



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

- Page # 1 -

e-Stamp

Certificate No.	: IN-DL75068592448863T
Certificate Issued Date	: 23-Apr-2021 02:42 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ DWARKA/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1750386391495199T
Purchased by	: KAMAL DAVE
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: KAMAL DAVE
Second Party	: Not Applicable
Stamp Duty Paid By	: KAMAL DAVE
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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In the matter of the Arbitration Act 1996 as Amended by
Arbitration & Conciliation (Amendment) Act, 2015;

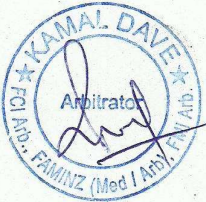
and

INDRP Rules of Procedure;

and

.IN Domain Name Dispute Resolution Policy (INDRP)

and



- Page # 1 -

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.

In the matter of an arbitration between

Tata Motors Limited
24 Homi Mody Street,
Fort, Mumbai - 400 001
State of Maharashtra
INDIA

...Complainant

AND

Sanjay Sharma
H-57 Khurja,
Uttarpradesh 203131
India

...Respondent

in respect of Disputed Domain Name(s):

[www.tatamotors.org.in]

INDRP Case No: 1358

FINAL AWARD

1. **THE PARTIES AND THEIR REPRESENTATIVES**

A. **Claimant :**

Tata Motors Limited
24 Homi Mody Street,
Fort, Mumbai - 400 001
State of Maharashtra
INDIA

Authorised Representative

Akhilesh Kumar Rai



AZB & Partners
Plot No. A8, Sector 04
Noida – 201301, U.P. India
Phone: +91 120 4179999
e-mail: akhileshkumar.raai@azbpartners.com

B. Respondent

Sanjay Sharma
H-57 Khurja,
Uttarpradesh 203131
India

2. THE DOMAIN NAMES AND REGISTRAR

A. The details of the Registrar of the disputed domain are given below:

Godaddy.com LLC
Corporate Headquarters 14452 IN
Hayden Road
Scottsdale AZ 85260
USA
Telephone Number: +1 4805058877
Fax Number: Nil
Email:UDRPdisputes@godaddy.com

3. THE ARBITRAL TRIBUNAL – APPOINTMENT

- A. As per the records, on 10th March 2021 NIXI sent intimation to the Arbitrator & the parties including the Respondent regarding the appointment of arbitrator to decide the dispute in respect of domain [www.tatamotors.org.in].



- B. As per the records, I, the undersigned (i.e. Kamal Dave) was appointed as arbitrator by NIXI, in accordance with INDRP Rules of Procedure and .IN domain name dispute resolution policy (INDRP), vide appointment order dated 10th March 2021 after I submitted declaration of impartiality and independence at all times with NIXI.
- C. The .IN Domain Name Dispute Resolution Policy (INDRP) & Rules of Procedure of INDRP mandates appointment of arbitrator by NIXI, Accordingly clause 5 (b) of INDRP Rules of Procedure provides for it, which reads, *"The .IN Registry shall appoint, an Arbitrator from the .IN Registry's list and shall forward the Complaint along with supporting documents to such Arbitrator"*.
- D. There is no document/ correspondence on record to show that the Respondent replied to the intimation of arbitration dispute regarding the domain [www.tatamotors.org.in].

4. PROCEDURAL HISTORY :

- A. After my appointment as arbitrator by NIXI & intimation to me on 10th March 2021; And through Procedural Order No 1 sent vide email dated 11th March 2021, I directed the parties that the mode of communication shall be electronic only except as otherwise specifically stated/ directed. Further I directed the parties (viz. complainant & respondent) through the procedural order no 1 that was sent at their respective registered email addresses to file their respective pleadings; I directed the parties to file the scanned copy of complaint on oath through an affidavit 15th March 2021; And physical copy of complaint on oath through an affidavit along-with documents through courier on or before 22nd March 2021; I directed the complainant to file the original & physical copy of delivery report of the email (electronic mail), courier along-with the affidavit of service duly



sworn-in before a NOTARY to this effect, within ten days i.e. on or before 22nd March 2021; Further I directed respondent to file their reply on affidavit duly sworn-in before a NOTARY within ten days of receipt of complaint along-with aforementioned documents i.e. on or before 02nd April 2021 and serve the copy thereof to the complainant and the other respondent; And it was optional for the complainant to file any rejoinder within three days thereafter i.e. on or before 06th April 2021 and serve the copy thereof to the respondent; And it was optional for the respondent to file their reply in response to the rejoinder within three days thereafter i.e. on or before 10th April 2021 and serve the copy thereof to the complainant; And it was further optional for the parties to file their evidence by way of affidavit in support of their claim/ reply which shall be duly sworn-in before a NOTARY to that effect; and thereafter submit the electronic/ scan image and physical copy same before myself on or before 10th April 2021 and shall serve the copy thereof to the other party ; And the parties were at liberty to file their written arguments before myself along-with evidence by way of affidavit i.e. on or before 10th April 2021 and serve the copy thereof to the other party.

- B. The complainant through AR has filed documents regarding service of copy of complaint along-with reaffirming affidavit and documents/ annexures and served the same on respondent through electronically as well as courier & a duly executed affidavit of service duly acknowledging service through email & courier with email dated 18th March 2021 . All aforementioned documents have been taken on record.
- C. The respondent has neither replied to the intimation by NIXI sent on 10th March 2021, nor to the notice sent along-with procedural order 1 sent vide email dated 11th March 2021. The complainant through AR has taken



steps to serve the respondent through email as well as courier but the respondent has not replied to notice nor even filed their reply. Therefore I am satisfied that the complainant the complainant has taken adequate steps for serving the respondent and thereby complied with the directions. The respondent has been duly served as mandated by clause 2 of INDRP Rules of Procedure and service on respondent is completed as per the clause.

- D. The respondent has chosen to abstain and not participate in the arbitration proceedings. Hence as per clause 12 of INDRP Rules of Procedure, which mandates that where parties are in default i.e. who willfully abstains from the proceedings may be proceeded *ex-parte*. Accordingly, I concluded that proceedings against the respondent to continue *ex-parte*.
- E. The complainant cannot take benefit from the non-presence of the other party and his claim must stand on merits.

5. PLEADINGS :

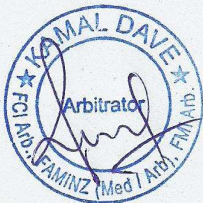
- A. The complainant has filed its complaint contending & stating out facts of the case on oath :
- B. The contents of the complaint under the head "*Jurisdictional Basis for the Administrative proceeding*"
 - 1) *That the domain name in question is identical to the Complainant's well known trade mark TATAMOTORS;*
 - 2) *That TATAMOTORS also forms a dominant part of the complainant's corporate name since the year 1945.*
 - 3) *That the Respondent has no claims, rights or legitimate interests in respect of disputed domain name;*
 - 4) *That the domain name 'www.tatamotors.org.in' has been registered in bad faith;*



- 5) That the Complainant has obtained registration and made applications for registration of the trade mark TATAMOTORS in India and in several other countries of the world;
- 6) That the Complainant also owns and controls domain names such as www.tatamotors.com and various others.
- 7) That the Complainant has generated good and valuable reputation and vast amount of goodwill has accrued to the Complainant in the name of TATAMOTORS through internet over several years;
- 8) That the Respondent has adopted and registered the disputed domain name, which is identical to the trade mark and/or corporate name of the Complainant, thereby wrongfully, illegally and dishonestly trading upon the reputation of the Complainant. That the domain name in question is identical to the Complainant's well known trade mark **TATAMOTORS**;

C. The contents of the complaint under the head "A. That the disputed domain name [www.tatamotors.org.in] is identical or confusingly similar to a trade mark in which the complainant has right.(Policy, Paragraph 4 (a) (i); Rules, Paragraphs, 3 (b) (viii), (b) (ix) (1))"

- 1) The complainant, Formerly known as Tata Engineering and Locomotive Company, began manufacturing commercial vehicle; the Prima range of trucks, the Ultra range of International standard light commercial vehicles,; Safari, India's first sports utility vehicle; Indica, India's first indigenously manufactured passenger car; and the Nano, the world's most affordable car.
- 2) The Complainant has also consistently expanded international footprint, through exports since 1961. The Complainant has operation in the UK, South Korea, Thailand, Spain and South Africa through subsidiaries and associate companies. The Tata Motors commercial and passenger vehicles are being marketed in several countries in Europe, Africa the Middle East, South Asia, South East Asia, and South America. It has franchise/joint venture assembly operations in Bangladesh, Ukraine and Senegal. The official website of the complainant is www.tatamotors.com.
- 3) The TATA name has been respected in India and internationally for more than 140 years for its adherence to strong values and business ethics. Every Tata company or enterprise operates independently. Each of these companies has its own board of



directors and shareholders, to whom it is answerable. There are 32 publicly listed Tata enterprises and they have a combined market capitalization of about \$92.74 billion (as on February 21, 2013), and a shareholder base of 3.8 million. The major Tata companies are Tata Steel, **Tatamotors (complaint herein)**. Tata Consultancy Services (TCS), Tata Power, Tata Chemicals, Tata Global Beverages, Tata Teleservices, Titan, Tata Communications and Indian Hotels.

- 4) The word '**TATA**' is the dominant and essential feature of the complainant's corporate name which connotes the distinctiveness, reputation, quality and goodwill acquired over scores of years and has been derived from the surname of its founder, Jamshedji Tata.
- 5) The complainant, formerly known as Tata Engineering and Locomotive Company, began manufacturing commercial vehicles in 1954 with a 15-year collaboration agreement with Daimler Benz of Germany. It has, since, developed Tata Ace, India's first indigenous light commercial vehicle; the Prima range of trucks; the Ultra range of international standard light commercial vehicles; Tata Safari, India's first sports utility vehicle; Tata Indica, India's first indigenously manufactured passenger car; and the Nano, the world's most affordable car.
- 6) The Complainant has advertised the mark **TATAMOTORS** in mass media, electronic media and also through participation in the Motor shows etc. The copy of few write-ups in respect of the Trade Mark **TATAMOTORS** and its varied commercial and CSR activities is annexed hereto and collectively marked as '**Annexure - C**'.
- 7) It is stated that the use of the keyword **TATAMOTORS** in any leading search engine throws up the web pages of the complainant among the leading hits. Printout of the search result procured from the famous search engine google.com is annexed hereto and collectively marked as '**Annexure -D**'.
- 8) On account of extensive usage of the trade mark **TATAMOTORS**, the adoption and/ or usage of **TATAMOTORS** by others would amount to not only dilution of the complainant's rights over the distinct mark but also would result in confusion and deception amongst the end customers. Such unauthorized usage of the complainant's mark **TATAMOTORS**, and domain names comprising of **TATAMOTORS** by others would also amount to infringement of Complainant's trade mark rights and is liable to be prevented in the Court of Law.



- 9) On account of extensive usage of the trade mark '**TATAMOTORS**' and the rising awareness on '**TATAMOTORS**', the adoption and/or usage of '**TATAMOTORS**' by others would amount to not only dilution of the complainant's rights over the distinct mark but also would result in confusion and deception amongst the end customers. Such unauthorized usage of the complainant's marks '**TATA**' and '**TATAMOTORS**', and domain names comprising of '**TATAMOTORS**' by others would also amount to infringement of Complainant's trade mark rights and is liable to be prevented in the Court of Law.

D. The contents of the complaint under the head "B. That the Respondent has no rights or legitimate interests in respect of the domain name [www.tatamotors.org.in] . (Policy, Paragraph 4 (1); Rules, Paragraphs, 3 (b) (v), (b) (vi) (1))"

- 1) The trade mark **TATA** has acquired both statutory right and Common Law right, the complainant relies on the following Indian Trade Mark registration for the purpose of the instant complaint:

Country	Trade Mark	Class	Regd. No.	Goods	Status
INDIA	TATA	12	299110	Vehicles, apparatus for locomotion by land, air or water.	Registered
INDIA	TATAMOTORS	12	1241123	Land Vehicles and parts thereof, accessories included in class 12	Registered

Copy of the trade mark journal page/ certificate/ last renewal notification (**TATA**) and copy of trade mark registration certificate (**TATAMOTORS**) are marked as 'Annexure - E'.



- 2) It is stated that the Respondent has no right to and legitimate interest in the domain name www.tatamotors.org.in. The Respondent illegally and wrongfully adopted the trade mark **TATAMOTORS** of the Complainant with the intention to create an impression of an association with the Complainant.
- 3) The respondent wrongfully and fraudulently adopted and registered the impugned domain name www.tatamotors.org.in in order to utilize the name and reputation

without having any rights thereto and in spite of having full knowledge of the complainant's iconic stature in India and Internationally.

- 4) The complainant submits that the respondent is trying to en-cash on the goodwill and reputation associated with the trade mark **TATAMOTORS**, although the respondent has no connection with the complainant and other Tata Group of Companies.
- 5) It is further stated that the complainant and/or any entity belonging to the Tata Group of Companies has not licensed or otherwise permitted the respondent to use **TATAMOTORS** nor has it permitted the Respondent to apply for or use any 'Domain Name' incorporating the mark **TATAMOTORS**.
- 6) The disputed domain name clearly incorporates the Complainant's trade mark **TATAMOTORS** in the entirety. Such use of the disputed domain name is considered evidence of bad faith registration and use under the **INDRP**. In this regard the complainant relies on the decision of this honorable court and Arbitration and Mediation Centre passed in the cases of **Gulshan Khatri Vs Google Inc O.M.P (COMM) 497/2016 www.googlee.in**, and in **TATAMOTORS LIMITED Vs Gao Gau INDRP/627 www.tatamotors.in** marked as 'Annexure F' The disputed domain name will give unwary visitors to the domain an impression that the disputed domain name has been authorized by the complainant. It is pertinent to mention that the complainant has no connection with the disputed domain name holder and the complainant has never permitted the respondent to create the disputed domain name.
- 7) That the complainant claims enormous presence on the Internet and ownership of various domain names consisting of the words '**TATAMOTORS**' which are mentioned herein below:

S. no	Domain Name	Tld	Country	Applicant	Validity
1	Tatamotors	.co.ao	Angola	Tata Motors Ltd	February 14, 2022
2	Tatamotors	.com.bd	Bangladesh	Tata Motors Ltd	December 4, 2021
3	Tatamotors	.bt	Bhutan	Tata Motors Ltd	December 20, 2021
4	Tatamotors	.cn.com	China	Tata Motors Ltd	September 3, 2021
5	Tatamotors	.co	Coloumbia	Tata Motors Ltd	December 13,



					2021
6	Tatamotors	.Com.ec	Ecuador	Tata Motors Ltd	February 15, 2022
7	Tatamotors	.Eu.Com	Europe	Tata Motors Ltd	April 24, 2021
8	Tatamotors	.hk	Hong Kong	Tata Motors Ltd	August 3, 2021
9	Tatamotors	com.hk	Hong Kong	Tata Motors Ltd	August 31, 2021
10	Tatamotors	.lr	Iran	Tata Motors Ltd	May 2, 2021
11	Tatamotors	.jp	Japan	Tata Motors Ltd	March 31, 2021
12	Tatamotors	.co.ke	Kenya	Tata Motors Ltd	June 29, 2021
13	Tatamotors	.kr	Korea	Tata Daewoo Commercial Vehicle Co Ltd	April 13th, 2021
14	Tatamotors	.my	Malaysia	Tata Motors Ltd	June 23, 2021
15	Tatamotors	.mx	Mexico	Tata Motors Ltd	June 26, 2021
16	Tatamotors	.Co.nz	New Zealand	Tata Motors Ltd	November 7, 2021
17	Tatamotors	.pe	Peru	Tata Motors Ltd	March 25, 2021
18	Tatamotors	.com.pe	Peru	Tata Motors Ltd	March 25, 2021
19	Tatamotors	.Ph	Philippines	Tata Motors Ltd	April 9, 2021
20	Tatamotors	.Ru	RUSSIA	Tata Motors Ltd	August 18, 2021
21	Tatamotors	.Sg	Singapore	Tata Motors Ltd	November 7, 2021
22	Tatamotors	.Com.Sg	Singapore	Tata Motors Ltd	November 7, 2021
23	Tatamotors	.Com.Es	Spain	Tata Motors Ltd	April 13, 2021
24	Tatamotors	.Tw	Taiwan	Tata Motors Ltd	January 23, 2022
25	Tatamotors	.Com.Tw	Taiwan	Tata Motors Ltd	January 22, 2022
26	Tatamotors	.co.tz	Tanzania	with agreement Lexsynergy T2 Reg Ltd	September 8, 2021
27	Tatamotors	.Co.Th	Thailand	Tata Motors Ltd	May 16, 2021
28	Tatamotors	.Com	Global	Tata Motors Ltd	May 9, 2023
29	Tatamotors	.com.tr	Turkey	Tata Motors Ltd	March 23, 2021
30	Tatamotors	.Co.Ua	UKRAINE	Tata Motors Ltd	November 1, 2021
31	Tatamotors	.uy	Uruguay	Tata Motors Ltd	April 29, 2021
32	Tatamotors	.com.uy	Uruguay	Tata Motors Ltd	April 29, 2021

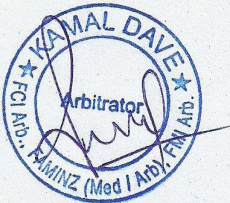


E. The contents of the complaint under the head "The domain name [www.tatamotors.org.in] was registered and is being used in bad faith. (Policy, Paragraph 4 (a) (iii), 4(b); Rules, Paragraphs, 3 (b) (ix) (3))"

- 1) It is stated that the respondent registered the domain name www.tatamotors.org.in in its favour with the "GoDaddy.com, LLC and Referral URL: http://www.Godaddy.com LLC, as the registrar, the administrative contact being Sanjay Sharma, H-57 Khurja, Khurja Uttar Pradesh 203131 India. The domain name www.tatamotors.org.in which was created on 4th October 2020.
- 2) An innocent consumer is bound to be misled by this impugned domain name www.tatamotors.org.in registered by the respondent. In the entirety of facts and circumstances obtainable in the present case as also in the wake of objections available in the present case, registration of the impugned domain name by using the word '**TATAMOTORS**' without seeking prior concurrence/approval/permission of complainant amounts to "passing off" action on the part of the respondent/user of the domain name . The clear intention of the respondent appears to be to commit fraud and mislead innocent and gullible consumer by unfair and dishonest means.
- 3) The use and existence of the impugned domain name will cause damage and injury both to the complainant's business, their reputation and to the consumers and general public. The respondent has attempted to make a deliberate misrepresentation to the public at large and it certainly cannot be a matter of mere coincidence. The misrepresentation is bound to cause confusion and deception in the minds of the purchasing public.
- 4) It is pertinent to mention that the members of the public have come to associate the trade mark **TATAMOTORS** solely with the Complainant. Therefore, any on-line promotion or reviews which may be carried out by the respondent under the name **TATAMOTORS** is bound to cause confusion and/or likely to cause confusion in the minds of the public as being associated with the complainant and its Group of Companies.
- 5) It is stated that the registration of the impugned Domain Name by the respondent was made in bad faith.



- 6) It is furthermore stated that it is undoubtedly the dishonest motive of the respondent to register such domain name comprising of popular and reputed Trade Marks to clandestinely negotiate for transfer of the same for consideration.
- 7) The conduct of the respondent leaves no doubt as to its unscrupulous motive and illegal intentions and the Complainant is apprehensive that the respondent is in active search of an assignee of the impugned domain name and would sell the same and make illegal profit.
- 8) That 'inaction' is within the concept of 'bad faith' is supported by the actual provisions of the Uniform Policy. Paragraph 4(b) of the Uniform Policy identifies, without limitation, circumstances that shall be evidence of registration and use of a domain name in bad faith, for the purpose of paragraph 4(a) (iii). Only one of these circumstances [4(b) (iv)], by necessity, involves a positive action post-registration undertaken in relation to the domain name (using the name to attract customers to a web site or some other on-line location). The other three circumstances contemplate either a positive action or inaction in relation to the domain name. The circumstances identified in paragraphs 4(b) (i)(ii) and (iii) can be found in a situation involving a passive holding of the domain name registration.
- 9) Furthermore, it must be recalled that the circumstances identified in paragraphs 4(b) are "without limitation"-that is, paragraph 4(b) expressly recognizes that other circumstances can be evidence that a domain name was registered and is being used in bad faith.
- 10) The particular circumstances of this case, which lead to this conclusion, inter alia are:
 - The Complainant's well known trade mark '**TATAMOTORS**' has a strong reputation and is widely known, as evidenced by its substantial use throughout the world.
 - The respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the domain name.
 - Taking into account all of the above and the other facts and circumstances submitted in the complaint, it is not possible to conceive any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as the tort of passing off, an infringement of consumer protection legislation or an infringement of the complainants rights under the trade mark law.



11) That furthermore it is stated that the domain name www.tatamotors.org.in is so obviously connected with such a well-known mark 'TATAMOTORS' belonging to the Complainant, that the very use by someone with no connection with the Complainant suggests opportunistic bad faith.

12) The Respondent exemplifies a habitual 'Cyber Squatter' engaged in a pattern and practice of registering and using bad faith domain names.

F. The contents of the complaint under the head "VII. Remedies Requested (Rules, Paragraph. 3(b)(x))"

1) In accordance with paragraph 4 (i) of the Policy, for the reasons described in Section VI above, the Complainant requests the Administrative Panel appointed in this administrative proceeding to issue a decision that the ownership in www.tatamotors.org.in be rightfully transferred to the Complainant herein and pass any other appropriate favorable orders deemed fit.

G. The respondent has abstained from the arbitration proceedings and has been proceeded ex-parte as per clause 12 of INDRP Rules of Procedure.

H. From the complaint following issues have been framed :

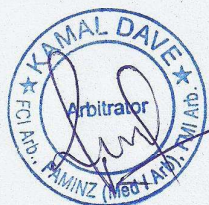
6. The Issues :

A. Whether the disputed domain name is identical or confusingly similar to a trade mark in which the complainant has right.(Policy, Paragraph 4 (a) (i); Rules, Paragraphs, 3 (b) (viii), (b) (ix) (1))?

B. Whether the Respondent has no rights or legitimate interests in respect of the domain name. (Policy, Paragraph 4 (1); Rules, Paragraphs, 3 (b) (v), (b) (vi) (1)) ?

C. Whether the domain name was registered and is being used in bad faith. (Policy, Paragraph 4 (a) (iii), 4(b); Rules, Paragraphs, 3 (b) (ix) (3))?

D. Relief – VI. Remedies Requested (Rules, Paragraph. 3(b)(x)) – In accordance with paragraph 4 (i) of the Policy, for the reasons described in



Section VI above, the Complainant requests the Administrative Panel appointed in this administrative proceeding to issue a decision that the ownership in www.tatamotors.org.in be rightfully transferred to the Complainant herein and pass any other appropriate favorable orders deemed fit.

7. Analysis of the issues on Merit

A. Whether the disputed domain name [www.tatamotors.org.in] is identical or confusingly similar to a trade mark in which the complainant has right. (Policy, Paragraph 4 (a) (i); Rules, Paragraphs, 3 (b) (viii), (b) (ix) (1)) :

- 1) I have perused the complaint, affidavit & documents/ Annexures placed on record. From the submissions on oath and perusal of Annexure E, it is apparent that the complainant has obtained Trademark certificates from Intellectual Property Office India under classes 12 in respect of the words "TATA" & "TATAMOTORS" vide registration no 299110 & 1241123 respectively.
- 2) I have perused the submission on oath by the complainant and also the Annexure which mentions the services offered by the complainant that the word 'TATA' is the dominant and essential feature of the complainant's corporate name which connotes the distinctiveness, reputation, quality and goodwill acquired over scores of years and has been derived from the surname of its founder, Jamshedji Tata. I have also perused the submissions, I am satisfied respondent is adapting the trademark "TATA" in violation of complainant's exclusive right to use the trademark "TATA".
- 3) The complainant, Formerly known as Tata Engineering and Locomotive Company, began manufacturing commercial vehicle; the Prima range of trucks, the Ultra range of International standard light



commercial vehicles,; Safari, India's first sports utility vehicle; Indica, India's first indigenously manufactured passenger car; and the Nano, the world's most affordable car.

- 4) The TATA name has been respected in India and internationally for more than 140 years for its adherence to strong values and business ethics. Every Tata company or enterprise operates independently. Each of these companies has its own board of directors and shareholders, to whom it is answerable. There are 32 publicly listed Tata enterprises and they have a combined market capitalization of about \$92.74 billion (as on February 21, 2013), and a shareholder base of 3.8 million. The major Tata companies are Tata Steel, Tatamotors (complaint herein). Tata Consultancy Services (TCS), Tata Power, Tata Chemicals, Tata Global Beverages, Tata Teleservices, Titan, Tata Communications and Indian Hotels.
- 5) The respondent has abstained from the arbitral proceedings despite service to contradict the submissions of the complainant.
- 6) I conclude that the domain name [www.tatamotors.org.in] is identical and confusingly similar to the trademark "TATA" & "TATAMOTORS" over which the Complainant has rights and thus has contravened the Paragraph 4(a) of INDRP Policy.

B. Whether the Respondent has no rights or legitimate interests in respect of the domain name [www.tatamotors.org.in]. (Policy, Paragraph 4 (1); Rules, Paragraphs, 3 (b) (v), (b) (vi) (1)) ?

- 1) I have perused the complaint, affidavit & documents/ Annexures placed on record. From the submissions on oath and perusal of Annexures which mentions the goods & services offered by the complainant.



- 2) I have also perused the submissions, *"The complainant submits that the respondent is trying to en-cash on the goodwill and reputation associated with the trade mark TATAMOTORS, although the respondent has no connection with the complainant and other Tata Group of Companies."*; *"It is further stated that the complainant and/or any entity belonging to the Tata Group of Companies has not licensed or otherwise permitted the respondent to use TATAMOTORS nor has it permitted the Respondent to apply for or use any 'Domain Name' incorporating the mark TATAMOTORS"*; *"The disputed domain name clearly incorporates the Complainant's trade mark TATAMOTORS in the entirety. Such use of the disputed domain name is considered evidence of bad faith registration and use under the INDRP. In this regard the complainant relies on the decision of this honorable court and Arbitration and Mediation Centre passed in the cases of Gulshan Khatri Vs Google Inc O.M.P (COMM) 497/2016 www.googlee.in, and in TATAMOTORS LIMITED Vs Gao Gau INDRP/ 627 www.tatamotors.in marked as 'Annexure F' The disputed domain name will give unwary visitors to the domain an impression that the disputed domain name has been authorized by the complainant. It is pertinent to mention that the complainant has no connection with the disputed domain name holder and the complainant has never permitted the respondent to create the disputed domain name."* & *"That the complainant claims enormous presence on the Internet and ownership of various domain names consisting of the words 'TATAMOTORS' which are mentioned herein"*

- 3) I am satisfied that respondent, by using the trademark "TATAMOTORS" in the disputed domain name, are violating rights or



legitimate interests of the complainant who have exclusive right to use the trademark "TATA" & "TATAMOTORS".

- 4) The respondent has abstained from the arbitral proceedings despite service to contradict the submissions of the complainant.
- 5) After analyzing the submissions & details made herein-before and the documents placed on record, I conclude that the respondent has no claims, rights or legitimate interests to use the trademark "TATA" & "TATAMOTORS" in respect of carrying out business from the disputed domain name [www.tatamotors.org.in]. I am satisfied and conclude that the respondent has acted in contravention of paragraph 4(b) of INDRP Policy.

C. Whether the domain name [www.tatamotors.org.in] was registered and is being used in bad faith. (Policy, Paragraph 4 (a) (iii), 4(b); Rules, Paragraphs, 3 (b) (ix) (3)) ?

- 1) I have perused the complaint, affidavit & documents/ Annexures placed on record.
- 2) I have also perused the submissions, *"An innocent consumer is bound to be misled by this impugned domain name www.tatamotors.org.in registered by the respondent. In the entirety of facts and circumstances obtainable in the present case as also in the wake of objections available in the present case, registration of the impugned domain name by using the word 'TATAMOTORS' without seeking prior concurrence/approval/permission of complainant amounts to "passing off" action on the part of the respondent/user of the domain name . The clear intention of the respondent appears to be to commit fraud and mislead innocent and gullible consumer by unfair and dishonest means"; "The use and existence of the impugned domain name will*



cause damage and injury both to the complainant's business, their reputation and to the consumers and general public. The respondent has attempted to make a deliberate misrepresentation to the public at large and it certainly cannot be a matter of mere coincidence. The misrepresentation is bound to cause confusion and deception in the minds of the purchasing public." & "It is pertinent to mention that the members of the public have come to associate the trade mark TATAMOTORS solely with the Complainant. Therefore, any on-line promotion or reviews which may be carried out by the respondent under the name TATAMOTORS is bound to cause confusion and/or likely to cause confusion in the minds of the public as being associated with the complainant and its Group of Companies."

- 3) And after perusing submissions & documents/ Annexures, it is apparent that the respondent is using the trademark "TATAMOTORS" and are taking illegal benefit from the goodwill of the complainant company. I am satisfied that respondent is using the trademark "TATAMOTORS" contravening the exclusive rights of the complainant over the trademark "TATA" & "TATAMOTORS" and the registration of the Impugned Domain [www.tatamotors.org.in] has been done in bad faith and with dishonest intention to mislead the innocent public.
- 4) The respondent has abstained from the arbitral proceedings despite service to contradict the submissions of the complainant.
- 5) After analyzing the submissions & details made herein-before and the documents placed on record, I conclude that the the domain name [www.tatamotors.org.in] is registered and being used in bad faith by the respondent. I further conclude that the respondent has acted in contravention of paragraph 4(c) of INDRP Policy.



D. Remedies Requested – the Complainant requests the Administrative Panel appointed in this administrative proceeding to issue a decision that the Impugned Domain [www.tatamotors.org.in], be transferred to the Complainant, who is the legitimate owner of the trademark “TATA” & “TATAMOTORS”.

- 1) Analysis of the issue (D) Relief – the Complainant requests the Administrative Panel appointed in this administrative proceeding that [www.tatamotors.org.in] be transferred to the Complainant.
- 2) I have perused the complaint, affidavit & documents/ Annexures placed on record and after analyzing & discussing them in details herein-before I have concluded that the respondent has acted in contravention of paragraph 4 of INDRP Policy in entirety.
- 3) I thus conclude the final issue i.e. Relief to be settled in favour of the complainant and accordingly I allow the prayer of the complainant to rightfully transfer the ownership of domain name [www.tatamotors.org.in] in favour of the complainant.

8. AWARD

A. I AWARD AND DIRECT, that the ownership of domain name [www.tatamotors.org.in] be transferred in the name of the complainant.

This is my final award made and published by me on this 11th day of May 2021, at New Delhi, the seat of arbitration.

Kamal Dave
Sole Arbitrator
KAMAL DAVE
Arbitrator
FCI Arb., FAMINZ (Med / Arb), FMI Arb., BA
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