

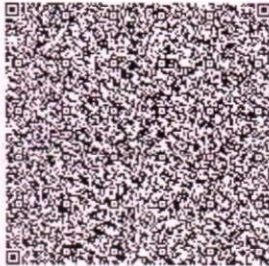


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INDIA NON JUDICIAL Chandigarh Administration

e-Stamp

Certificate No. : IN-CH06431659068566P
Certificate Issued Date : 24-Jan-2017 11:41 AM
Certificate Issued By : chmukumau
Account Reference : IMPACC (GV)/ chimpsp07/ E-SMP HIGH COURT/ CH-CH
Unique Doc. Reference : SUBIN-CHCHIMPSP0712792965240104P
Purchased by : ASHWINIE KUMAR BANSAL
Description of Document : Article 12 Award
Property Description : FNO-187 ADVOCATE SOCIETY SEC-49A CHD
Consideration Price (Rs.) : 0
(Zero)
First Party : ASHWINIE KUMAR BANSAL
Second Party : Not Applicable
Stamp Duty Paid By : ASHWINIE KUMAR BANSAL
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



-----Please write or type below this line-----

ARBITRATION AWARD

(On Stamp Paper)

Ashwinie B.

VO 0005975326

INDRP ARBITRATION
THE NATIONAL INTERNET EXCHANGE OF INDIA
[NIXI]

ARBITRAL TRIBUNAL CONSISTING OF
SOLE ARBITRATOR:
DR. ASHWINIE KUMAR BANSAL, L.L.B; Ph.D.
Advocate, Punjab & Haryana High Court,
Chandigarh

In the matter of:

3M Company, 3M Center, St. Paul, Minnesota 55144-1000
through its attorneys M/s Remfry & Sagar, Remfry House at the
Millennium Plaza, Sector-27, Guragaon – 122009 (India), email:
remfry-sagar@remfry.com.

...Complainant

VERSUS

Zhaxia, Pfister Hotel, Milwaukee, Wisconsin 53214, USA, Milwaukee
53202, USA, e-mail: ymgroup@msn.com.

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REGARDING: DISPUTED DOMAIN NAME: FUTURO.IN

1. The Parties:

Complainant:

3M Company, 3M Center, St. Paul, Minnesota 55144-1000
through its attorneys M/s Remfry & Sagar, Remfry House at the
Millennium Plaza, Sector-27, Guragaon – 122009 (India), email:
remfry-sagar@remfry.com.

Respondent:

Zhaxia, Pfister Hotel, Milwaukee, Wisconsin 53214, USA,
Milwaukee 53202, USA, e-mail: ymgroup@msn.com.

2. The Domain Name and the Registrar:

The disputed domain name <futuro.in> is registered with
Business Solutions (R54-AFIN), Business Forms, P.O. Box. No.
2232, Kalbadevi P.O., Mumbai-400002, Maharashtra, email:
legal@mitsu.in. (the "Registrar").

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3. Procedural History [Arbitration Proceedings]

A Complaint has been filed with the National Internet Exchange of India (NIXI). The Complainant has made the Registrar verification in connection with the disputed domain name <futuro.in>. It is confirmed that at present the Respondent is listed as the Registrant and provided the administrative details for administrative, billing and technical contact. NIXI appointed Dr. Ashwinie Kumar Bansal, Advocate, as the sole arbitrator in this matter. The Arbitrator has submitted his Statement of Acceptance and Declaration of Impartiality and Independence, as required by NIXI.

NIXI had sent the hard copy of the Complaint and Annexures to the Respondent. NIXI has conformed delivery of the courier to the Respondent in its email dated 24.01.2017 as under:

"Dear Arbitrator

We write this email in continuation of our earlier email sent today appended below.

DTDC, the courier agency has sent an email informing that the courier is delivered.

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The email sent by DTDC is sent as a next email which follows this email. The scanned copy of the courier receipt is attached herewith for your perusal."

In accordance with the INDRP Rules of Procedure (the Rules), Arbitrator directed the Respondent on 13.01.2017, with copy to Complainant and NIXI, through the email, to give his Reply within 10 days. The Complainant was also requested to send a soft copy of the Complaint to the Respondent along with Annexures and accordingly the Complainant had sent a soft copy of the Complaint and Annexures on 13.01.2017 to the Respondent as per direction of the Arbitrator. Section 3 of the Arbitration and Conciliation Act, 1996 provides as under:

"3. Receipt of written communications.- (1) Unless otherwise agreed by the parties,-

(a) any written communication is deemed to have been received if it is delivered to the addressee personally or at his place of business, habitual residence or mailing address, and

(b) if none of the places referred to in clause (a) can be found after making a reasonable inquiry, a written communication is deemed to have been received if it

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is sent to the addressee's last known place of business, habitual residence or mailing address by registered letter or by any other means which provides a record of the attempt to deliver it.

(2) The communication is deemed to have been received on the day it is so delivered.

(3) This section does not apply to written communications in respect of proceedings of any judicial authority.”

In view of provisions of section 3 of the Arbitration and Conciliation Act, 1996 regarding receipt of communications, he is deemed to have been duly served. Respondent has failed to give any response to the Complaint inspite of expiry of stipulated period given to him. However, Pfister Hotel through its counsel vide letter dated 18.01.2017 has intimated that the Respondent Zhaxia has fraudulently associated the Pfister's address with the registration of the domain name and that Pfister Hotel in no way uses FUTURO mark in India, nor anywhere else in the world.

As per section 25 of the Act the arbitrator is competent to make the award if Respondent fails to file the reply before him. Section 25 is reproduced below for ready reference:

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25. Default of a party.- Unless otherwise agreed by the parties, where, without showing sufficient cause,----

(a) the claimant fails to communicate his statement of claim in accordance with sub-section (1) of section 23, the arbitral tribunal shall terminate the proceedings;

(b) the respondent fails to communicate his statement of defence in accordance with sub-section (1) of section 23, the arbitral tribunal shall continue the proceedings without treating that failure in itself as an admission of the allegations by the claimant.

(c) a party fails to appear at an oral hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the arbitral award on the evidence before it.

In view of above arbitrator proceeds to make the award in accordance with provisions of the rules read with section 25 of the Arbitration and Conciliation Act, 1996.

4. Factual Background

The Complainant is corporation organized and existing under the laws of the State of Delaware, United State of America having its

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corporate headquarters at 3M Center, St. Paul, Minnesota 55144, USA.

Founded as Minnesota, Mining and Manufacturing Company in 1902, the Complainant is a diversified technology company serving consumers worldwide with its products and services. Complainant's businesses include Safety, Security & Protection; Healthcare; Display & Graphics; Electronics, Electrical & Communications; Home & Leisure; Manufacturing & Industry; Transportation Industry; and Consumer & Office Products.

Complainant has registered numerous top level domain names (TLDs) such as '3m-futuro.com', '3m-futuro.net', 'futuro.com' and 'futuro3m.org' etc. in addition to country level domain names (ccTLDs) such as 'Futuro.co.nz', 'Futuro.us' etc. The Complainant's website are popular and are a valuable source of knowledge with respect to the Complainant and its products under the trademark FUTURO.

The Respondent has registered the disputed domain name <futuro.in> on March 27, 2012 and Complainant has recently become aware of the same. Hence, present Complaint has been filed by the Complainant against the Respondent.

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5. Parties Contentions

A. Complainant

The Complainant has global presence, with companies in over 65 countries and more than 30 business units. Through sheer commitment, innovation and response to consumers' ever-changing needs, the Complainant and its trade/service mark/name 3M have achieved commercial success, which is apparent from its net sales figures of US\$ 30.2 billion for the year 2015. The Complainant has been ranked No. 101 in the 2014 Fortune 500 listing. The Complainant employs about 80,000 people and has operations in more than 65 countries.

In India, the Complainant's presence dates back to the year 1987 with the formation of the company 'Birla 3M Limited' – a joint venture with the reputed Birla Group. The name of the company was subsequently changed to '3M India Limited' (the Complainant's Indian Subsidiary) in December 2002. Owing to India's multifaceted customer profile, the Complainant through its Indian Subsidiary introduced a number of diverse products in India. The Complainant's Indian Subsidiary today has manufacturing facilities

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at Bangalore, Ahmedabad, Pune and Pondicherry; employs more than 1600 employees; and has offices at various cities including Delhi. Over the past years, the Complainant's Indian Subsidiary has built an exhaustive list of satisfied customers and a reputation for unmatched quality with its 6000 diverse products.

The Complainant has been actively involved in the Health Care business for over 50 years and has been a pioneer in developing products and solutions for the Health Care industry. In the medical and surgical area, The Complainant manufactures and supplies surgical tapes, dressings, orthopedic casting materials, electrodes and stethoscopes. The Health Care segment serves markets that include medical clinics and hospitals, pharmaceuticals, dental and orthodontic practitioners and health information systems.

As is evident from the above, the Complainant uses its well-known trade mark FUTURO upon and in relation to its business/products which is its extremely valued intellectual property. The trade mark FUTURO also forms an integral part of its various domain names viz. futuro.com, futuro-usa.com etc. The trade mark FUTURO being the most valued intellectual property, the Complainant has taken utmost care to secure statutory rights therein through trade mark registrations in numerous jurisdictions of the world including in

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India. The list of the Complainant's worldwide registrations/applications for the trade mark FUTURO is attached with the Complaint and marked as **Annexure - A**. Copies of registration certificates in respect of the Complainant's trade mark FUTURO from Canada, European Union, Switzerland, U.K. and U.S.A are attached and marked as **Annexure - B** with the Complaint.

Insofar as India is concerned, the Complainant's earliest registration for the trade mark FUTURO dates back to the year 1999. The details of the Complainant's registration for the trade mark FUTURO in India is as follows:

Mark	Registration No.	Class	Date of Application	User Detail	Status
FUTURO	884267	10	October 29, 1999	Proposed to be used.	Registered

The aforesaid registration is valid and subsisting on the Register of Trade Marks and a copy of the Certificate of registration issued by the Indian Trade Marks Registry in respect of the aforesaid

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registration is attached with the Complaint and marked as **Annexure - C.**

Owing to the excellent quality of the Complainant's products under the trade mark FUTURO, the same commands tremendous popularity and has been used extensively the world over including in India. The sales of the Complainant's FUTURO products in the year 2015 were worth USD 92,207,010.

The Complainant has invested years of time, capital, efforts and resources in advertising and promoting its products under the trade mark FUTURO across the globe through all forms of media in various countries of the world. The Complainant has spent USD 3,878,126 in the year 2016 alone on advertising its products under the trade mark FUTURO. The Complainant has also featured in a wide variety of press releases and other media coverage. The aforesaid press releases and coverage have left an indelible impression in the minds of the public in as much as the trade mark FUTURO is exclusively associated with the Complainant and none other. Copies of press releases and other media coverage featuring the Complainant's trade mark FUTURO are attached with the Complaint and marked as **Annexure - D.**

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The goodwill and reputation of the Complainant as regards the trade mark FUTURO pervades both the real world as well as cyber space. A list of the domain names registered in favour of the Complainant along with the WHOIS details in respect of a few domains is attached with the Complaint and marked as **Annexure - E (Colly.)**

The Complainant recently became aware of a domain name viz. <futuro.in> registered in the name of one Zhaxia of Pfister Hotel i.e. Respondent/Registrant. The Complainant was shocked and dismayed to learn that the said domain was also parked for sale by the Registrant without using or making any *bona fide* use of the same. The Registrant of the domain name <futuro.in> has no affiliation with the Complainant. The said domain name <futuro.in> was registered on March 27, 2012.

The disputed domain name <futuro.in> contains only sponsored listings and, therefore, it is clearly established that the same was registered by the Registrant solely for the purposes of making monetary gains.

The Registrant is a habitual cybersquatter and has been the subject of other INDRP decision including proceeding pertaining to the

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domain 'Nike.co.in' (Case Nos. 804). The Registrant had registered the domain name 'Nike.co.in' and Complaint was instituted by 'Nike Inc. and Nike Innovative C.V.', owner of the trade mark 'NIKE' wherein an Award was passed directing the aforesaid domain to be transferred to the Complainant. Copy of the said decision is attached with the Complaint and marked as **Annexure - G**.

Additionally, a reverse WHOIS lookup identifies 639 domain names currently registered in connection with the Registrant. Out of the said 639 domains, 627 are .IN domain names. Details of the WHOIS records are attached with the Complaint and marked as **Annexure - H**. Under paragraph 6(ii) of the Policy, the Registrant's pattern of extensive domain registrations and cybersquatting to prevent trade mark owners from reflecting their marks in corresponding domain names further demonstrates the Registrant's bad faith registrations including that of the domain in question. The exorbitant number of domain names that the Registrant has registered demonstrates that the Registrant has engaged in a clear pattern of registering domain names in bad faith to block the legitimate and superior rights of trade mark owners in those domain names only to later ransom the domain names to the trade mark owner. *See Rebook International Limited v. C J Reebok*, INDRP Case No. 618 (Oct. 10, 2014).

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No website is active under the domain name in question and the same reveals a few sponsored listings including advertisement for sale of the said domain. Copy of the webpages of the website pertaining to the domain <futuro.in> is attached with the Complaint and marked as **Annexure - I**.

The Registrant's disputed domain name <futuro.in> is identical to and comprises in entirety the Complainant's trade mark FUTURO which is registered in a number of countries including India. It is submitted that the Registrant has registered the disputed domain name <futuro.in> with the *mala fide* intent to trade upon the immense goodwill and reputation enjoyed by the Complainant in its well-known mark/domain name FUTURO and thereby gain undue leverage from it and make illicit pecuniary gains. It is evident that the objectionable domain name has no meaning or significance independent of the Complainant's trade mark FUTURO. This is a clear case of infringement and passing off which is violative of the rights enjoyed by the Complainant in its well-known and established trade mark/domain name FUTURO. Moreover, the Registrant's use of the Complainant's coined trade mark FUTURO clearly establishes that the Registrant registered the disputed domain name with full

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knowledge of the Complainant, its business activities and intellectual property.

The disputed domain name <futuro.in> is identical to, *inter alia*, the following domain names registered in the name of the Complainant:

S. No.	Domain names	Registrant's domain name
1.	<u>Futuro.com</u>	<u><futuro.in></u>
2.	<u>Futuro.dk</u>	
3.	<u>Futuro.info</u>	
4.	<u>Futuro-usa.com</u>	
5.	<u>Futuro.co.nz</u>	
Note: The list is illustrative and not exhaustive		

The Registrant is not offering any goods/services under the domain name <futuro.in>. A review of the website under the objectionable

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domain name <futuro.in> reflects that the said domain is listed for sale by the Registrant. Therefore, by no stretch of imagination, can the Registrant demonstrate any use relating to *bona fide* offering of goods or services before any notice of this dispute or at any point in time whatsoever.

The Registrant is not commonly known by the domain name <futuro.in> and is not authorized or licensed by the Complainant to use its mark FUTURO. The Complainant provides products under the trade mark FUTURO which is inextricably interwoven and identified exclusively with the Complainant by the trade and public at large. Further, the Complainant is not only using the trade mark FUTURO since the year 1935 but has also registered the said mark and various domain names comprising the said mark in numerous jurisdictions including India. Due to the extensive and continuous use of the trade mark FUTURO for many years, the same has become well-known and come to be exclusively associated with the Complainant and no one else. Hence, the Registrant cannot establish any association with the domain name in question for any reason/s whatsoever.

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The Registrant is not making any legitimate non-commercial or legitimate fair use of the domain name. In fact, the conduct of the Registrant as highlighted above cannot come under the definition of *bona fide* use. Registration of the disputed domain is aimed to gain leverage from the immense goodwill and reputation of the Complainant's trade mark FUTURO, divert visitors/customers by creating initial Internet confusion and thereby commercially profit from use of the Complainant's trade mark FUTURO. Thus, the Registrant is indulging in (i) unfair use of the domain name with an intention to reap profits therefrom, (ii) misleading/diverting customers to third party websites, competitors etc. and (iii) tarnishing the goodwill and reputation enjoyed by the Complainant's well-known trade mark FUTURO. The Registrant, therefore, cannot justify any legitimate interest in the domain name <futuro.in>.

The Registrant has registered the disputed domain name <futuro.in> with the sole purpose of selling/transferring the same for excessive consideration to make illicit gains which is evident from the fact that the domain is available for sale.

The Registrant registered the disputed domain name <futuro.in> knowing fully well of the Complainant and its business. The

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registration of the domain name <futuro.in> by the Registrant has resulted in the Registrant's mis(use) of the Complainant's trade mark/domain(s) FUTURO for undue pecuniary gains. The Complainant has already established that several TLDs/ccTLDs comprising FUTURO including the domain 'Futuro.com' is owned and managed by the Complainant.

The Registrant's website has been constructed in a manner so as to portray an association/affiliation with the Complainant. The confusion is further enhanced by the presence of links to the websites of third parties, competitors etc. Thus, the conduct of the Registrant amply proves its *mala fide* to attract Internet users to its website by using the mark of the Complainant and consequently creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Registrant's website and/or of a product on the Registrant's website. Further, Internet users desirous of accessing the Complainant's website may get attracted to the disputed website, thereby creating confusion in their minds. The links to the websites of third parties, competitors etc. establish the Registrant's *mala fide* to gain illicit benefits and cause harm to the Complainant's business.

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B. Respondent

The Respondent has not filed the Response to the Complaint.

6. Discussion and Findings

As per Paragraph 11 of the INDRP Rules of Procedure where a Respondent does not submit a response, in the absence of exceptional circumstances, the arbitrator may decide the Complaint in accordance with law. The Arbitrator does not find any exceptional circumstances in this case preventing him from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a response.

It remains incumbent on the Complainant to make out its case in all respects under Paragraph 4 of the Policy, which sets out the three elements that must be present for the proceeding to be brought against the Respondent, which the Complainant must prove to obtain a requested remedy. It provides as follows:

"4. Types of Disputes

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

- (i) the Registrant's domain name is identical or confusingly similar to a name, Trademark or service*

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mark in which the Complainant has rights;

(ii) the Registrant has no rights or legitimate interests in respect of the domain name; and

(iii) the Registrant's domain name has been registered or is being used in bad faith.

The Registrant is required to submit to a mandatory Arbitration proceeding in the event that a Complainant files a Complaint to the .IN Registry, in compliance with this Policy and Rules thereunder."

The Arbitrator will address the three aspects of the Policy listed above.

A. Identical or Confusingly Similar

The Respondent had adopted the disputed domain name <futuro.in> on March 27, 2012.

The Complainant has established that its trademark FUTURO is subject of around 198 trademark registrations/ applications in about 112 countries worldwide. The Complainants earliest registration for trademark FUTURO in India dates back to the year 1999. The Complainant has also produced list of Trademarks which are

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registered or for which it has made applications for registrations.

The Complainant's domain 'Futuro.com' was created on March 20, 1997. Further, the Complainant's earliest trade mark registration in respect of the trade mark FUTURO dates back to the year 1947 in U.S.A. The trade mark FUTURO is also registered in India under No. 884267 since October 29, 1999. Thus, the Complainant's adoption of the trade mark/domain name FUTURO is much prior to the Respondent's registration of the disputed domain name <futuro.in>. In view of the same, it is crystal clear that the Complainant has prior rights in the trade mark/domain FUTURO *vis-à-vis* the Respondent.

The Trademark FUTURO has become associated by the general public exclusively with the Complainant. The Complainant also has domain name registrations as well as website incorporating the Trademark FUTURO.

A trademark registered with the Registrar of Trademarks is *prima facie* evidence of trademark rights for the purposes of the Policy.¹ Internet users may be confused about the association or affiliation of the disputed domain name with the Complainant.

¹ See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition ("WIPO Overview 2.0"), paragraph 1.1.



The Respondent has registered the disputed domain name <futuro.in> wholly incorporating the Trademark FUTURO of the Complainant, which the Arbitrator finds is sufficient to establish confusing similarity for the purpose of the Policy.

The Arbitrator finds that the registration of the Trademark FUTURO is *prima facie* evidence of the Complainant's Trademark rights for the purposes of the Policy². Internet users who enter the disputed domain name <futuro.in> being aware of the reputation of the Complainant may be confused about its association or affiliation with the Complainant.

The Arbitrator finds that the disputed domain name <futuro.in> is confusingly similar to the website and Trademark FUTURO of the Complainant.

B. Rights or Legitimate Interests

The Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in the disputed

² See *State Farm Mutual Automobile Insurance Company v. Periasami Malain*, NAF Claim No. 0705262 ("Complainant's registrations with the United States Patent and Trademark Office of the trademark STATE FARM establishes its rights in the STATE FARM mark pursuant to Policy, paragraph 4(a)(i)."); see also *Mothers Against Drunk Driving v. phix*, NAF Claim No. 0174052 (finding that the Complainant's registration of the MADD mark with the United States Patent and Trademark Office establishes the Complainant's rights in the mark for purposes of Policy, paragraph 4(a)(i)).

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domain name. Nevertheless, it is well settled that the Complainant needs only to make out a *prima facie* case, after which the burden of proof shifts to the Respondent to rebut such *prima facie* case by demonstrating rights or legitimate interests in the domain name³. The Respondent has registered the disputed domain name consisting of the Trademark FUTURO owned by the Complainant. The Complainant has been using the Trademark for many years. The Complainant has not authorized or permitted the Respondent to use the Trademark FUTURO.

The Respondent has not filed a Response to rebut the Complainant's *prima facie* case and the Respondent has thus failed to demonstrate any rights or legitimate interests in the disputed domain name <futuro.in> as per Paragraph 7 of the Policy.

Arbitrator has received email from counsel for the Complainant on 27.01.2017 as under:

"Re.: INDRP action: <futuro.in>

This is with reference to the captioned matter.

We are since in receipt of a letter (attached) on behalf of Pfister Hotel (the Registrant's organization as per the WHOIS details), contents whereof are self-explanatory.

³ See *Hanna-Barbera Productions, Inc. v. Entertainment Commentaries*, NAF Claim No. 0741828; *AOL LLC v. Jordan Gerberg*, NAF Claim No. 0780200.

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The letter confirms that the Registrant has acted in bad faith by providing incorrect details while registering the domain in question. You would also observe from the said letter that a request has been made to address all correspondence regarding the matter to the Registrant's email address i.e. ymgroup@msn.com (as already disclosed in the Complaint).

The aforesaid is for information and records."

Copy of letter dated 18.01.2017 of Joshua L. Cannon, Corporate Counsel on behalf of Pfister Hotel forwarded to the arbitrator by the Counsel for the Complainant along with email dated 27.01.2017 is relevant for adjudication of the dispute and same is re-produced below:

"I am in receipt of the Domain Name Complaint and accompanying documents filed with the National Internet Exchange of India (NIX1) in accordance with the INDRP by Gaurav Mukerjee, Anmol Dixit, Kamal Sharma, and Raghav Paul dated on or about December 20, 2016, regarding the <futuro.in> domain name that is shown as registered by "Zhaxia" in the .IN Registry.

I write on behalf of the Pfister hotel, which is a luxury, boutique hotel located in Milwaukee, Wisconsin, U.S.A.

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Neither the Pfister, nor any of its affiliates or parent companies, have any operations outside of the United States. It currently utilizes the domain name "thepfisterhotel.com."

Upon review, it appears that Zhaxia has engaged in cybersquatting in connection with over 600 domain names, including <futuro.in> and has fraudulently associated the Pfister's address with these registrations. Please be assured that the Pfister Hotel in no way uses the FUTURO mark in India, nor anywhere else in the world, and makes no claim to the FUTURO mark or to the referenced domain name.

As the Pfister does not have an interest in the referenced domain name and is no way affiliated with or related to Zhaxia, we are unable to initiate a transfer of the domain name, and we do not contest your client's lawful claim to the domain name. Please direct all further correspondence regarding this matter to Zhaxia at ymgroup@msn.com."

In view of above, the Arbitrator finds that the Complainant has made out a *prima facie* case.

Based on the facts as stated above, the Arbitrator finds that the

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Respondent has no rights or legitimate interests in respect of the disputed domain name <futuro.in>.

C. Registered and Used in Bad Faith

Paragraph 6 of the Policy identifies, in particular but without limitation, three circumstances which, if found by the Arbitrator to be present, shall be evidence of the registration and use of the Domain Name in bad faith. Paragraph 6 of the Policy is reproduced below:

"6. Evidence of Registration and use of Domain Name in Bad Faith

For the purposes of Paragraph 4(iii), 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:

(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

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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

(iii) 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."

Each of the three circumstances in Paragraph 6 of the Policy (which are non-exclusive), if found, is evidence of "registration and use of a domain name in bad faith". Circumstances (i) and (ii) are concerned with the intention or purpose of the registration of the domain name, and circumstance (iii) is concerned with an act of use of the domain name. The Complainant is required to prove that the registration was undertaken in bad faith and that the circumstances

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of the case are such that the Respondent is continuing to act in bad faith.

The Respondent has registered the disputed domain name <futuro.in> and the it contains only sponsored listing and it is also mentioned that the domain name may be for sale. The Complainant has not granted the Respondent permission, or, a license of any kind to use its Trademark FUTURO and register the disputed domain name <futuro.in>. Such unauthorized registration of the Trademark by the Respondent suggests opportunistic bad faith. The Respondent's true intention and purpose of the registration of the disputed domain name <futuro.in> which incorporates the Trademark of the Complainant is, in this Arbitrator's view, to capitalize on the reputation of the Trademark FUTURO.

The Arbitrator therefore finds that the disputed domain name <futuro.in> has been registered by the Respondent in bad faith.

The Trademark FUTURO has been a well-known name. The domain disputed name <futuro.in> is confusingly similar to the Complainant's Trademark FUTURO, and the Respondent has no rights or legitimate interests in respect of the domain name, and he has registered and used the domain name <futuro.in> in bad faith. These facts entitle the Complainant to an award transferring the domain name <futuro.in> from the Respondent.

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The Arbitrator allows the Complaint and directs that the Respondent's domain name <futuro.in> be transferred in favour of the Complainant.

7. **Decision**

Keeping in view all the facts and circumstances of the matter this Complaint is allowed. The disputed domain name <futuro.in> is similar to the Trademark FUTURO in which the Complainant has rights. The Arbitrator orders in accordance with the Policy and the Rules, that the domain name <www.futuro.in> be transferred to the Complainant.

The award has been made and signed at Chandigarh on the date given below.

Place: Chandigarh

Dated: 04.02.2017



Dr. Ashwinie Kumar Bansal

Sole Arbitrator

Advocate, Punjab and Haryana High Court

#187, Advocates Society, Sector 49-A

Chandigarh, India-160047

Mobile: 9915004500

Email: akbansaladvocate@gmail.com