



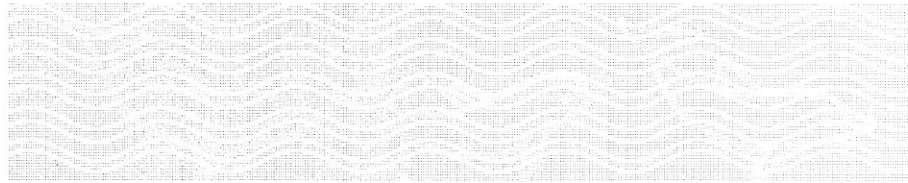
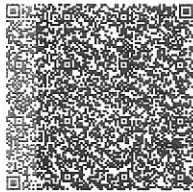
सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No.	: IN-DL95479250356426R
Certificate Issued Date	: 29-May-2019 12:40 PM
Account Reference	: IMPACC (IV)/ dl981903/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL98190396395796837120R
Purchased by	: JAYANT KUMAR
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: JAYANT KUMAR
Second Party	: Not Applicable
Stamp Duty Paid By	: JAYANT KUMAR
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line

BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA

IN THE MATTER BETWEEN

Skoda Auto a.s.

Complainant

v.

Chandan

Respondent

#### Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcliestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.



## ARBITRATION AWARD

1. The Complainant is a company incorporated and existing under the laws of Czech Republic having its office at tr. Vaclava Klementa 869, Mlada Boleslav II, 293 01 Mlada Boleslav, Czech Republic. The Respondent is Chandan having his address at 82, II Main, Bangalore, Karnataka 560061.
2. The Arbitration pertains to the disputed domain name <skoda.in> registered by the Respondent. The registrar for the disputed domain name is Dynadot LLC.
3. The Sole Arbitrator appointed in this complaint by NIXI is Jayant Kumar. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence to NIXI.
4. The Complaint was handed over to the Arbitrator by NIXI on June 3, 2019. The Respondent was served with a copy of the complaint along with annexures electronically vide email dated June 4, 2019 by NIXI. A physical copy of the complaint was also sent to the Respondent by courier at the address mentioned in the WhoIs records but the same could not be delivered for the reason "incorrect details". No other address of the Respondent was available in the public domain and hence, the physical copy of the complaint could not be delivered. The Respondent was granted two weeks time to file its Reply vide email dated June 10, 2019 viz. by June 24, 2019. No Reply was filed by the Respondent by June 24, 2019. A last and final opportunity was granted to the Respondent vide email dated July 1, 2019 to file its Reply by July 8, 2019. The Respondent, however, did not file any Reply and is thus proceeded ex-parte.

### Complainant's Submissions

5. The Complainant submits that it is into the automobiles business since last 120 years. The trademark SKODA forms an integral part of the corporate name of the Complainant and serves as its principal trade/service mark and domain name.

The Complainant states that it has won numerous awards and the details of the recent awards is provided in para I.5 of the Complaint.

6. The Complainant further states that it has a wholly owned subsidiary in India i.e. Skoda Auto India Private Limited, incorporated on December 23, 1999 and having its registered office in Maharashtra. The Complainant, through its Indian subsidiary, started manufacturing automobiles in India in the year 2001 and has since been conducting extensive business all over the country with a present day network of 100 outlets.
7. The Complainant further states that the trade mark SKODA is registered across countries. The earliest registration for the trade/service mark SKODA dates back to the year 1929 in the Czeck Republic. The list of worldwide trademark applications/registrations is provided as Annexure -C to the complaint and a few registration certificates and online extracts are also annexed with the Complaint. In India, the Complainant owns trademark Registration No. 862520 in Class 12 as of June 24, 1999; No. 1255064 in class 35, 27, 42 as of December 12, 2003; No. 1645600 in Class 36 as of January 24, 2008; No. 1702959 in Class 12 as of June 24, 2008, each for the mark SKODA AUTO (Device). In addition, it also owns the trademark Registration No. 1643152 in class 36 as of January 18, 2008 and Registration No. 1702346 in class 12, 35, 37, 42 as of June 23, 2008, both for the mark SKODA. The Complainant also owns other trademark registrations for SKODA formative marks.
8. The Complainant further states that it has registered numerous top level domain names and country level domain names. Its India specific website is [www.skoda-auto.co.in](http://www.skoda-auto.co.in) and it has, on an average, a viewership of 100,000 in a month with over 400,000 pages viewed. The Complainant has filed a list of 480 domain names owned by it and featuring the mark SKODA.

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9. The Complainant further submits that the webpage hosted at the dispute domain name contains only sponsored listings and the same has not been authorized by the Complainant.
10. The Complainant also states that the Respondent has no rights or legitimate interest in the disputed domain name; and that the Respondent is using the objectionable domain name illegally and dishonestly to derive unjust pecuniary gain.

### **Discussion and Finding**

11. Under the .IN Policy, the registrant of the domain name is required to submit to a mandatory arbitration proceeding in the event that a complaint is filed in the .IN Registry, in compliance with the .IN Policy and the INDRP Rules. The .IN Policy, Paragraph 4 requires the Complainant, to establish the following three elements:
  - a. The domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
  - b. The Respondent has no rights or legitimate interests in respect of the domain name; and
  - c. The Respondent's domain name has been registered and is being used in bad faith.
12. The Arbitrator finds that the Complainant has established its ownership in the mark SKODA. It owns various trademark registrations for the mark SKODA in India as well as in major jurisdictions. The trademark registration certificates has also been filed by the Complainant. The disputed domain name is <skoda.in> which is identical with the mark SKODA and is therefore held to be confusingly similar with the Complainant's mark SKODA.
13. Paragraph 7 of the Policy states a Respondent's or a registrant's rights can be found from the material on record, if (i) before notice of the dispute, the

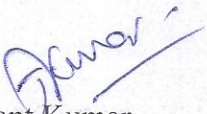
registrant had used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services or (ii) the registrant (as an individual, business organization) has been commonly known by the domain name, or (iii) The registrant is making legitimate, non-commercial or fair use of the domain name without intent for commercial gain.

14. The Respondent is not known by the mark SKODA. The Respondent has also not been authorized by the Complainant to use the mark SKODA. The Respondent is also not using the disputed domain name in connection with bonafide offering of goods or services. Whereas it is hosting a webpage with sponsored listings. The Respondent's use of the disputed domain name is not bonafide and the Respondent does not have legitimate rights and interest in the disputed domain name.

15. The Respondent's registration and use of the disputed domain name is with a view to portray an association/affiliation with the Complainant. The confusion is further enhanced by the presence of links to the websites of third parties, competitor etc. The conduct of the Respondent shows that the registration and use of the disputed domain name is solely to unjustly gain from the same, which inherently malafide. It is also noticed that the Respondent did not provide its name and details in the WhoIs records. The name and address of the Respondent, in the present proceedings, was provided by the NIXI, whereas it is incumbent upon any registrant to provide its correct name and contact details while registering a domain name. This conduct of the Respondent is also an evidence of bad faith registration and use of disputed domain name.

### **Decision**

16. In light of the aforesaid discussion and findings, the Arbitrator directs that the disputed domain name <skoda.in> be transferred to the Complainant.

  
Jayant Kumar  
(Sole Arbitrator)

Dated: July 17, 2019