

1. The Parties

The Complainants, in these administrative proceedings, is TATA SONS PRIVATE LIMITED Bombay House , 24 HOMI MODY STREET MUMBAI-400001,INDIA & TATA UNISTORE LIMITED, 4th Floor EMPIRE PLAZA-2, CHANDAN NAGAR, LBS MARG, VIKHROLI WEST, MUMBAI, MAHARASTRA – 400083. The Complainants are represented by Achuthan Sreekumar, Rohil Bansal, Swastik Sahai Bisarya, Anand & Anand, First Channel Building, Plot No.17A, Sector 16A, Film City, Noida: 201-301, India (Email: achuthan@anandandanand.com, rohil@anandandanand.com, rohil@anandandanand.com , Phone: 91-120-40593000). The Respondent is LAZY SK SK, 5 KORAMANGALA INDUSRIAL LAYOUT, Bengaluru-560095, KARNATKA India (Email: teekartofficial@gmail.com, phone: (+91).9322213222)

2. Domain Name and Registrar

- (i) The disputed domain name is <tatacliqfashion.in>.
- (ii) The Registrar with whom the domain name is registered is HOSTINGER OPERATIONS UAB, Svitrigailos str. 34, Vilnius 03230 Lithuania (Phone: +37064503378, +370 68424669; email: domains@hostinger.com, abuse@hostinger.com)

3. Procedural History

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

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

On August 08, 2024, I submitted the statement of my Acceptance and Declaration of Impartiality and independence, as required by NIXI to ensure compliance with Paragraph 6 of Rules. NIXI notified the parties of my appointment as Arbitrator via email on August 08, 2024 and served an electronic copy of the complaint on the Respondent. I



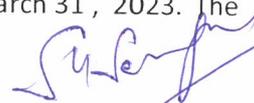
informed the Parties about commencement of arbitration proceedings on August 08, 2024 and the Respondent was directed to submit his response to the arbitration notice within 7 (Seven) days. The Respondent did not submit any response to the arbitration notice dated 08.08.2024 within the stipulated time. On 16.08.2024, the Respondent was given another opportunity and directed to submit his response within further period of five (5) days. The Respondent failed to submit any response to the arbitration notice dated 08.08.2024 and subsequent directions dated 16.08.2024. The Respondent was given final opportunity on 22.08.2024 and directed to file his response to the arbitration notice issued by this panel within two days. The Complainant has served copy of complaint to the Respondent through email/courier. The Respondent has failed to submit any response to arbitration notice dated 08.08.2024 and subsequent directions dated 16.08.2024 and 22.08.2024 within the stipulated time. The Respondent has in fact not submitted any response to the arbitration notice till date.

4. Grounds for Administrative Proceedings

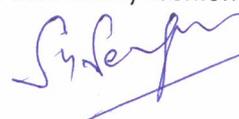
1. The disputed domain name is identical and confusingly similar to a name, trademark or service mark in which Complainant has rights.
2. The Respondent has no rights or legitimate interests in respect of the domain name.
3. The domain name was registered or is being used in bad faith.

5. Background of the Complainant

The Complainants submitted that Complainant No 1, TATA SONS PRIVATE LIMITED was established in the year 1917 as a body corporate. The Complainants further submitted that the Complainant No. 1 is the promoter and principal investment holding company of various TATA Companies, and is India's oldest, largest, most trusted and best-known business conglomerate. The Complainants further submitted that the revenue of the Tata Companies taken together in 2022-2023 was about \$150 billion (INR 12 trillion). The Complainants further submitted that the Complainant No. 1 has a fully functional website at www.tata.com. The Complainants further submitted that the Complainant No. 1, its group companies, subsidiaries as well as the companies promoted by it collectively are India's largest private-sector employer, comprising of over 100 major operating companies and there are about 29 publicly listed Tata Companies with a combined market capitalization of about \$ 300 billion (INR 24 trillion) as on March 31 , 2023. The



Complainants further submitted that the TATA companies have employed over 935,000 people worldwide. The Complainants further submitted that the 'TATA' name has been respected in India for over 150 years for its adherence to strong values and business ethics. The Complainants further submitted that the enterprises promoted by the Complainant No. 1, its subsidiaries and associate companies have laid the foundation in the industrial core sector, pioneering aviation, textiles, iron and steel, power, chemicals, hotels and automobile industries in India. The Complainants further submitted that keeping pace with the changing global scenario Tata companies also branched out into computers and computer software, electronics, beverages, telecommunications, financial services, mutual funds, insurance, broadcasting, aerospace and defence, digital e-commerce, retail, etc. The Complainants further submitted that the Complainant No. 2, TATA UNISTORE LIMITED, is a part of the TATA Group and is engaged in the business of e-commerce dealing in products such as apparel, footwear, electronics, accessories, kids fashion, home furnishing, jewellery, toys, beauty etc. to name a few. The Complainants further submitted that with the aim to address the unmet needs of brands and customers in the e-commerce eco-system, Complainant No. 2 through its omni channel model serves brands in a unique manner by amplifying their online presence as well as driving higher sales through their core and latest offerings and makes it different from most other e-commerce companies in India. The Complainants further submitted that the Complainant No. 2, with the aim to provide such a platform to its customers and retailers focusing on these aspects viz. providing ability to the customer to explore, engage and delight, as a Tata group business venture, launched its e-commerce platform, www.tatacliq.com on 26th May, 2016 across its website, mobile site and mobile apps (Android & iOS). The Complainants further submitted that TATA CLiQ is the flagship digital commerce initiative of the Tata Group. The Complainants further submitted that the Complainant No. 2 owns and operates the domains and websites www.tatacliq.com, www.palette.tatacliq.com and www.luxury.tatacliq.com which are online market place for various reputed national and international brands including products such as apparel, footwear, fragrances, electronics, accessories, kids fashion, home furnishing, jewellery, toys, stationery etc. The Complainants further submitted that TATA CLiQ has established itself as a premium destination for shopping latest in trend fashion and lifestyle products. The Complainants further submitted that the Complainant No. 2 also owns a premium and luxury fashion



and lifestyle destination called 'TATA CLIQ LUXURY' and it houses a wide range of premium apparel and accessories for men and women on the website www.luxury.tatacliq.com. The Complainants further submitted that the Complainant owns and operates a separate mobile App called TATA CLIQ PALETTE and website www.palette.tatacliq.com, to offer personalized beauty products to customers. The Complainants further submitted that the Complainants are also the registered proprietor and prior user of the device/logo.



The Complainants further submitted that the Complainant No. 2 has been permitted to use the mark TATA and TATA CLIQ by the Complainant No. 1 through a trademark license agreement. The Complainants further submitted that the Complainant No. 2 does business through its domains www.tatacliq.com, www.palette.tatacliq.com and www.luxury.tatacliq.com. The Complainants further submitted that the conglomeration of TATA Companies, collectively referred to as the 'House of TATA' was declared to be India's most valuable brand by 'Interbrand' in its coveted list of the 'Top 40 brands in India'. The Complainants further submitted that the multi brand portfolio of the salt to software conglomerate has been valued at over US\$ 26 billion in 2023 by the UK-based consultancy firm (focused on the management and valuation of brands) called 'Brand Finance'. The Complainants further submitted that the Complainant No. 1, including its group companies, subsidiaries and the companies promoted by it have always believed in returning wealth to the society they serve. The Complainants further submitted that two-thirds of the equity share capital of the Complainant No. 1 is held by philanthropic trusts that have created national institutions for science and technology, medical research, social studies and the performing arts. The Complainants further submitted that these trusts also provide aid and assistance to non-government organizations working in the areas of education, healthcare and livelihood. The Complainants further submitted that the House of TATA also extends its social welfare activities to communities around its industrial units. The Complainants further submitted that the founders of the Complainants have bequeathed much of their personal wealth to the many trusts they have created for the greater good of India and its people. The Complainants further submitted that the trusteeship principle governing the way the group functions casts the

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Complainant No. 1 in a rather unique light i.e. 'Capitalistic by Definition but Socialistic by character.' The Complainants have submitted that documents illustrating the well-known nature of the Complainant and its trademarks TATA i.e. copy of the extract from Encyclopaedia Britannica on the Complainant Company and copy of the original book titled "TATA –The Evolution of a Corporate Brand" by Morgen Witzel.

Complainants' Trademark Rights:

The Complainants submitted that since its inception in 1917, the Complainant No. 1 has been continuously and consistently using the trademark and trade name TATA, which is a rare patronymic name possessing the distinctiveness of an invented word, for its own business activities and those of companies promoted by it. The Complainants further submitted that the use of the trademark and name TATA by the Complainants' predecessors in business dates back to 1868. The Complainants further submitted that the Complainant No. 1 also has trademark registrations for the word TATA and various permutations and combinations therein in over 100 countries besides India. The Complainants further submitted the registrations in favour of the Complainant, its group companies, subsidiaries as well as the companies promoted by it around the world. The Complainant has also submitted a list detailing the various trademark registrations for the mark TATA CLIQ and a list containing the various TATA registrations in India. The Complainants further submitted that the Complainant No. 2 has been licensed by the Complainant No. 1 to use the mark TATA and TATA CLIQ. The Complainants further submitted that the Complainants also wishes to place reliance on the following documents:

- (i) the list issued by the Trade Marks Registry, India acknowledging the Complainant's trademarks TATA as well-known trademarks.
- (ii) Copy of the pamphlet issued by the Trade Marks Registry, India showing the trademark TATA of the Complainant as well-known trademarks.

The Complainants further submitted that as a result of the continuous and extensive use of the Complainant's trademark 'TATA' over a long period of time spanning a wide geographical area coupled with extensive promotion and publicity, the said trademark enjoys an unparalleled reputation and goodwill and has acquired the status of a "well-known" trademark. The Complainants further submitted that a reputed and well-known trademark is one that embodies an aura of pre-eminent excellence and is recognized



irrespective of the class of goods or services for which it is used and that the Complainant's trademark 'TATA' wholly qualifies for this distinction. The Complainants further submitted that this is substantiated inter alia by the fact that this Hon'ble Court has consistently protected the trademark 'TATA' against misuse by various persons/firms/companies engaged in manufacture and/or sale of goods as diverse as pressure cookers, lottery tickets, cutlery, newspapers, etc. and for online activities or mere registration of domain names. The Complainants further submitted that the Complainant has successfully and vigorously enforced its trademark rights in the trademark 'TATA' in relation to various goods and services, even those that are different and unrelated from its existing field of operations. The Complainants further submitted that The Complainant has filed a number of cases before various courts in India and abroad as well as before the National Internet Exchange of India (NIXI) and the WIPO Arbitration & Mediation Center against the misuse of its well-known trademark in relation to domain names.

Internet Presence of the Complainants:

The Complainants submitted that the registered and well-known trademarks TATA and TATA CLIQ in print and online media and the said marks are consequently identified solely with the Complainants. The Complainants further submitted that the Complainants, their subsidiaries as well as the companies promoted by them are the Registrants of various domain names and websites containing the trade/service marks TATA. The Complainants further submitted some of such domain names as given below:

www.tata.com, www.tatacliq.com, www.luxury.tatacliq.com, www.palette.tatacliq.com,
www.tatatrusters.org, www.tataplay.com, www.tataplayfiber.co.in,
www.tatacommunications.com, www.tata.in, www.tata.co.in, www.tatacapital.com,
www.tatacard.com, www.tatacapitalfinancialservices.com, www.tatacapitalhfl.com,
www.tataadvancedsystems.com, www.tataafrica.com, www.tataaia.com,
www.tataaiginsurance.in, www.tatamutualfund.com, www.tatabluescopestell.com, www-
bss.com, www.tatachemicals.com, www.tatachemicals.com/europe,
www.tatachemicals.com/magadi, www.tatachemicals.com/north-america/, www.tata-
daewoo.com, www.tataelxsi.com, www.tataglobalbeverages.com, www.tatahousing.com,
www.tatainteractive.com, www.tatainternational.com, www.europe.tata.com,
www.tatametalliks.com, www.tatamotors.com, www.tatanykshipping.com
www.tatapetrodyne.in, www.tatapower.com, www.tatapowersolar.com,



www.tataproyects.com, www.tataservices.com, www.tatasky.com, www.tatasponge.com
www.tatasteel.com, www.tatasteeleurope.com/en/, www.tatasteelthailand.com
www.tatatechnologies.com, http://www.tatadocomo.com/, www.tataindicom.com
www.tatatinplate.com, www.tatahealth.com, www.tatacliq.com, www.tatabex.com
www.tatamoney.com

Court decisions upholding the Complainants' Rights:

The Complainants submitted that there are numerous orders by Indian courts protecting and acknowledging the trademark TATA of the Complainants as a well-known trademark. The Complainants have relied on the Judgment dated 19th September 2022 of the Delhi High Court in Tata Sons Pvt. Ltd. v. Hakunamatata TATA Founders & Ors. FAO (OS) (COMM) 62/2022 wherein the court held that "...Even otherwise, we do not have any reason to doubt the pre-eminence of the trademarks of the Appellant in India." "In India, the trademark TATA is embedded in the sub-consciousness of public. In public consciousness, the word "TATA" is only relatable to TATA group of companies. ...The pre-eminence of the business reputation of the TATA group and the popularity of the trademarks is beyond contest. There is sufficient pleading in the plaint to reach the said conclusion. Even otherwise, this Court can take judicial notice of the pre-eminence of popularity of the trademarks in question." "...The universal popularity of the appellant's trademark is not confined to a few products or services. As stated above, in public consciousness, TATAs are believed to be ubiquitous across all business."

The Complainants further submitted that the Hon'ble High Court of Delhi in Tata Sons Pvt. Ltd. & Anr. v. M/s Electro International & Ors. CS(COMM) 293/2021 vide order dated 28th June 2021 had passed an ad interim injunction thereby restraining the defendant from using the infringing domain www.tatacliqsmart.com and this matter is pending adjudication before the Hon'ble Delhi High Court. The Complainants further submitted that the Complainants also would like to rely on the following order passed by Courts outside India, protecting the Complainant's mark TATA. The Complainants submitted the copy of the Order dated 26th September 2005 passed by the Hon'ble High Court of Sind at Karachi protecting the trade mark TATA, copy of the Order of the Commercial Court of Casablanca declaring the trademark TATA of the Complainant as a well-known trademark.



The Complainants further submitted that the Complainant has in the past successfully restrained unrelated third parties from using an identical/deceptively similar trademark as that of the Complainant's well-known and trademark 'TATA' either in relation to identical or different products and services by filing suits for interim injunction seeking reliefs, inter alia, for permanent injunction restraining infringement of its well-known trademark. The Complainants further submitted that the preceding paragraphs would clearly demonstrate the exclusivity and reputation associated with the Complainant's mark TATA, and it can be said that the mark is a "well known" mark as understood under Article 6 bis of the Paris Convention.

Decisions of the WIPO Board Upholding the Complainants' Trademark Rights:

The Complainants further submitted that that as regards orders passed by WIPO Arbitration and Mediation Centre protecting the trademark TATA of the Complainants, the Complainants have relied on Tata Sons Pvt. Ltd. and Tata Play Broadband Private Limited v. Harry Hairy Case No. D2023-0914, Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Ltd. v. Ramadasoft; Case No. D2000-1713; Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Limited v. TATA Telecom Inc./Tata-telecom.com, Mr. Singh; Case No. D2009-067;, the Order passed by WIPO Arbitration and Mediation Centre in Tata Tea Ltd v. Gem Lifts Ltd; Case No. D2000-1823; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Limited v. Hasmukh Solanki; Case No. D2001-0974; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Limited v. Tata Connect; Case No. D2006-0572; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Limited v. D & V Enterprises; Case No. D2000-0479; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Ltd. v. The Advanced Information Technology Association; Case No. D2000-0049; the Order passed by WIPO Arbitration and Mediation Centre in Tata Tea Limited v. Antiquarium Ltd.; Case No. D2000-1827; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Limited v. Tatasky International Corporation; Case No. D2005-0783; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Limited v. Imtiaz Kalwar; Case No. D2007-1924; the Order passed by WIPO Arbitration and Mediation Centre in Tata Tea Limited v. CPIC NET; Case No. D2000-1828; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Limited v. Domaincar; Case No. D2006-0285; the Order passed by WIPO Arbitration and Mediation Centre in Tata Tea



Limited v. Aniruddha Roy; Case No. D2000-1824; the Order passed by WIPO Arbitration and Mediation Centre in Tata Tea Limited v. Arms Communications Pvt. Ltd.; Case No. D2000-1826; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Limited v. Net Prosol / Renjith R.; Case No. D2004-0083; the Order passed by WIPO Arbitration and Mediation Centre in Tata Communications International Pte Ltd (f/k/a VSNL International Pte Ltd) v. Ravi Maraj; Case No. D2010-0314; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Ltd. v. Gautam Sarpal; Case No. D2013-1841; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Ltd. v. Raaghav Prasad; Case No. D2013-1851; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Ltd. v. Gina Kilindo; Case No. D2014-0152; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Limited v. Jonni Starre; Case No. D2015-1375; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Limited v. XuYizhong; Case No. D2015-1558; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Ltd. v. Domain Admin; Case No. D2017-1210; the Order passed by WIPO Arbitration and Mediation Centre in Tata Sons Ltd. & Ors. v. Corey Carson; Case No. D2023-4652. The Complainants further submitted that Nominet (the .uk domain registry), passed an order, in favour of the Complainant No. 1 transferring the domain name www.tatacommunication.co.uk in the Complainant No. 1's name. The Complainants further submitted that the .IN domain registry of India i.e. National Internet Exchange of India (NIXI) has also passed numerous orders protecting the brand TATA of the Complainants and as an illustrative example, the Complainants would like to rely on a recent order dated 12th February 2024 passed by NIXI directing transfer of the domain www.tatadevelopers.in in favour of the Complainant No. 1.

The Respondent

The Respondent is LAZY SK SK, 5 KORAMANGALA INDUSTRIAL LAYOUT, Bengaluru-560095, KARNATKA India (Email: teekartofficial@gmail.com, phone: (+91).9322213222). The Respondent has registered the Disputed Domain Name <tatacliqfashion.in> on May 17, 2024.



Legal Grounds

The subject domain name <tatacliqfashion.in> is identical and confusingly similar to name, trademark or service mark in which complainant has rights.

Complainant's Contentions

The Complainants contended that the Respondent's domain <tatacliqfashion.in> is identical to the registered and well-known trade/service mark of the Complainants i.e. TATA and TATA CLIQ and



in which the Complainants have overwhelming common law as well as statutory rights. The Complainants further contended that the impugned domain <tatacliqfashion.in> is identical to the Complainants' current domains/websites at www.tata.com, www.tatacliq.com, www.palette.tatacliq.com and www.luxury.tatacliq.com. The Complainant further contended that the use of the marks TATA, CLIQ and TATA CLIQ would be understood as a reference to the Complainants. The Complainants further contended that usage of a descriptive suffix of 'fashion' along with the well-known trademark TATA CLIQ of the Complainants is a scheme to mislead general public and make malicious gains at the expense of the reputation built by the Complainants over the years. The Complainants further contended that incorporating of a trademark in entirety in a domain name is sufficient in establishing confusing similarity as stated by numerous UDRP decision such as Magnum Piering Inc. v. The Mudjackers; WIPO Case No. D2000- 1525. The Complainants further contended that the impugned domain name bearing the well-known trademark of the Complainant has also been registered by the Respondent with the ulterior motive of preventing the Complainants from making a legitimate use of the same. The Complainant submitted that the said act of the Respondent were motivated by its nefarious intention of coercing the Complainants to purchase the impugned domain from the Respondent at an exorbitant price and in other words, this is also a clear case of domain name squatting by the Respondent. The Complainant further contended that in order to prevent cybersquatting or trafficking or trading in domain names or marks, trademark law has been stretched to cover the Internet and consequently domain names, which may be protected just like trademarks. The Complainant further submitted that the trademark TATA falls within the category of

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personal names that have acquired a distinctive connotation or identity of its own, due to its distinctive nature and popularity in several fields, the trademark TATA of the Complainants has become a well-known trademark, enabling the Complainants to restrain others from using the same in any manner whatsoever including its registration in domain names. The Complainant further contended that hence, the impugned domain name of the Respondent <www.tatacliqfashion.in> is identical and confusingly similar as a whole to the registered and well-known trademark TATA of the Complainant in which it has overwhelming common law and statutory rights.

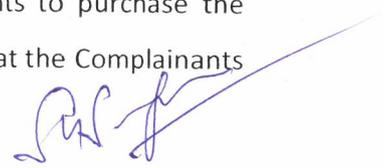
Respondent's Contentions

The Respondent has failed to submit any response to the arbitration notice issued by this panel.

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

Complainant's Contentions

The Complainants contended that the Respondent has no rights or legitimate interest in the disputed domain name <www.tatacliqfashion.in> as there is no legitimate or commercial use of the domain <www.tatacliqfashion.in> and this is classic case of domain squatting. The Complainants submitted that even on the Whois page of the domain <tatacliqfashion.in>, it is mentioned that the domain registrant is located in Bangalore, India and therefore, it is very clear that the registrant / respondent is well aware and had knowledge of the Complainants' business activities under the brands TATA and TATA CLIQ and also the fact that the Complainants are the owners of the said trademarks / brands. The Complainants further submitted that the Respondent also has no right or legitimate interest over the impugned domain <www.tatacliqfashion.in>. The Complainant further contended that the Respondent is simply squatting on the said domain and not making and legitimate commercial use of the same and at the same time putting the said domain on sale so that the Complainants may be forced to purchase it at an unfair and exorbitant price. The Complainant further contended that the impugned domain has been registered in bad faith and one can not rule out the possibility of objectionable material being uploaded on the domain so as to coerce and force the Complainants to purchase the domain at an exorbitant price. The Complainants further submitted that the Complainants



have overwhelming statutory and common law rights in the trade / service marks TATA and TATA CLIQ and therefore, only they are entitled to use the same in relation its products and services including the incorporation of the said mark as a conspicuous part of domain names. The Complainant further submitted that the Complainants have not licensed or otherwise permitted the Respondent to use their registered and well-known trade / service marks TATA, CLIQ and TATA CLIQ or to apply for any domain incorporating the said trade / service marks.

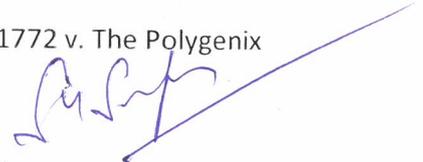
Respondent's Contentions

The Respondent has failed to submitted any response to the arbitration notice issued by this panel.

C. The domain name was registered or is being used in bad faith.

Complainant's Contentions

The Complainant contended that the Respondent has registered domain name in bad faith. The Complainant further contended that the Respondent has not made any legitimate commercial use of the domain <www.tatacliqfashion.in> and in all likelihood, the Respondent is a resident of India which is a clear indicative of the fact that the Respondent knows about the Complainants' trademarks as the same are well-known and widely used on the internet and otherwise in India and such knowledge of the Respondent is an indicator of the bad faith of the Respondent in registering the disputed domain name. The Complainants contended that the Respondent had constructive notice of the Complainants' rights in the trade/service marks TATA, CLIQ and TATA CLIQ by virtue of the Complainants' widespread use and reputation worldwide and global registrations. The Complainant has relied on some notable decisions stating the aforesaid are; Research In Motion Limited vs. Privacy Locked LLC/ Nst Collicot, WIPO Case No. D2009- 0320 , SembCorp Industries Limited vs. Hu Huan Xin, WIPO Case No. D2001-1092. The Complainant submitted that the general proposition that the registration of a domain name incorporating a well-known trademark of the Complainants is in bad faith has been upheld by numerous UDRP decisions. The Complainant has relied on some notable cases which have upheld this proposition are Marie Claire Album v. Marie-Claire Apparel, Inc Case No D 2003 0767 , Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix



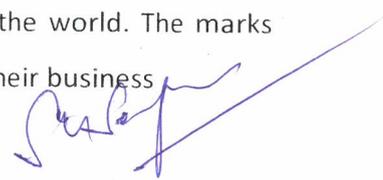
Group Co. Case No D 2000 0163 and Adidas-Salomon AG v. DomainLocations Case No D 2003 0489 , wherein it has been held that registration of a well-known trademark of which the Respondent must reasonably have been aware is in itself sufficient to amount to bad faith. The Complainant further submitted that there is a great likelihood that actual or potential unwary visitors to the Respondent's present web page resolving on this disputed domain names, will be induced to believe that the Complainants have authorised or licensed the immoral activities of the Respondent.

Respondent's Contentions

The Respondent has failed to submit any response to the arbitration notice issued by this panel.

7. Discussion and findings

The Complainant No 1, TATA SONS PRIVATE LIMITED, established in the year 1917 as a body corporate, is the promoter and principal investment holding company of various TATA Companies. The Complainant No 1 is group of companies operating in many countries of the world having business interests in field aviation, textiles, iron and steel, power, chemicals and automobiles. The Tata group of companies also operates in computers, computer software, telecommunications, beverages, financial services, insurance, aerospace, defense, ecommerce and retail segment. The Complainant No.1 is owner of top level domain <tata.com> and different variations containing word "TATA". The Complainant No 1 has registered the trade mark "TATA" and its different variations in many jurisdictions. The Complainant No. 2, TATA UNISTORE LIMITED, operating since 2016, is a part of the TATA Group and is the business of e-commerce dealing in products such as apparel, footwear, electronics, accessories, kids fashion, home furnishing, jewellery, toys, beauty etc. The Complainant No.2 is owner of domains and <tatacliq.com> <palette.tatacliq.com> and <luxury.tatacliq.com> and operates active website on these domains. The Complainant No2 sells and promotes its goods through its websites and mobile apps. The Complainant No2 is also the registered proprietor and prior user of the mark "TATA CLIQ". The Complainant No 2 has been authorized by the Complainant No1 to use the mark "TATA" and its related variations. By virtue long standing use of more than 100 years, the mark "TATA" are well known not only in India but in other counties of the world. The marks "TATA" and TATA CLIQ" are associated with the complainants in all their business



operations and they have strong internet presence through number of operational websites and online media. The Respondent LAZY SK SK is registrant of the disputed domain <tatacliqfashion.in> which was registered by the Respondent in 2024. The disputed domain name <tatacliqfashion.in> completely contains the well-known mark "TATA" and "TATACLIQ" of the Complainants. The disputed domain name was registered by the Respondent in 2024 several years after registration of well-known marks "TATA" and "TATACLIQ" by the Complainants. The Respondent had registered similar domain <tatacliqfashion.com> which was also recently transferred in favour of the Complainants by WIPO Administrative panel Decision dated 08.08.2024.

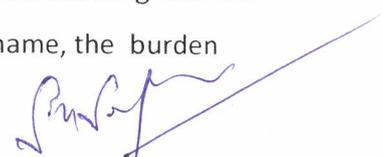
The domain name <tatacliqfashion.in> is identical and confusingly similar to name, trademark or service in which Complainant.

The Complainants have been able to prove that it has trademark rights and other rights in marks 'TATA' and 'TATA CLIQ' by submitting substantial documents. The mark comes under category of well-known trademark. The marks are widely used by the Complainants in their business activities and have a significant presence in internet world. The disputed domain name <tatacliqfashion.in.in> contains Complainants mark "TATACLIQ" in its entirety. The Respondent has just added letter 'fashion' while selecting the disputed domain name <tatacliqfashion.in> which is insufficient to make it different from the mark of the Complainant. There can't be coincidence that the Respondent has chosen domain name deceptively confusingly similar to the well-known mark of the Complainant. The mark 'TATA' and 'TATACLIQ' were registered by the Complainant years before registration of disputed domain by the Respondent in 2024.

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

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

The Complainants has been able to prove by submitting evidences that it has legitimate interest in trademark "TATA" and "TATACLIQ". The Respondent is neither a licensee nor authorized by the Complainant, to use Complainant's mark. The Respondent is not known by the mark and can't have legitimate interest in the disputed domain. This panel is of the view that mere registration of domain name can't establish rights in disputed domain. According to the Policy that "once the Complainant makes a prima facie showing that the registrant does not have rights or legitimate interests in the domain name, the burden



shifts to the registrant to rebut it by providing evidence of its rights or legitimate interests in the domain name". The burden of proof to establish any legitimate interest falls on the respondent. The Respondent could have invoked any of the circumstances set out in paragraph 6 of the Policy, in order to demonstrate rights or legitimate interests in the Disputed Domain Name. This panel takes notice of the fact that the Respondent's has failed to submit any response to the arbitration notice to rebut the contentions of the Complainant.

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

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

This can't be a coincidence that the Respondent registered disputed domain name fully incorporating well known mark 'TATA' and 'TATACLIQ' of the Complainant. The Complainant has been the using the mark 'TATA' and 'TATACLIQ' for several years when the Respondent registered the disputed domain name in 2024. The panel finds that the Respondent has registered the disputed domain <tatacliqfashion.in> containing the well-known mark 'TATACLIQ' of the Complainant in entirety giving impression that this disputed domain is affiliated/endorsed by the Complainant. The sole purpose of the Respondent is to create confusion in mind of an ordinary internet user. The intent of the Respondent appears to commercially gain from the reputation of the Complainant's mark. The registration of domain name containing the well-known mark of the Complainant is definitely a bad faith registration use. The Respondent must have done dilly diligence to ensure that domain name registered does not infringe upon someone other's rights. This panel takes notice of the fact that the Respondent's submission that the disputed domain name created inadvertently by him and he is ready to transfer the domain to the Complainant.

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



Decision

Based on the contentions of the complainant, the attached documents, cited decisions and in view of the above read with all the facts of the present case, the Complainant's contentions are tenable. The Respondent is not hosting any website on the disputed domain name <tatacliqfashion.in>. The Respondent had registered similar domain <tatacliqfashion.com> recently which was transferred back in favour of the Complainants by WIPO Administrative panel Decision dated 08.08.2024. The Respondent is cyber squatter aiming to commercially gain from the popularity of the Complainant's well known marks. The test of prudence demands fairness of actions by the Respondent. In view of the forgoing discussion, I am of the opinion that the disputed domain name <tatacliqfashion.in> is nearly identical and confusingly similar to the Complainant's mark. The Respondent does not have rights or legitimate interest in the disputed domain name and disputed domain name was registered in bad faith.

In accordance with the Policy and Rules, I direct that the Disputed Domain name <tatacliqfashion.in> be transferred to the Complainant with a request to NIXI to monitor the transfer.

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

No order to costs.

August 27, 2024


Sudhir Kumar Sehgar 27/8/24

Sole Arbitrator