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Certificate No.

Certificate Issued Date

Account Reference

Unique Doc. Reference

Purchased by

Description of Document

Property Description

Consideration Price (Rs.)

First Party

Second Party

Stamp Duty Paid By

Stamp Duty Amount(Rs.)

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

IN-DL85086346339308T

14-Jun-2021 08:00 PM

IMPACC (IV)/ dl925103/ DELHI/ DL-DLH

SUBIN-DLDL92510368724585440755T

SRIDHARAN RAJAN RAMKUMAR

Article 12 Award

Not Applicable

(Zero)

SRIDHARAN RAJAN RAMKUMAR

Not Applicable

SRIDHARAN RAJAN RAMKUMAR

(One Hundred only)



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BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME DISPUTE RESOLUTION POLICY

INDRP Case No: 1376

IN THE MATTER OF:

Government Employees Insurance Company

One Geico Plaza,
Washington, DC 20076
Email:info@selvams.com

...Complainant

VERSUS

Ray Winston,

1500 SW8 Street,
Miami, FL,
USA 33199
Email:raywinstonus@hotmail.com

..Respondent

AWARD

1. THE PARTIES:

COMPLAINANT

The complainant in these proceedings is Government Employees Insurance Company incorporated under the laws of the State of Maryland, United States of America, of the address, 5260 Western Ave. Chevy Chase, Maryland- 20815, United States of America

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RESPONDENT

The Respondent is one Ray Winston having his address as 1500 SW8 Street, Miami, FL, USA 33199 According to the Registry.in WHOIS database, the Respondent in this administrative proceeding is Ray Winston, the registrant of the domain name www.geico.in (hereinafter referred to as the disputed domain name). A copy of the printout of the Registry.in WHOIS database was provided as Annexure A.

2. THE DOMAIN NAME AND REGISTRAR:

The disputed domain name: www.geico.in

The domain name registered with IN REGISTRY

3. PROCEDURAL HISTORY:

March 29, 2021	Date of the complaint
April 15, 2021	Sole Arbitrator appointed to adjudicate the dispute
April 16, 2021	Arbitral proceedings were commenced by sending
	notice to Respondent through e-mail as per Paragraph
	4 (c) of INDRP Rules of Procedure, marking copy of
	the same to Complainant's authorized representative
	and to the .IN REGISTRY to file response within 15
	days of receipt of same
May 1, 2021	Though the Respondent was served with copies of the
	Complaint and annexure thereto but failed and
	neglected to file its response within the 15 days time

period intimated to all parties

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Hence this award is proceeded with on basis of the available pleadings and documents only.

4. FACTUAL AND LEGAL BACKGROUND:

It was submitted that the Complainant in this administrative proceeding is Government Employees Insurance Company ("GEICO"), an insurance provider incorporated under the laws of the State of Maryland, United States of America, of the address, 5260 Western Ave. Chevy Chase, Maryland-20815, United States of America It was further submitted that the Complainant, GEICO, is a well renowned American insurance company that has been in the industry from as early as 1936. GEICO offers numerous types of insurance including automobile, motorcycle, homeowners, rental, condominium, flood, mobile home, personal umbrella, and overseas insurance, among others. The very mark GEICO is popularly and exclusively known in relation to the Complainant.

It was submitted that the dispute is properly within the scope of the Policy and the Administrative Panel has jurisdiction to decide the dispute. The registration agreement, pursuant to which the domain name that is the subject of this Complaint is registered, incorporates the Policy. The domain name dispute policy that applies to the domain name in question was provided as **Annexure B** to the Complaint.

Trademark registrations:

It was submitted that the Complainant has been trading under the trademark GEICO (the "GEICO mark") for nearly 80 years. GEICO's rights in the mark are further evidenced by its numerous internationally registered trademarks and service marks that wholly incorporate the GEICO mark, including, without limitation, the following registrations:

Trademark	Application/ Registration no.	<u>Jurisdiction</u>	Status
GEICO	0763274	USA	Registered

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GEICO	2601179	USA	Registered
GEICO	1178718	European Union	Registered
GEICO	1178718	International Trademark	Registered
GEICO AUTO REPAIR XPRESS	2982260	USA	Registered
GEICO Motorcycle	3262263	USA	Registered

True and correct copies of the above-referenced registrations was attached as *Annexure C*.

It was submitted that the Respondent has blatantly and deliberately infringed and _ diluted the Complainant's invaluable and indelible rights in the GEICO mark by way of unlawfully registering the domain name www.geico.in in bad faith.

It was submitted that GEICO is a leader in its industry, and it is significant to note that the Complainant offers insurance services to multitude of consumers. The Complainant is also known to be one of the fastest growing auto insurers in the United States of America. GEICO has made extensive use of its distinctive GEICO mark in connection with its services. The Complainant invests large sums of money to promote the GEICO mark through television (advertisements), print media and the Internet. GEICO also owns and operates the domain name www.geico.com, which incorporates the registered GEICO mark, since 1997.

It was further submitted that the Complainant, GEICO uses its website to promote and sell its various insurance services and provides its consumers easy access to information about its insurance services, allows them to manage their policies and claims, and even obtain insurance quotes. Relevant webpages from Complainant's websitewere attached as *Annexure D*.

It was submitted that the profile and popularity of the Complainant's services has

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been continuously increasing since the date of adoption and use of the Complainant's GEICO mark. In fact, GEICO has over 17 million policies and insures more than 28 million vehicles. GEICO also has over 40,000 employees and is one of the fastest-growing auto insurers in the U.S. with assets of more than USD 32 billion. Relevant copies of webpages from the Complainant's website describing these statistics were attached as *Annexure E*.

It was further submitted that the Complainant maintains an active and prominent social media presence on multiple popular platforms such as Facebook, Instagram, Twitter, LinkedIn and YouTube among others. These pages are constantly updated with latest information about GEICO and its products and services and have thousands of loyal followers. Relevant extracts of webpages was attached as *Annexure F*.

It was submitted that as further testament to its success, the Complainant has been awarded several accolades over the years for its financial strength, customer satisfaction, commitment to diversity and inclusiveness, and quality of its workplace, including, an A.M. Best Financial Strength rating of A++ (Superior), Rated Most Desired Insurer Among Consumers by Kanbay Research Institute, awarded a "2020 Best of the Best" for excellence in diversity in the insurance category by Professional Woman's Magazine, and the Macon- Bibb Most Generous Workplace Award in 2016-2018. A print-out of a webpage from Complainant's website enumerating these accolades was attached as *Annexure G*.

It was submitted that due to the impeccable reputation and goodwill earned by the Complainant, the word 'GEICO' is exclusively associated with the Complainantand its services and no one else and hence, the Complainant is vigilant in protecting its intellectual property against unauthorized use by third parties.

It was submitted that the Complainant was made aware that the Respondent had registered the disputed domain name www.geico.in without any authorization whatsoever. The disputed domain name is identical to the Complainant's famous GEICO mark with the only difference being the change in country code

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Top LevelDomain ("ccTLD"). Additionally, the disputed domain has been parked and is listed as being available for sale for a sum of USD 5500 (approximately INR 4 lakhs). A copy of the webpage displaying the said price was attached as *Annexure H*.

It was submitted that the lack of use of the disputed domain name and the fact that the same has simply been parked with a fee of USD 5500 for its sale is evidence that the domain name was registered by the Respondent *mala fide* for unlawful commercial gain. The Respondent has registered the disputed domain name www.geico.in in bad faith and without authorization of any kind whatsoever.

It was submitted that the disputed domain is not just deceptively similar but is identical to the well-recognized GEICO trademark with the exception of the change in ccTLD. As evidenced by the lack of use of the impugned domain, it is clear that the Respondent has no interest in maintaining the domain name but has boughtthe same in bad faith, with a view to sell the domain name for an excessive consideration. The Respondent has adopted the deceptively similar domain name mala fide for the sole purpose of making an illicit profit at the expense of the Complainant's hard-earned goodwill and reputation.

It was submitted that the Complainant, being the true and rightful owner of the GEICO mark and domain name, had not and has not authorized the Respondent's use of the GEICO mark or the registration of the disputed domain name.

It was submitted that based on the Respondent's registration of the disputed domain name consisting entirely of the GEICO mark, the Complainant believes that this would likely cause confusion for users as to the identity of the owner of the domain name, sponsorship, affiliation or endorsement of the Respondent's website.

It was submitted that indeed, there is no evidence that Respondent has any legitimate claims to the disputed domain name and any current or conceivable future use of the disputed domain name violates the Policy. This unauthorized use of the disputed domain name by Respondent severely harms the Complainant by

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tarnishing and infringing its trademarks, hard earned reputation and goodwill.

It was submitted that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant is the registered proprietor of the GEICO mark and its variants as elucidated by means of relevant evidence submitted in the form of Annexures attached herewith. The Complainant's GEICO mark and its variants are distinctive and well-recognized solely in relation to the Complainant. The Complainant owns the GEICO mark and has used its registered GEICO mark on its own domain name www.geico.com from as early as 1997, which is very relevant to the current proceeding. The disputed domain name is undeniably identical to the Complainant's GEICO mark which has been extensively and continually used for decades. The disputed domain name deceptively incorporates and consists solely of the Complainant's mark GEICO. The Respondent has registered the domain name which comprises, apparently and in entirety, the Complainant's trademark GEICO. The domain names are identical excluding the difference in ccTLD. An ordinary person of average intelligence and imperfect recollection would likely be misled into thinking that the disputed domain name belongs to the Complainant as the GEICO mark is per se known and associated with the Complainant exclusively.

It was submitted that the fact that the Respondent has registered the disputed domain name which contains the registered trademark owned by the Complainant leads to the inevitable conclusion that the disputed domain name is confusingly similar to the GEICO mark, as well as the Complainant's domain name www.geico.com.

In support of its stand, the Complainant cited the following case law precedents:

In M/s Satyam Infoway Ltd. vs. M/s Sifynet Solution (P) Ltd. JT. (2004 (5) SC 541), it was held that, "Domain name has all characteristics of trademark. As such principles applicable to trademark are applicable to domain name also. In modern times domain name is accessible by all internet users and thus there is need to maintain it as an exclusive symbol."

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In LEGO Juris A/S v. Robert Martin, INDRP/125 (2010), it was further held that "It is well recognized that incorporating a trademark in its entirety, particularly if the mark is an internationally well-known mark, is sufficient to establish that the domain name is identical or confusingly similar to the Complainant's registered mark."

In Starbucks Corporation vs. Mohanraj, INDRP/118 (2009): "Domain name wholly incorporating acomplainant's registered trademark may be sufficient to establish identity or confusing similarity, despite addition of other words to such marks." The Complainant reiterates that the minor change in ccTLD does not thus alleviate its deceptive identity of the disputed domain name to the Complainant's earlier domain www.geico.com or its GEICO mark.

In Morgan Stanley vs Bharat Jain, INDRP 156 (2010) the Complainant contended that the mere addition of a different ccTLD was insufficient to render the disputed domain name dissimilar to the Complainant's domain. It was held that the disputed domain name was confusingly similar to the domain name of the Complainant.

In Google, Inc. vs. Mr. Gulshan Khatri INDRP/189 (2011), it was held: "The act of registering a domainname similar to or identical to a famous trademark is an act of unfair competition whereby the domain name registrant takes unfair advantage of the fame of the Complainant's trademark to either increase traffic to the disputed domain, or to seize a potential asset of the trademark owner in the hope that the trademark owner will pay the requirement to relinquish the domain name."

Thus, as elucidated above, the disputed domain name is deceptively similar to the GEICO mark as per INDRP, para 6 (i); INDRP Rules, para 4 (b) (vi) (1).

It was submitted that as already established herein, the Complainant is the sole proprietor of the GEICO mark and provides services under the mark GEICO and has garnered immense goodwill and reputation under the GEICO mark. As stated above, the disputed domain name is identical to the GEICO mark in which the

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Complainant enjoys substantial reputation and goodwill. Thus, the Respondent can have no legitimate interest in the impugned domain name which is identical to the Complainant's prior, registered and well-recognized GEICO mark and domain name www.geico.com.

It was submitted that the fact that the disputed domain name has not been put to legitimate non-commercial fair use or commercial/business use, in the first place, clearly showcases that the Respondent has no rights or legitimate interests in respect of the disputed domain name, more so owing to the fact that the mark GEICO per se is known and associated with the Complainant and Complainant only. The Respondent thus, holds no legitimate rights or interest in the disputed domain name pursuant to ICANN Policy 4(c).

It was submitted that this illegal registration, in fact brings to light the lack of interest of the Respondent to honestly use the domain name. Thus, it is wholly apparent that the Respondent has registered the domain name only totake unfair advantage of the Complainant's reputation and goodwill. Such use does not constitute a *bona fide* offering of goods or services under ICANN Policy 4(c) (ii) or a legitimate non-commercial fair use under ICANN Policy 4(c) (iii).

It was submitted that it was well established that criminal fraud clearly demonstrates that Respondent has no legitimate interests in the disputed domain name. Demco, Inc. v. Adminprivateregeontact a/k/a Demco USA, Case No. D2011-1516 (WIPO Oct. 31, 2011)

It was submitted that most significantly as already mentioned, the impugned domain is simply parked with no use by the Respondent whatsoever which is *prima facie* evidence of the fact that the latter has no interest in the disputed domain. As previously stated, the Complainant registered the domain name www.geico.com much prior to the Respondent. Hence, it is evident that the Respondent was interested in obtaining the disputed domain name only because it is deceptively similar to the mark in which the Complainant has rights and interest. Such use of a domain name does not provide a legitimate interest under the Policy. The Respondent thus, holds no legitimate rights or interest in the

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disputed domain name pursuant to ICANN Policy 4(c).

It was submitted that accordingly, and for all the reasons above, the Respondent has no rights or legitimate interest in the disputed domain name as per the Policy, para 6 (ii); INDRP Rules, para 4 (b) (vi) (2).

It was submitted that the disputed domain name has been registered or is being used in bad faith. The Complainant's GEICO mark is well-recognized, and the Complainant has gained immense reputation and goodwill, not to mention popularity, thriving in the industry for decades. The Complainant and the GEICO mark are synonymously known for their laudable products and services. The Complainant has expended substantial resources on promoting and advertising its products and services and continues to maintain on-going business operations.

It was submitted that the Respondent has intentionally registered the disputed domain name for the primary purpose of selling the same for a valuable consideration. In any case, the fact that the Respondent has registered the disputed domain which is deceptively similar to the earlier and popular GEICO mark of the Complainant is proof of their mala fide intent. The lack of use of the website further evidences the badfaith and intent of the Respondent.

It was submitted that the Respondent has clearly engaged in cybersquatting of the disputed domain and thus, it is evident that the disputed domain name has been registered in bad faith. The domain is non-functional except for a link to purchase the domain and allied links to the website's marketplace. The Respondent has intentionally registered the deceitful domain name in bad faith as it was certain that the Complainant would be interested in buying the domain name and protecting its intellectual property and would not permit such an obvious violation of its rights by allowing another party such as the Respondent to use the domain name.

In support of their case the Complainant submitted the following case law precedents:

The complainant cited Arun Jaitley v. Network Solutions Private Limited and Ors. [2011 SCC Online Del 2660], the Hon'ble Delhi High Court held that "cybersquatting is a crime against the laws and regulations of cyber law. The registering or using a domain name with mala fide intent to make profit belonging to someone else. The cyber squatter then offers to sell the domain to the person or company who owns a trademark contained within the name at an inflated price. Cyber squatters ask for prices far more than that at which they purchased it.

It was submitted that the fact that the GEICO mark was adopted and applied to unique and popular services by the Complainant many decades prior to the registration of the disputed domain name makes it extremely unlikely that the Respondent created the said domain independently without any knowledge of the Complainant's popular GEICO mark or website. The fact that the Complainant's GEICO mark is fanciful further irrefutably proves that the disputed domain name was adopted and registered in bad faith by the Respondent. A legitimate domain name owner would certainly create an active working website and host it on the particular domain, if the same was adopted in an honest manner. When this is perceived in conjunction with the fact that the said domain name is identical to the Complainant's domain and prior trademark www.geico.com and GEICO respectively, it is conclusively proved that the said domain has been registered in bad faith.

The complainant cited Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd [AIR 2004 SC 3540], the Respondent had registered domain names www.siffynet.com and www.siffynet.net which were similar to the Plaintiff's domain name www.sifynet.com. The Plaintiff was reputed and Sify was a coined mark comprising of Satyam and Infoway. The Hon'ble Supreme Court of India held that "domain names are business identifiers, serving to identify and distinguish the business itself or its goods and services and to specify its corresponding online location." The decision was in favour of the Plaintiff.

The complainant cited Aqua Minerals Limited v. Mr Pramod Borse & Anr [AIR 2001 Delhi 467], the Delhi High Court observed that "Unless and until a

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person has a credible explanation as to why did he choose a particular name for registration as a domain name or for that purpose as a trade name which was already in long and prior existence and had established its goodwill and reputation there is no other inference to be drawnthan that the said person wanted to trade in the name of the trade name he had picked up for registration or as a domain name because of its being an established name with widespread reputation and goodwill achieved at huge cost and expenses involved in the advertisement."

The complainant cited the case of Microsoft Corporation v. Montrose Corporation, (WIPO Case No. D2000-1568), it was held: "The incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith." More importantly, the nature of Respondent's fraudulent activity in registering a domain name incorporating the GEICO mark not only showcases the full extent of knowledge that the Respondent has of the Complainant, but also the extreme bad faith and mala fide intent of the Respondent, while simultaneously causing damages and prejudice to the business of the Complainant, by unlawfully using the prior and registeredGEICO mark of the latter.

The Complainant submitted that the Respondent has failed to comply with Para 3 of the INDRP which requires that it is the responsibility of the Respondent to ensure before the registration of the impugned domain name, that the domain name registration does not infringe or violate someone else's rights. (AB Electrolux vs.Liheng INDRP/700) (August 03, 2015)

5. PARTIES CONTENTIONS:

A. COMPLAINANT

- (a) The Domain Name is identical or confusingly similar to a Trademark of the Complainant
- (b) Respondent had no legitimate interest in the domain name

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(c) Respondent had registered the domain name in bad faith

B. RESPONDENT

The Respondent did not file its reply to contest the claims of the Complainant and thus this award is based on pleadings and documents filed by the Complainant only.

6. DISCUSSION AND FINDINGS:

I hold that the Respondent's domain name is identical to the trademark/ trade name in which the Complainant has absolute and sole rights.

A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant had rights:

I find that the Respondent's domain name < geico.in > is confusingly similar/identical to the well-known trade/service mark of the Complainant, GEICO. I hold that the Complainant overwhelming common law as well as statutory rights in its trade/service mark GEICO in India and foreign jurisdictions. Therefore, the Complainant is the sole legitimate owner of the trade/service mark GEICO.

I hold that the Respondent's registration of domain *geico.in* will induce members of the public and trade to believe that the website belongs to the Complainant or that the Respondent has a trade connection, association, relationship or approval with/of the Complainant, when it is not so.

B. The Respondent had no rights or legitimate interests in respect of the domain name:

I find that the Complainant submitted that the Respondent had no rights/

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legitimate interest in the domain name < geico.in > for the following reasons:

I find that the Respondent admittedly and evidently has no connection whatsoever with the Complainant and the Complainant has not licensed or otherwise permitted the Respondent to apply for any domain name incorporating the trade/service mark "GEICO".

I find that the Respondent had not made any legitimate offering of goods or services under the mark "GEICO" through the disputed domain name. I find that the Respondent's intention is only to cheat general public pretending to be a website hosted by the Complainant.

I find that there is no plausible explanation for the adoption and registration of the domain name < geico.in> by the Respondent, since the Complainant's trade/service mark GEICO is an invented word other than the intention of the Respondent to misappropriate the reputation of the Complainant's trade/service mark GEICO and confuse and deceive the unwary customer of the Complainant.

Therefore, I hold that the sole purpose of the Respondent's registration of the disputed domain name is to defraud general public in making them believe that it is a website hosted by the Complainant and to divert traffic from the Complainant's websites and that proves the fact that the Respondent had no rights or legitimate interest in the disputed domain name.

C. The domain name was registered in bad faith:

I hold that the Respondent had registered the impugned domain name in bad faith for the following reasons:

I find that the Respondent registered the domain name <geico.in> in bad faith. Respondent's domain name incorporates Complainant's GEICO® mark in full and is virtually identical to Complainant's GEICO® mark.

See, e.g., Johnson & Johnson v. Daniel Wistbacka, Case No. D2017-0709 (WIPO May 24, 2017) (finding bad faith registration where "the integral reproduction of [complainant's trademark] within the disputed domain name can hardly be the result of coincidence"). "[I]t is not possible to conceive of a plausible circumstance in which the Respondent could legitimately use" <geico.in>. Telstra Corp. Ltd. v. Nuclear Marshmallows, WIPO Case No. D2000-0003 (WIPO Feb. 18, 2000); Reliance Industries Ltd. et al. v. jiomartfranchise.in et al., Case No. INDRP/1264 (NIXI Oct. 7, 2020) (finding bad faith registration where the respondent registered <jiomartfranchise.in>, which included the complainant's registered trademark JIO in full).

I hold that the Respondent has registered and used <geico.in> in bad faith in violation of Paragraph 4(b)(vi) of the Rules, and Paragraph 4(c) of the Policy.

I hold that none of the exemptions provided under paragraph 7 of the .IN Domain Dispute Resolution Policy (INDRP) apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Domain Name or to use the GEICO trademark. The Complainant has prior rights in the trademark GEICO which precedes the registration of the disputed domain name by the Respondent.

That the Complainant had therefore established a *prima facie* case that the Respondent have no rights and legitimate interests in the disputed domain name and thereby the burden of proof shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Domain Name.

Under paragraph 6(iii) of the IN Domain Dispute Resolution Policy (INDRP), if by using the domain name, the Registrant had 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

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or location or of a product or service on the Registrant's website or location, it shall be evidence that the Registrant's registration and use of the domain name is in bad faith.

I hold that the disputed domain name is deceptively similar to the Complainant's registered trademark GEICO, in which the Respondent cannot have any rights or legitimate interest.

It is clear from the fact that Respondent had registered the disputed domain name for sole purpose of creating a likelihood of confusion with the Complainant's registered trademark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name. I hold that the well-known status of the trademark GEICO, which was adopted and applied by the Complainant well prior to the registration of the disputed domain, makes it extremely unlikely that Respondent created the disputed domain name independently without any knowledge of Complainant's trademark.

That it had been consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can itself create a presumption of bad faith and so it opined about the Respondent's registration of the impugned domain name.

That I did not receive a Response/ Reply to the Complaint dated March 29, 2021 on behalf of the Respondent, hence I am constrained to pass this award on the basis of available information and documents submitted by the Complainant only.

7. DECISION

a) In view of the above facts and circumstances, it is clear that the Complainant had succeeded in its complaint.

- b) That the .IN Registry of NIXI is hereby directed to transfer the domain name/URL of the Respondent " www.geico.in " to the Complainant;
- c) In the facts and circumstances of the case no cost or penalty is imposed upon the Respondent. The Award is accordingly passed on this 14th Day of June, 2021.

Sridharan Rajan Ramkumar

Sole Arbitrator

Date: 14/06/2021