complainant and these registrations are timely renewed by the Complainant and are valid and subsisting as on date. The Complainant has submitted copy of the registration certificates along with online status/documents showing renewal/Trade Marks Journal certificates. The Complainant further submitted that the Complainant is thus earlier registered proprietor of the trade mark MAGGI, thereby having exclusive statutory right to use thereof. The Complainant further submitted that apart from the aforesaid, the Complainant has also filed trade mark applications, which are part of the public records. The Complainant further submitted that the Complainant, to its credit, also has domain name registrations for various domain name including the trade mark MAGGI such as such domain names registrations [www.maggi.in](http://www.maggi.in), [www.maggi.co.in](http://www.maggi.co.in), [www.maggi.com.mx](http://www.maggi.com.mx), [www.maggi.co.uk](http://www.maggi.co.uk), [www.maggi.ee](http://www.maggi.ee), [www.maggiprofessional.com](http://www.maggiprofessional.com), [www.maggi.recipes](http://www.maggi.recipes), [www.maggi.ru](http://www.maggi.ru), [www.maggi.us](http://www.maggi.us), [www.maggi.co.nz](http://www.maggi.co.nz), [www.maggi.com.au](http://www.maggi.com.au), [www.discovermaggi.com](http://www.discovermaggi.com). The Complainant further submitted that as evident from the aforesaid list of domain names, the trade





name MAGGI forms part of domain names in almost all countries in the world for carrying on business activities of the Complainant. The Complainant further submitted that on account of prior adoption, long and continuous use, extensive advertisements and sales promotion campaigns undertaken by the Complainant and its licensees around the world including Nestlé India Limited and voluminous sales of products under the trade mark MAGGI. The Complainant further submitted that the said trade mark has acquired formidable global goodwill and reputation and come about to be identified and associated exclusively with the goods, services and business originating from the Complainant and none else. The Complainant further submitted that the Complainant has been diligent in protecting its intellectual property rights and has always taken steps to protect its distinctive, well-known and reputed trade mark MAGGI and the Complainant in the past has taken action in various forums against misuse, abuse, misappropriation and misrepresentation by various parties of the trade mark MAGGI. The Complainant further submitted that the Hon'ble High Court of Delhi in its order dated 09.05.2014 has recognized MAGGI as a well-known trade mark. MAGGI has also been also enlisted as a well-known trade mark in the list of well-known trade marks maintained by the Trade Marks Registry. The Complainant further submitted that the Complainant has been taking several actions including filing oppositions and sending legal notices to third parties and has been zealously guarding any misuse of its trade mark/domain name MAGGI. The Complainant further submitted that there is an overwhelming public interest involved in ensuring that there is no deceptively similar use of the brand/mark MAGGI, which may otherwise lead to severe public harm, frauds being perpetuated, thereby causing irreparable harm to the goodwill and reputation of the Complainant. The Complainant further submitted that the INDRP Rules of Procedure specify a 100 page limit for all annexures and accordingly, the Complainant is constrained to file illustrative evidence for the sake of brevity. The Complainant further submitted that the Complainant came across a trade mark application being no. 5744184 filed by Prashanth G. D., Proprietor of M/S. Prashanth Home Industries for the maagi mark. The Complainant further submitted that on further search about the Complainant, to its utter surprise and shock, has come to know about the domain name registration for [www.maagipicklesandspices.in](http://www.maagipicklesandspices.in) (the disputed domain name) which is visually, phonetically and structurally deceptively similar to and encompass whole of the Complainant's well-known trade mark MAGGI. The Complainant further submitted that the Complainant has also approached the Respondent for an amicable resolution of the present dispute however, no resolution could be arrived at. The Complainant further submitted that it is pertinent to note that the Complainant has several domain name registration as listed in the preceding paragraphs wherein the mark MAGGI forms an integral, prominent and distinguishing part thereof, and therefore, the disputed domain name is deceptively similar to the Complainant's trade mark. The Complainant further submitted that it is pertinent to mention that a click on the disputed domain name, [www.maagipicklesandspices.in](http://www.maagipicklesandspices.in) redirects to a

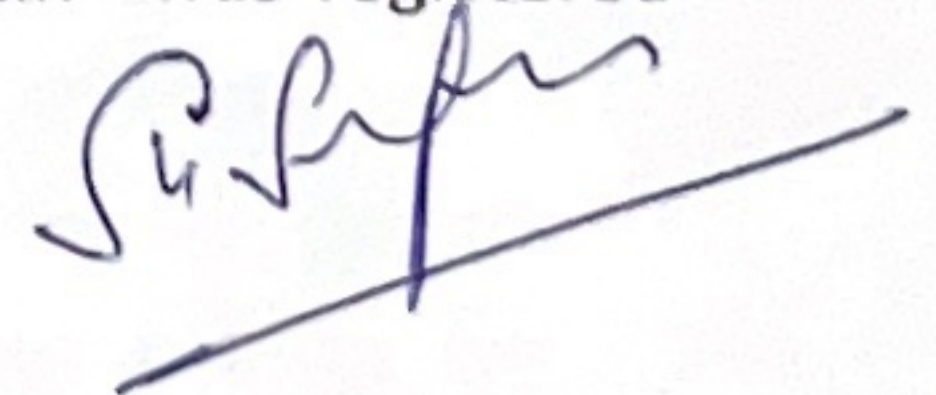




page. The Complainant further submitted that the Respondent's conduct clearly establishes that the disputed domain name was registered by the Respondent with the *malafide* intention and without any legitimate interest and the same has been registered by the Respondent being fully aware of the rights of the Complainant in its prior adopted, extensively used, registered and well-known trade mark MAGGI and with dishonest intention to capitalise the same. The Complainant further submitted that not only has the Respondent adopted the Complainant's trade mark MAGGI without authorization or consent but is using the domain name wherein the Respondent is offering for sale or selling the identical/cognate and allied goods. The Complainant further submitted that the Respondent, by creating the disputed domain name, aims to appropriate the long-standing reputation and goodwill garnered by the Complainant in its well-known trade mark MAGGI. The Complainant further submitted that the Complainant immediately searched the Whois database for the disputed domain name and found the Registrant information has been redacted for privacy, which itself is indicative of bad faith on part of the Respondent. The Complainant further submitted that the disputed domain name www.maagipicklesandspices.in in respect of identical/cognate and allied goods would inevitably lead to confusion amongst the consumers at large and general public, who will be misled and will wrongly believe that the impugned mark originates from the Complainant or is a product variant of the Complainant's well-known trade mark MAGGI, which is certainly not the case. The Complainant further submitted that further the unwary consumers might believe the disputed domain name to be an extension of the Complainant's repertoire of domain names, comprising the well-known trademark MAGGI of the Complainant and associate the products sold through the disputed domain name with the Complainant. The Complainant further submitted that the disputed domain name is registered in bad faith and can be used for illegal and unlawful purposes and ought to be cancelled in the name of Complainant. In respect of the said violation, the present Complaint is being filed for cancellation of the domain name www.maagipicklesandspices.in.

#### **The Respondent and the Disputed Domain Name**

The Respondent is Dotpe Pvt. Ltd. Paras Twin Towers Ground Floor Golf Course Rd Sector 54 Gurugram, Haryana – 122002 (Telephone(91) 8800990190, E-Mail: showroom@dotpe.in). The Disputed domain <maagipickleandspices.in> was registered by the Respondent on Dec 01, 2022.





## Legal Grounds

The domain name is identical or confusingly similar to the trade mark MAGGI in which the Complainant has rights:

### Complainant's Contentions

The Complainant contended that a mere glance at the disputed domain name [www.maagipicklesandspices.in](http://www.maagipicklesandspices.in) gives rise to enormous confusion as to its origin since it uses the mark MAAGI which is deceptively similar to the Complainant's trade mark MAGGI. The Complainant further contended that the Respondent ought to have been aware about the goodwill and reputation of Complainant's trade mark MAGGI since the same is well-known and reputed in the trade, also owing to the widespread and extensive advertisement and promotional activities by the Complainant for the said mark and the Respondent has made clever yet insignificant and cosmetic modification in the disputed domain name thereby making it deceptively similar to Complainant's trade mark MAGGI. Such modifications by misspelling, MAGGI as "MAAGI" with descriptive elements indicates the origin of the Complainant. The Complainant further contended that the Complainant has several domain name registrations which incorporate the trade mark MAGGI, as mentioned above. The Complainant further contended that an internet user who wishes to visit the Complainant's site for information regarding the Complainant's goods, but not being entirely familiar with the exact web address of the Complainant's website, might be taken to the Respondent's website instead, which would not contain any genuine information furnished or approved by the Complainant herein, thereby prejudicing the interests and reputation of the Complainant. The Complainant further contended that further, the disputed domain name will lead to confusion *qua* the Complainant's mark as search engines are likely to turnup hits for Respondent's site based on searches for MAGGI. The Complainant further contended that the registration of the disputed domain name which is deceptively similar to the Complainant's trade mark MAGGI as well as the Complainant's website [www.maggi.in](http://www.maggi.in) is misappropriation of the Complainant's goodwill and reputation and constitutes acts of misrepresentation to the public at large that the Respondent's disputed domain name is associated with the Complainant, amounting to infringement, passing off, unfair competition, etc. The Complainant further contended that the blatantly dishonest and *malafide* adoption of the disputed domain name by the Respondent will also inevitably lead to dilution of the inherent distinctiveness associated with the Complainant's well known trade mark MAGGI by reducing its capacity to identify and distinguish the services as originating from a particular source. The Complainant further contended that the disputed domain





www.maagipicklesandspices.in is liable to be considered confusingly and deceptively similar to the Complainant's trade mark MAGGI and its domain names, particularly www.maggi.in .

#### **Respondent's Contentions**

The Respondent has not submitted any response to the arbitration notice issued by this panel.

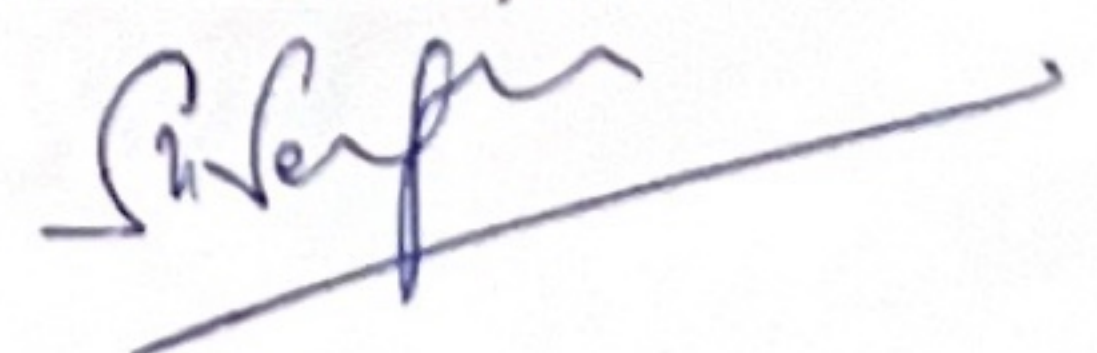
**The Registrant has no right or legitimate interest in the disputed domain name**

#### **Complainant's Contentions**

The Complainant further contended that the Respondent does not have rights or legitimate interests in the disputed domain names. The Complainant further contended that the Complainant has never granted the Respondent any right to use the MAGGI mark or any similar mark, the Respondent is not affiliated to the Complainant in any form, and the Complainant has not found the Respondent to be commonly known by the disputed domain name or to have any legitimate interest over it. The Complainant further contended that the Respondent could have performed a search before registering the disputed domain name which would have disclosed the Complainant's interest. The Complainant further contended that the Respondent's registration of the disputed domain name is contrary to the conditions outlined under the Policy and clearly shows that the Respondent has no legitimate interest in the disputed domain name but has been registered only to commit fraud upon the public by engaging into unlawful activities. The Complainant further contended that the disputed domain name is a deliberate unlawful impersonation representing it to be of the Complainant's website and the Respondent deliberately chose to use the Complainant's well-known, distinctive MAGGI mark with slight insignificant modification as regards the spelling of MAGGI within the disputed domain name with the likely intention of benefitting from the Complainant's worldwide reputation and to confuse Internet users. The Complainant further contended that it cannot be considered to be making a *bonafide* offering of goods or services. The Complainant further contended that the registration of the Complainant's marks is prior to the registration of the disputed domain name and the Complainant has not authorized the Respondent to register the disputed domain name. The Complainant further contended that the Respondent very likely knew about the Complainant and its mark, which is distinctive and well-known both worldwide and in India.

#### **Respondent's Contentions**

The Respondent has not submitted any response to the arbitration notice issued by this panel.

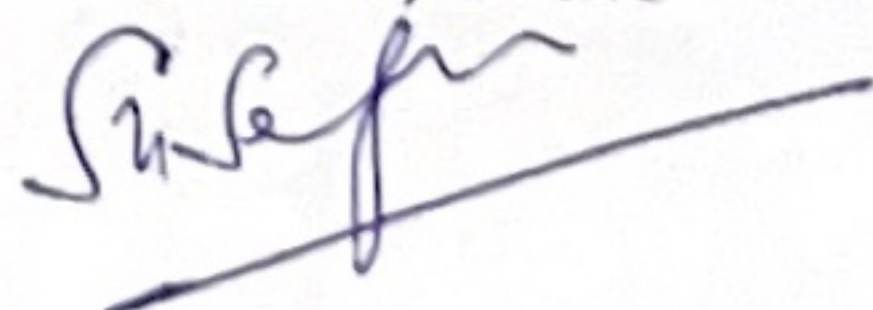




**The domain name was registered or and is being held in bad faith**

### **Complainant's Contentions**

The Complainant further contended that the Respondent's conduct clearly establishes that the disputed domain name was registered by the Respondent to misuse the proprietary and legitimate legal rights vested with the Complainant alone. The Complainant further contended that the disputed domain name [www.maagipicklesandspices.in](http://www.maagipicklesandspices.in) has been deliberately chosen to target the present and prospective traders and consumers, especially in India, and is a dishonest attempt to piggyback upon the enormous goodwill and reputation of the Complainant. The Complainant further contended that the Respondent's disputed domain name can be mistaken to be the domain name of the Complainant and can be used to deceive potential and prospective traders and consumers as the disputed domain name is deceptively similar to the Complainant's domain name. The Complainant further contended that there is an imminent likelihood of damage which may be caused to the consumers, traders and public at large and also cause irreparable damage to the Complainant's reputation and goodwill through the disputed domain name. The Complainant further contended that the disputed domain name is registered in bad faith and can be used for illegal and unlawful purposes. The Complainant further contended that the disputed domain name ought to be cancelled to the Complainant on this ground alone. The Complainant further contended that the *malafide* intent of the Respondent is evident as the said Respondent has no affiliation or connection with the Complainant, despite which the Respondent has registered the disputed domain name which contains a phonetically identical and visually deceptively similar mark as the well-known and registered trade mark MAGGI of the Complainant. The Complainant further contended that the registration of the disputed domain name is likely to harm the reputation and goodwill earned by the Complainant in its well-known trade mark MAGGI apart from causing financial loss to the Complainant and irreparable injury to the consuming public. The Complainant further contended that, in the present case, the Complainant believes that the Respondent is based in India, as disclosed by the Respondent's address of Haryana, India as mentioned in the Whois details of the Respondent. The Complainant further contended that the trade mark application also found by the Complainant being [www.maagipicklesandspices.in](http://www.maagipicklesandspices.in) also indicates that the Respondent is an Indian entity and therefore, such Respondent cannot but be aware of the immense goodwill and reputation of the Complainant's well-known mark MAGGI. The Complainant further contended that it is settled law, as held in *WIPO Case No. D 2017-2232* that where a domain name incorporates a sufficiently well-known trade mark, and the Respondent knew, or ought to have known, of the





trade mark's existence, and the Respondent has no legitimate rights or interests in it, the domain name is considered to have been registered in bad faith. The Complainant further contended that in the present case, the Respondent is well aware of the immense goodwill and reputation of the Complainant's well-known trade mark "MAGGI". The Complainant further contended that the Respondent has obtained registration for the disputed domain name in bad faith to attract the internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or service/goods on the Respondent's website or location. The Complainant further contended that the Respondent's registration and use of the disputed domain name is a clear case of cybersquatting, whose intention is to take advantage of the Complainant's immense reputation and its prominent presence on the internet in order to confuse the public to the detriment of the Complainant.

#### **Respondent's Contentions**

The Respondent has not submitted any response to the arbitration notice issued by this panel.

#### **7. Discussion and findings**

The Complainant, Société des Produits Nestlé S.A., belongs to the Nestlé Group of companies (hereinafter referred to as "Nestlé") was founded in 1866 and is operating in India since 1974. The Complainant is in business of food and beverages and is operating in many countries of the world. The company has several trade marks registered in many countries including India where Respondent is based. The Complainant has many well known brands products which are available in many countries of the world. The food products of the Complainant include cereals, beverages, dairy, vitamins, supplements, pharmaceuticals etc. The Complainant's popular brands include Nestle, Nescafe, Maggi, Kitkat, Munch, Everyday etc. Maggi is one of the Complainant's popular brands. The Complainant spends significantly on advertisement and promotion of its products. The word Maggi is distinct and has no dictionary meaning. The Trademark is registered in many jurisdictions including India. The Complainant has also got many domains registered encompassing word MAGGI. The domains <maggi.in> and <maggi.co.in> were registered by the Complainant in 2005 and 2017 respectively. In addition to Common Law Rights, the Complainant has exclusive rights over use of the mark MAGGI. The mark MAGGI of the Complainant is well known and needs to be protected against unauthorized misuse by third parties. The Respondent registered disputed domain name <maagipicklesandspices.in> in 2022 decades after registration of mark MAGGI by the Complainant. The disputed name contains well known mark MAGGI of the Complainant almost completely. The Respondent has used word MAAGI instead of MAGGI to make it look different.



The Respondent is hosting a website on the disputed domain name containing word MAAGI which is deceptively similar to the mark of MAGGI of the Complainant. The Respondent is doing business of selling similar products to those of Complainant giving an impression that that this website belongs or affiliated to the Complainant. The disputed domain name is likely to be taken to be belonging to the Complainant by ordinary internet user. The Respondent has not responded positively for amicable solution offered by the Complainant. The Respondent appears to gain from the popularity of the well known mark of the Complainant. The Complainant has not authorized the Respondent to use Complainant's well known mark . The Respondent has failed to submit any response to the arbitration notice issued by this panel so as to rebut the contentions of the Complainant.

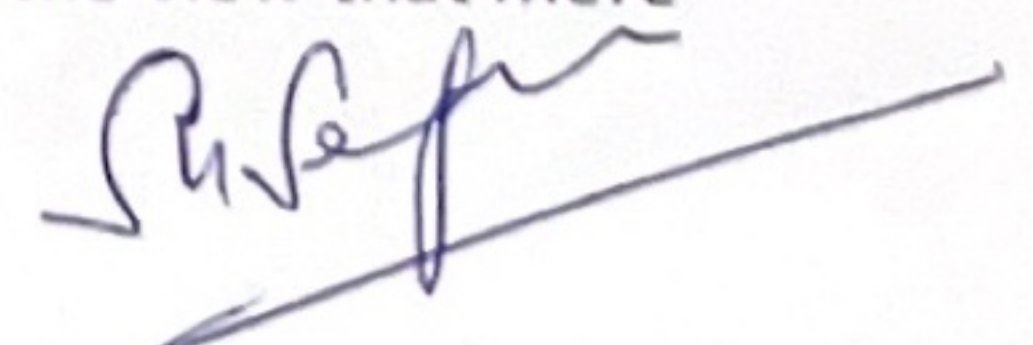
**The domain name <maagipicklesandspices.in> is nearly identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights.**

The Complainant has been able to prove that it has trademark rights and other rights in marks 'MAGGI' by submitting substantial documents. The mark comes under category of well known trademark .The mark is widely used by the Complainant in promotion & advertising and has a significant presence in internet world. The disputed domain contains name which is nearly identical and deceptively similar to mark 'MAGGI' as the disputed domain name <maagipicklesandspices.in> contains Complainant's mark completely. The Respondent has just replaced G with A to make it look different. Addition of top level domain (CCTLD) extension '.in' is insignificant and does little to make it different. There can't be coincidence that the Respondent has chosen domain name deceptively confusingly similar to the well known mark of the Complainant. The mark 'MAGGI' was first registered by the Complainant in India in 1970 years before registration of disputed domain by the Respondent on 2022. The Respondent has failed to rebut the contentions of the Complainant.

Bases on the forgoing analysis, I am of the opinion that the disputed domain name is nearly identical and confusingly similar to the complainant's mark/domain.

**The Respondent has no rights or legitimate interests in respect of the Domain Name.**

The Complainant has been able to prove by submitting evidences that it has legitimate interest in trademark MAGGI. The Respondent is neither a licensee nor authorized by the Complainant, to use Complainant's mark. The Respondent is not known by the mark and can't have legitimate interest in the disputed domain. The Respondent should have come forward with evidence to show his legitimate interest by rebutting the contention of the Complainant. The Respondent failed to submit his response to justify legitimate non commercial use of disputed domain name. The Respondent has also failed to respond to the contentions of the Complainant. This panel is of the view that mere





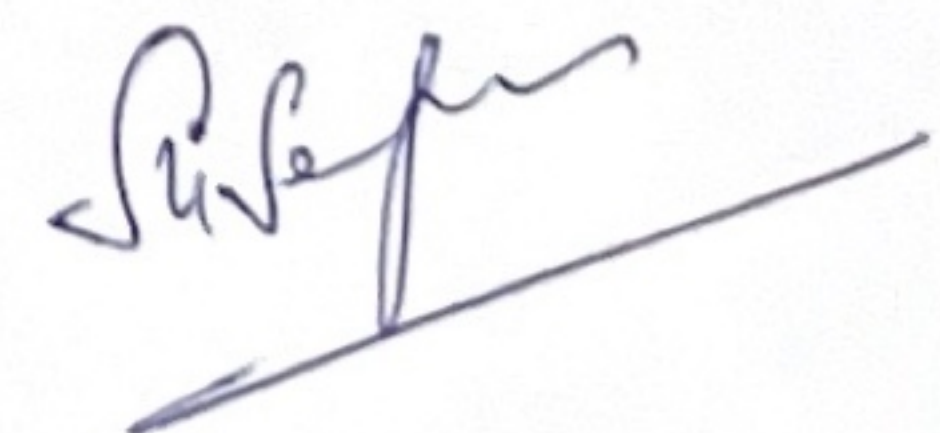
registration of domain name can't establish rights in disputed domain. According to the Policy that "once the Complainant makes a prima facie showing that the registrant does not have rights or legitimate interests in the domain name, the burden shifts to the registrant to rebut it by providing evidence of its rights or legitimate interests in the domain name". The burden of proof to establish any legitimate interest falls on the respondent. The Respondent could have invoked any of the circumstances set out in paragraph 6 of the Policy, in order to demonstrate rights or legitimate interests in the Disputed Domain Name. The Respondent has not filed any response to justify the legitimate interests in the disputed domain name to rebut the contentions of the Complainant.

Therefore, in light of complaint and accompanying documents, I am therefore of the opinion that the Respondent has no rights or legitimate interest in the disputed domain name.

#### **The Domain Name was registered or is being used in bad faith**

This can't be a coincidence that the Respondent registered disputed domain name fully incorporating word MAAGI deceptively similar to well known mark MAGGI of the Complainant. The Complainant has been using the mark for several years when the Respondent registered the disputed domain name in 2022. The panel finds that the Respondent has registered the disputed domain <maagipicklesandspices.in> containing word almost similar to well known mark of the Complainant giving impression that this disputed domain is affiliated to the Complainant. The sole purpose of the respondent is to create confusion in mind of an ordinary internet user. The Respondent is hosting website on disputed domain which is in business of selling products similar to those of complainant. The intent of the Respondent appears to gain from the reputation of the Complainant's mark. The registration of domain name containing the well known mark of the Complainant is definitely a bad faith registration use. The Respondent must have done dilly diligence to ensure that domain name registered does not infringe upon someone other's rights. The panel also takes notice of the fact that the Respondent has preferred not reply to the contentions of the Complainant.

In view of the above, In view of the above, I am of the opinion that registration of disputed domain name is bad faith.

A handwritten signature in blue ink, appearing to be 'R. K. Singh', written over a horizontal line.



### Decision

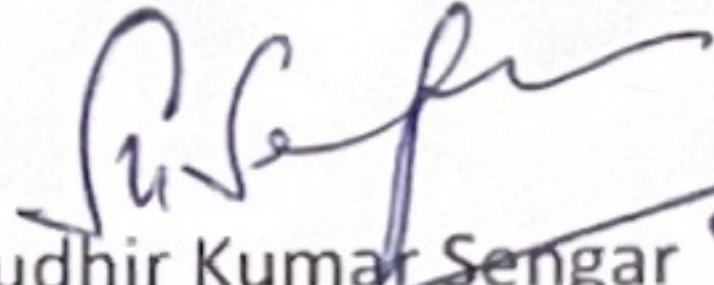
Based on the of contentions of the complainant , the attached documents , cited decisions and in view of the above read with all the facts of the present case, the Complainant's contentions are tenable. The test of prudence demands fairness of actions by the Respondent. The Respondent is hosting a website on disputed domain for selling products similar to those of Complainant which may be detrimental to the reputation of the Complainant. The Respondent has failed to file any response to rebut the Complainant's contentions. In view of the forgoing discussion, I am of the opinion that the disputed domain name <maagipicklesandspices.in> is nearly identical/confusingly similar to the Complainant's marks/domain. The Respondent does not have rights or legitimate interest in the disputed domain name and disputed domain name was registered in bad faith.

In accordance with the Policy and Rules I direct that the Disputed Domain name <maagipicklesandspices.in> be cancelled with a request to NIXI to monitor the cancellation.

The award is being passed within statutory deadline of 60 days from the date of commencement of arbitration proceedings.

No order to costs.

December 08 ,2023

  
Sudhir Kumar Sengar 8/12/23  
Sole Arbitrator