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EQT AB & EQT Partners Asia Pte Ltd vs XUH SS, AI, USA  
**INDRP Case no. 1844**  
Arbitrator: Mr. P.K.Agrawal

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## AWARD

### 1. The Parties

The Complainants are EQT AB, Box 16409, 103 27 Stockholm, Sweden (**Complainant 1**) AND EQT Partners Asia Pte Ltd., 10 Collyer Quay #10-01 Ocean Financial Centre, Singapore-049315 (**Complainant 2**).

The Respondent is XUH SS, WDZ, WDZ, Alabama-26623, United States of America.

### 2. The Domain Name and Registrar

The disputed domain name is <bpeaeqtai.in>. The said domain name is registered with the Registrar – NameSilo, LLC (IANA ID: 1479). The details of registration of the disputed domain name (as per WHOIS details relevant to the Complaint) are as follows:

- a. Domain ROID: D72C92EC3F9114D7FB0A5A8ADFACAA622-IN
- b. Date of creation: Dec 15, 2023.
- c. Expiry date: Dec 15, 2024.

### 3. Procedural History

- (a) A Complaint dated 2.04.2024 by the Complainant has been filed with the National Internet Exchange of India (NIXI). The Complainant has made the registrar verification in connection with the domain name at issue. The print outs confirmed that the Respondent is listed as the registrant and provided the contact details for the administrative, billing, and technical contact. The Exchange verified that the Complaint satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the “Policy”) and the Rules framed thereunder.
- (b) The Exchange appointed the undersigned Mr. P.K.Agrawal, Former Addl. Director General in the Government of India, as the sole Arbitrator in this matter. The Arbitrator finds that he has been properly appointed. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Exchange.

- (c) In accordance with the Policy and the Rules, the copies of complaint with annexures were sent by the National Internet Exchange of India on 18.04.2024 by email. The Arbitrator served the Notice under Rule 5(C) of INDRP Rules of procedure along-with copies of complaint and annexures to the parties through email on 18.04.2024. The Complainant was advised to serve copies of the domain complaint along with complete set of documents in soft copies as well as in physical via courier or post to the Respondent Registrant at the address provided in the WHOIS details of the domain. The Respondent was given 14 days' time by the Arbitrator through Notice dated 18.04.2024 for reply. The Notice email was served upon the Respondent email id given in WHOIS details, which was delivered. The Complainant confirmed on 19.4.2024 through email that the complaint with annexures was communicated to the Respondent through email. The Complainant has pointed out through email dated 19.4.2024 that Respondent's address mentioned in the Whois record, as shared by the good office of NIXI, is incomplete. As the address is incomplete, the Complainant will not be in a position to serve the physical copy of the complaint to the Respondent through courier or post. The Respondent was advised through email dated 20.4.2024 to respond to the above submission or submit his updated address with necessary documents. If nothing is heard from him on this issue, it will be presumed that the Complaint & its annexures have been duly served upon the Respondent. Further proceedings will follow as per law. The Respondent has not responded to the Notice. In view of the aforesaid, the Complaint and its annexures may be regarded to have been served to the Respondents as per Arbitration and Conciliation Act, 1996 and INDRP rules. Since the Respondent has not responded and presented any grounds in his defence, the present proceedings have to be conducted *ex parte* as per the Arbitration and Conciliation Act, 1996 and the .IN Domain Name Dispute Resolution Policy and the Rules of Procedures framed there under.

#### 4. Factual Background

The Complainants are EQT AB, Box 16409, 103 27 Stockholm, Sweden (**Complainant 1**) AND EQT Partners Asia Pte Ltd., 10 Collyer Quay #10-01 Ocean Financial Centre, Singapore-049315 (**Complainant 2**). Founded in 1994, Complainant 1 is a global investment firm with a long and successful track record of investing in companies and helping them develop into thriving and sustainable businesses. As of December of 2023, Complainant 1 had approximately EUR 232 billion in assets under management. Complainant 1 employs more than 1,800 people across 20 countries in Europe, APAC, and the Americas. By taking an active role

and working closely with management and boards, Complainant 1 supports its portfolio companies and real assets with hands-on governance and expertise.

In 2022, Complainant 1 acquired Baring Private Equity Asia ('BPEA'), a leading private markets investment firm in Asia. Complainant 2, including its predecessor-in- title, is the first and prior adopter and user, sole owner, and registered proprietor across jurisdictions of the trademark BPEA and BPE Asia (hereinafter, 'BPEA Marks').

Complainant 1 is the first and prior adopter and user, sole owner, and registered proprietor across jurisdictions of the trademark EQT and several other EQT-formativemarks including but not limited to **EQT FOUNDATION**, **EQTEXETER** etc. - hereinafter collectively referred to as '**EQT Marks**'. Complainant 1 owns registrations/applications for the EQT Marks in numerous jurisdictions worldwide, including but not limited to Australia, Canada, China, European Union, India, Norway, Mexico, Turkey, United States of America etc. In European Union, Complainant 1 owns registration for the marks **EQT** and since as early as November 20, 2002 and June 28, 2016 respectively in Classes 35 & 36. Complainant 2 owns registrations/applications for the BPEA Marks in numerous jurisdictions worldwide, including but not limited to, European Union, India, Singapore, United States of America etc.

In **India**, the Complainant 1 owns the registrations for the mark **EQT** in Classes 35 & 36 under nos. 1811132 and 1811131 respectively since April 24, 2009. Further, Complainant 2 owns the registration for the mark **BPEA** in Class 36 under no. 2166248 since June 27, 2011. The Complainants have clarified that the registration for the mark BPEA under no. 2166248 currently stands registered in the name of Baring Private Equity Asia Group Ltd. However, the BPEA Marks have been assigned to Complainant 2 and a request to have the same taken on record has also been filed.

Thus, Complainant 1 adopted the mark EQT and has used the same since at least as early as the mid-1990s in connection with a wide range of financial services, including real estate investment services. Since then, Complainant has continuously and extensively used the EQT Marks. Complainant 2 adopted the mark BPEA in connection with a wide range of financial services, including investment services and the same has been in continuous and extensive use.

Complainant 1 owns several domain names prominently featuring the mark 'EQT'. These include [<eqtgroup.com>](https://eqtgroup.com/), [<eqtventures.com>](https://eqtventures.com/) and [<eqtexeter.com>](https://eqtexeter.com/) registered since March 06, 2014, October 29, 2014 and January 19, 2021 respectively. On Complainant 1's corresponding websites at <https://eqtgroup.com/>, <https://eqtventures.com/> and

<https://eqtexeter.com/> which are accessible from across the globe, including India, the EQT Marks are prominently and extensively displayed and used in respect of Complainant's offerings. The website <https://eqtgroup.com/> also promotes, offers, and advertises services under the BPEA Marks. Complainant 1 also hosts active pages across social media including LinkedIn, Instagram, X (formerly Twitter), YouTube, where it prominently uses the EQT Marks. As of March 05, 2024, Complainant 1 collectively had more than 1,71,000 followers on its social media platforms. Complainants also host an active page on LinkedIn which uses the Marks together and as of March 07, 2023, it had a followership of over 26,000 on the said page. A quick search over common search engines would reveal the exclusive connection of the Marks with Complainants.

### **Respondent's Identity and Activities**

The identity and activities of the Respondent are not known. The Respondent has neither responded to the Notices served upon him nor submitted any reply to the complaint.

## **5. Parties Contentions**

### **A. Complainant**

The Complainant contends that each of the elements specified in the Policy are applicable to this dispute.

In relation to **element (i)**, the Complainant submits that the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant argues that:

- a. Disputed Domain Name <bpeaeqtai.in> is confusingly similar to Complainant's prior Marks.
- b. Disputed Domain Name incorporates Complainant's reputed marks **BPEA** and **EQT** in their entirety and uses them as the most prominent element. The complete incorporation of Complainants' registered marks suffices to establish this element. "In cases where a domain name incorporates the entirety of a trademark . . . the domain name will normally be considered identical or confusingly similar to that mark for purposes of the Policy." *Vertex Pharmaceuticals Inc. v. Private Data Domains Ltd./Anonymous Speech, Anonymous Speech, Michael Weber*, Case No. D2019-1259 (WIPO July 25, 2019); *Reliance Industries Ltd. et al. v. jiomartfranchise.in et al.*, Case No. INDRP/1264 (NIXI Oct. 7, 2020) (domain name identical and confusingly similar where complainant's registered trademark

- “entirely contained in the disputed domain name of the Respondent”).
- c. The presence of the term ‘ai’ in the Disputed Domain Name, which is a non-distinctive and descriptive term, does not render the Disputed Domain Name distinguishable from Complainants’ prior Marks. Respondent uses the term ‘ai’, the well-known acronym for “artificial intelligence”, to suggest that the investment services being offered leverage the power of artificial intelligence technology. “Where the relevant trade mark is recognizable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) do not prevent a finding of confusing similarity under the first element.” *Petróleos Mexicanos v. Registration Private, Domains By Proxy, LLC / Marta Ramos*, Case No. D2019-0946 (WIPO June 18, 2019); *Baxter International Inc. v. None*, Case No. INDRP/1662 (NIXI April 24, 2023) (... the disputed domain name “BAXTERMEDICAL.IN” incorporates the Complainant’s trademark ‘BAXTER’ in its entirety with the added word ‘medical’ as a suffix appended to it. However, “such differences can be ignored for the purpose of determining similarity between the disputed domain name and the Complainant’s trademark as it is non-distinctive and does not prevent a finding of confusing similarity between the disputed domain name and mark.”); *Trivago N.V. v. Shiv Singh*, Case No. INDRP/1171 (NIXI January 17, 2020) (... several decisions have held a domain name to be confusingly similar to a registered trade mark when it comprises the registered trade mark plus one or more generic term.).
- d. The Country Code Top-Level Domain “.in”, being a technical requirement does not reduce the deceptive similarity between Complainants’ Marks and the Disputed Domain Name <bpeaeqtai.in>; See, *Incase Designs Corp. v. Stavros Fernandes* Case No. INDRP/1209 (NIXI March 27, 2020) (finding <incase.in> confusingly similar to complainant’s trademark INCASE because “the mere addition of the Country Code Top Level Domain ‘.in’ does not add any distinctive or distinguishing element, so in essence, the disputed domain name is identical to Complainant’s INCASE mark”).
- e. Through use of a domain name knowingly incorporating Complainants’ Marks, Respondent improperly and misleadingly suggests that the corresponding website is offering authentic EQT and BPEA investment services or has some type of relationship with Complainants, when the domain name and the services offered there have none. The confusing similarity of the Disputed Domain Name with Complainants’ Marks would lead to unauthorized affiliation, sponsorship, endorsement and would inevitably lead to consumer confusion regarding the ‘source’ of

the website or any connected e- mail IDs. Such confusion could also potentially lead to an average consumer with an average intelligence and recollection to fall prey to financial scams and being defrauded

Accordingly, the Complainant contends that the first condition that Respondent's domain name is identical or confusingly similar to a name, trademark, or service mark in which the Complainant has rights, as per Paragraph 4 (a) of the Policy has been satisfied.

In relation to **element (ii)**, the Complainant contends that the Respondent does not have any right or legitimate interest in <bpeaeqtai.in>.

The Complainant submits that:

- a. Respondent has no rights or legitimate interests in <bpeaeqtai.in>. Neither is Respondent commonly known by the disputed domain name, nor are its actions (including offering of goods or services) a bona fide. Respondent is not affiliated with, nor authorized/licensed by Complainant to use the Marks yet the Disputed Domain Name and the website thereunder give the false impression that it is so affiliated and authorized.
- b. The corresponding website www.bpeaeqtai.in ('Impugned Website') was operational in early February 2024. However, it was taken down pursuant to the request made by Complainants to the host of the Impugned Website. Respondent uses the Impugned Website as a part of an elaborate scheme to defraud the public. Respondent prominently features the Marks on the Impugned Website to pass itself off as Complainants in furtherance of this scheme. Use of the Disputed Domain Name and the Impugned Website to pass off as Complainants to perpetrate a fraud is plainly not a legitimate non-commercial or fair use. *See Hitachi Limited v. Kuldeep Kumar*, Case No. INDRP/1092 (NIXI June 14, 2019) ("the disputed domain name is being used to impersonate the Complainant and mislead individuals in believing that they have received a job offer from the Complainant. The Respondent is using the disputed domain name to defraud innocent individuals through the means of a recruitment scam. The Respondent is thus misleading consumers and job aspirants by using the Complainant's mark 'HITACHI' in the disputed domain name.").
- c. The Complainants make a Reference to the case of *eBay Inc. v. Akram Mehmood*, Case no. DAE2007- 0001 (WIPO; June 16, 2007) where it was observed that "Respondent uses the disputed domain name to create a false impression of association and to capitalize on the goodwill of the Complainant. Such use cannot constitute a bona fide offering of goods or services.". As elaborated above, it is axiomatic

that the Impugned Website was created to deceive customers in India into believing that the goods/ services originate from, have been licensed or authorized by Complainant for undue enrichment. *See e.g., Reliance Industries Ltd. et al. v. jiomartfranchise.in et al.*, Case No. INDRP/1264 (NIXI Oct. 7, 2020) (“[T]he Arbitrator notes that the Respondent has no legitimate interest in the disputed domain name as the Respondent is likely to be trading on the fame and recognition of Complainant’s registered trademark JIO and will lead to deceive the users. Therefore, the disputed domain name is registered with intent for commercial gain to misleadingly divert consumers or to tarnish the trade/service mark JIO. ...I find the requirement of the INDRP Policy paragraph 4(ii) also satisfied.”).

- d. Respondent is neither affiliated with nor authorized / licensed by Complainants to use the Marks, and so, use by Respondent cannot be said to be *legitimate*. The use is also not non-commercial or fair in nature, as has been further elaborated on in the subsequent paragraphs. *See Emirates of Emirates Group v. Zhan Yun*, Case No. INDRP/606 (NIXI June 23, 2014) (“In the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no actual or contemplated bona fide or legitimate use of the domain name could be claimed by the Respondent... The registration of the disputed domain name by the Respondent is therefore a case of Cybersquatting.”); *Aditya Birla Management Corp. v. Chinmay*, Case No. INDRP/1197 (NIXI Feb. 18, 2020) (no bonafide use where the complainant had “not licensed or otherwise authorized the Respondent” to use Complainant’s trademark).
- e. Complainants hold trademark registrations for their Marks, all of which are much prior to the date on which Respondent registered the Disputed Domain Name. The Disputed Domain Name being confusingly similar is not a domain that Respondent “would legitimately choose unless seeking to create an impression of an association with Complainant.” *See, Sbarro Franchise Co., LLC v. Domain Admin Domain Admin whoisprotection.biz/Burc Caglayan*, Case No. D2016-1837 (WIPO Nov. 3, 2016) (“Complainant has earlier and lawful rights in the SBARRO trademarks...in the absence of any license or permission from the Complainant to use any of its trademarks or to apply for or use any domain name incorporating those trademarks, it is clear that no actual or contemplated bona fide or legitimate use of the domain name could be claimed by the Respondent”).



- f. Finally, there is *prima facie* evidence to support mala fide adoption of the Disputed Domain Name by Respondent which in itself indicates that it lacks rights or legitimate interests in the domain outright. *See N.C.P. Marketing Group, Inc. v. Entredomains*, Case No. D2000-0387 (WIPO July 5, 2000) (“*Bad faith registration and use of domains does not establish rights or legitimate interests in the names.*”).

Based on the above-mentioned arguments, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, as per Paragraph 4 (b) of the Policy.

Regarding the **element (iii)**, the Complainant contends that the Domain Name has been registered and used in bad faith for the following reasons:

- a. There is no justification for Respondent’s adoption of the Disputed Domain Name which is confusingly similar to Complainants’ Marks and has been adopted subsequent to Complainant’s adoption / registration of the same. The fact that the Disputed Domain Name features two different marks that are owned by and widely associated with Complainants leaves no doubt as to Respondent’s bad faith intent to capitalize on Complainants’ goodwill. *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*”).
- b. Respondent’s bad faith is readily established by its brazen and unauthorized use of the Marks and the Disputed Domain Name resolves to a website that attempts to replicate Complainants’ legitimate website in order to defraud the public. Respondent’s bad faith intent is also clear from the fact that Respondent prominently and repeatedly displays the

**BPEA**

mark **EQT** (‘BPEA EQT Logo’) that combines Complainant 2’s well-known mark BPEA over Complainant 1’s well-known and registered mark and is the logo that Complainant 1 used following its acquisition of BPEA in 2022. Moreover, clicking on the BPEA EQT Logo redirected users to Complainant 1’s legitimate website, [www.eqtgroup.com](http://www.eqtgroup.com). There is no legitimate explanation for Respondent’s attempt to pass itself off as Complainants. Instead, Respondent is plainly using the Disputed Domain Name to mislead the public in an effort to perpetuate fraud. Respondent’s fraudulent scheme is detailed at length in the criminal complaint filed by Complainant 1. In short, Respondent

has already stolen significant sums of money from unsuspecting members of the public. See, e.g., *Lenovo (Beijing) Ltd v. Raj Kumar* (NIXI June 26, 2023) (“This demonstrates Respondent’s bad faith intent to deceive customers into believing it is a legitimate business that is associated or affiliated with the Complainant. The intent of the Respondent to profit from the reputation of the Complainant’s mark is definitely a badfaith registration use.”); *Salesforce Inc. v. Doublefist Limited* (NIXI June 06, 2023) (“Respondent’s adoption of mark identical with Complainant’s Trademark and its active use on disputed website to post links to third parties that run a competing business is likely to mislead the consumers by creating a likelihood of confusion with the Complainant’s name or mark.”)

- c. In addition, Respondent has copied the exact same photograph of the Hong Kong skyline that appears on Complainant 1’s legitimate website. In addition, an inspection of the HTML page of the Impugned Website reveals that the peqtpeq001@gmail.com email address listed on the site is shown as grievances@storak.in. Respondent appears to have created an impersonation of Complainant 1’s website with the intention of stealing from users under the guise of a legitimate investment opportunity.
- d. Further evidence probative of Respondent’s bad faith is the fact that, as of the date of the filing of this Complaint, Respondent used a domain name privacy protection service for the Disputed Domain Name on its Registrar’s site. Although there are legitimate uses of privacy services, the fact that Respondent uses a privacy protection service for a domain name that includes Complainant’s registered Mark EQT and which resolves to a site that prominently features Complainant’s registered mark supports bad faith. See, e.g., *The iFranchise Group v. Jay Bean / MDNH, Inc. / Moniker Privacy Services* [23658], Case No. D2007-1438 (WIPO Dec. 18, 2007) (while “the use of a privacy service, in and of itself, is not an indication of bad faith . . . the manner in which a privacy service is used can constitute a factor indicating bad faith.”); *Telstra v. Nuclear Marshmallows*, WIPO Case No. D2000-000 (WIPO Feb. 18, 2000) (determining registrant registered the disputed domain name in bad faith because registrant took “deliberate steps to ensure that its true identity cannot be determined and communication with it cannot be made.”). Respondent’s bad faith is also evident from the fact that the information provided for registration of the Dispute Domain Name including the name, address, email etc., is patently false/ incorrect.
- e. Given Complainant’s (i) substantially exclusive honest and *bona fide* adoption and use of the EQT Marks, (ii) ownership of several trademark registrations for Marks in multiple jurisdictions throughout the world,

including in India, it is “not plausible to conceive of a circumstance in which Respondent would have been unaware of [these facts]” at the time Respondent registered <bpeaeqtai.in>. See, *Medtronic, Inc. v. Doublefist Limited*, Case No. INDRP/1352 (NIXI April 7, 2021); *SIEMENS AG v. Tech Narayana Software Pvt. Ltd.*, Case No. INDRP/1260 (NIXI Sept. 1, 2020) (“The Complainant has been using the mark ‘SIEMENS’ in India since 1867...and as there is no evidence or justification provided by the Respondent for registering the disputed name in [Complainant’s] name while not being the ‘actual owner’ shows that the Respondent misappropriated/misused the Complainant’s mark to mislead the public to create a false affiliation with the Complainant.”); and *Inter-Continental Hotel Corporation v. Whois Agent, Whois Privacy Protection Service, Inc. / Fred Adams*, Case No. D2016/0715 (WIPO June 7, 2016) (it was held that the Respondent must have had the complainant’s trademark in mind while registering the disputed domain name which was used as a part of an employment and phishing scam).

- f. It is clear that Respondent has registered the Disputed Domain Name in bad faith. By using the Disputed Domain Name, Respondent has intentionally attempted to attract Internet users by creating a likelihood of confusion with the Complainants’ name and Marks as to the source, website, location and the services of the Complainants (Policy, 7(c)).
- g. Thus, for each of these reasons, the use of the Disputed Domain Name, <bpeaeqtai.in>, does not meet established requirements for good faith use as a domain name

In view of the aforesaid, the Complainant submits that the disputed domain name has been registered and is being used in bad faith, and that paragraph 4(c) of the INDRP is satisfied.

## **B. Respondent**

The Respondent has neither responded to the Notice nor submitted his reply.

## **6. Discussion and Findings**

The Rules instruct this arbitrator as to the principles to be used in rendering its decision. It says that, “a panel shall decide a complaint on the basis of the statements and documents submitted by the parties in

accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any rules and principles of law that it deems applicable”.

According to the Policy, the Complainant must prove that:

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

#### **A. Identical or Confusingly Similar**

The disputed domain name <bpeaeqtai.in> was registered by the Respondent on Dec 15, 2023.

The Complainant is an owner of the registered trademark EQT / BPEA for the last many years. The Complainant is also the owner of the similar domains as referred to in the Complaint. These domain names and the trademarks have been created by the Complainant much before the date of creation of the disputed domain name by the Respondent. In the present case the disputed domain name is <bpeaeqtai.in>. Thus, the disputed domain name is very much similar to the name, activities and the trademark of the Complainant.

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

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

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

#### **B. Rights or Legitimate Interests**

The Respondent may demonstrate its rights to or legitimate interest in

the domain name by proving any of the following circumstances:

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

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

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

Further, the Complainant has not consented, licensed, or otherwise permitted the Respondent to use its name or trademark EQT / BPEA or to apply for or use the domain name incorporating said trademark. The domain name bears no relationship with the Registrant. Further that, the Registrant has nothing to do remotely with the business of the Complainant.

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

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

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### C. Registered and Used in Bad Faith

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

- (i) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out of pocket costs directly related to the domain name; or
- (ii) the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or
- (iv) by using the domain name, the Registrant has intentionally attempted to attract the internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.

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

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

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

the Respondent in bad faith.

7. **Decision**

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

No order to the costs.



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**Prabodha K. Agrawal**

**Sole Arbitrator**

Dated: 3<sup>rd</sup> May, 2024