

**ARBITRATION PROCEEDINGS OF DOMAIN NAME**

**www.tatanexon.in**

between

**TATA MOTORS LIMITED**

**...COMPLAINANT**

**AND**

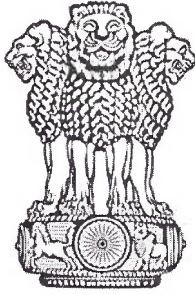
**ROCKET HOSTING**

**...RESPONDENT**

**AWARD**

A handwritten signature in green ink, appearing to be 'Visheshwar Shrivastav', is written above the name.

**VISHESHWAR SHRIVASTAV  
SOLE ARBITRATOR  
NEW DELHI**



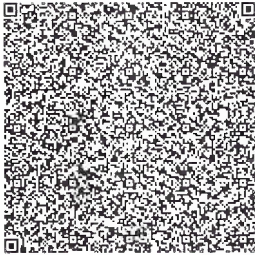
सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No. : IN-DL09887921261083P  
Certificate Issued Date : 25-Jul-2017 12:19 PM  
Account Reference : IMPACC (SH)/ dlshimp17/ SAKET/ DL-DLH  
Unique Doc. Reference : SUBIN-DLDLSHIMP1720945644802449P  
Purchased by : V SHRIVASTAV ADVOCATE  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : V SHRIVASTAV ADVOCATE  
Second Party : Not Applicable  
Stamp Duty Paid By : V SHRIVASTAV ADVOCATE  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



.....Please write or type below this line.....

**VISHESHWAR SHRIVASTAV**

**SOLE ARBITRATOR**

**IN**

**ARBITRATION PROCEEDINGS OF DOMAIN NAME**

**www.tatanexon.in**

**between**

**TATA MOTORS LIMITED**

**ROCKET HOSTING**

**AND**

**...COMPLAINANT**

**...RESPONDENT**

**AWARD**

**1**

**Statutory Alert:**

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.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.

1. This Arbitral Tribunal was constituted by nomination of undersigned as the Arbitrator in the aforesaid proceeding vide communication by NIXI and accordingly this Tribunal issued notice to the parties on 18/06/2017. However, while checking the records of the proceedings, this Tribunal found that there is nothing on record which shows that the copy of the complaint has been supplied to the Respondents. Accordingly vide the aforesaid communication this Tribunal directed the Complainants to either supply proof of dispatch of the hard copy of the complaint to the respondent or send a copy of their complaint to the Respondents vide Courier .
2. This Tribunal found that the email sent to the parties on 18/06/17 had bounced back showing delivery failure to the Respondent stating "*No host found*".
3. That NIXI vide their email dated 19/06/2017 stated that they have already sent the complaint by courier giving dispatch receipts of the same.

4. This Tribunal had seen the tracking of the Courier slip supplied by NIXI and also the details supplied by NIXI regarding the change of address and finally the delivery of the hard copy of the complaint. The hard copy sent by the complainants had also been duly received by the Respondents.
5. That vide its order dated 20/06/2017 this Tribunal directed the Respondent to send their Statement of Defense to the Complaint by soft as well as hard copy to the Tribunal by 30/06/2017 as the Respondent was in receipt of the hard copy of the complaint.
6. This Tribunal vide its letter dated 21/06/2017 to the Respondent sent the hard copies of all the previous orders since the orders dated 18<sup>th</sup> and 20<sup>th</sup> June, 2017 had bounced back. However, the Courier sent on 21/06/2017 came back unserved, but it is deemed served as it has been sent on the last known address of the Respondent. This Tribunal notes that the hard copy of the Complaint sent by the complainant as well as NIXI has been served on the Respondent, so the



Respondents are aware of the Arbitration proceedings but have chosen to remain silent and not give their alternate address or email id.

7. This Tribunal observed vide its order dated 04/07/2017 that the Respondents had not complied its earlier order dated 20/06/2017 to send their SOD within the time frame. In view of the above the Complainants were directed to file their Evidence by way of Affidavit as soft copy by email and hard copy by courier in 7 days so that it reaches this Tribunal by 11/07/2017.
8. The Complainants on 7<sup>th</sup> July, 2017 asked for an extension of time of 10 days to file their affidavit which was granted by this Tribunal on 10/07/2017. The Complainants sent the soft copy of their Evidence by way of Affidavit on 19/07/2017. Hence, this Tribunal vide its order dated 20/07/2017 reserved its award clarifying that incase the respondents send their response /evidence in support thereof, the same would be taken into consideration by this Tribunal at the time of making

the award. The hard copy of the Affidavit of Evidence of the complainants was received on 21/07/2017.

9. This Arbitral Tribunal notices that till 26/07/2017 there is no communication from the side of the Respondent and hence, it proceeds to examine the claim statement of the Complainant and the Evidence including documentary evidence filed in the present proceeding.

#### **CLAIM**

10. The claim as put forward by the complainant is briefly as under:

- A. It is claimed that M/s Tata Motors Limited (herein after referred to as "complainant") is India's largest automobile company, with consolidated revenues of ₹ 2,75,561 Crores (USD 41.6 billion) in 2015-16. It is further claimed that the complainant i.e. Tata Motors Ltd is among the top five commercial vehicle manufacturers, in the world. It is also claimed that the



complainant is world's fourth-largest truck and bus manufacturer and it is a part of the Tata Group of Companies.

- B. It is alleged that as per the search conducted on 17<sup>th</sup> May 2017 in the official website of the .In Registry i.e., [www.registry.in/whois](http://www.registry.in/whois) it is revealed that one Rocket Hosting, 302 Kamdhenu CompleNr Toran Dining Hall Opp Sales India Income Tax, Ahmedabad, Gujarat 380019, (Respondent) has created the disputed domain name on 30<sup>th</sup> December 2015. Reliance is placed on '**Annexure - A**' and '**Annexure - B**'.
- C. It is alleged that the disputed domain name is identical or confusingly similar to a trade mark in which the complainant has right.
- D. It is claimed that Tata Sons Ltd is the promoter of the major operating Tata companies and holds significant shareholdings in these companies and also that Tata companies are commonly referred to as the Tata Group of Companies and the Chairman of Tata Sons Ltd is referred to as the Chairman

of the Tata Group of Companies. It is claimed that about 66 percent of the equity capital of Tata Sons is held by philanthropic trusts endowed by members of the Tata family. It is claimed that Tata Sons Ltd is the registered proprietor of the trade mark "TATA" and its variants, which are registered in India and around the world and the said trademarks are used by various Tata companies under a license from Tata Sons Ltd as part of their corporate name and/or in relation to their products and services. It is claimed that the terms of use of the group mark and logo by Tata companies are governed by the Brand Equity and Business Promotion Agreement, entered into between Tata Sons Ltd and Tata Group of Companies.

- E. On the strength of the aforesaid facts the complainant claims to be the license user of the trade marks 'TATANEXON' & 'TATA' and is thus aggrieved by the registration of the disputed domain name by the Respondent. It is claimed that the complainant belongs to the Tata Group of Companies which consists of over 100 operating companies in seven



business sectors: communications and information technology, engineering, materials, services, energy, consumer products and chemicals. It is claimed that the Tata group has operations in more than 80 countries across six continents, and its companies export products and services to 85 countries. It is further claimed that the total revenue of Tata companies is \$100.09 billion (around ₹.475,721 crore) in 2011-12, with 58 percent of the same comes from business outside India. It is claimed that Tata companies employ over 450,000 people worldwide.

- F. It is claimed that the word 'TATA' is the dominant and essential feature of the complainant's corporate name which connotes the distinctiveness, reputation, quality and goodwill acquired over scores of years and has been derived from the surname of its founder, Jamshedji Tata.
- G. It is claimed that the TATA name has been respected in India for more than 140 years for its adherence to strong values and business ethics and that every Tata company or enterprise

operates independently and has its own board of directors and shareholders. It is claimed that there are 32 publicly listed Tata enterprises and they have a combined market capitalization of about \$92.74 billion (as on February 21, 2013), and a shareholder base of 3.8 million. It is claimed that the major Tata companies are Tata Steel, Tata Motors (complainant herein), Tata Consultancy Services (TCS), Tata Power, Tata Chemicals, Tata Global Beverages, Tata Teleservices, Titan, Tata Communications and Indian Hotels.

- H. It is claimed that the complainant was formerly known as Tata Engineering and Locomotive Company and it began manufacturing commercial vehicles in 1954 with a 15-year collaboration agreement with Daimler Benz of Germany. It is claimed that the complainants have developed Tata Ace, India's first indigenous light commercial vehicle; the Prima range of trucks; the Ultra range of international standard light commercial vehicles; Tata Safari, India's first sports utility



vehicle; Tata Indica, India's first indigenously manufactured passenger car; and the Nano, the world's most affordable car.

- I. It is also claimed that the Complainant is expanding its international footprint, established through exports since 1961 and has operations in the UK, South Korea, Thailand, Spain and South Africa through subsidiaries and associate companies. It is claimed that the Tata Motors commercial and passenger vehicles are being marketed in several countries in Europe, Africa, the Middle East, South Asia, South East Asia and South America and it has franchisee / joint venture assembly operations in Bangladesh, Ukraine and Senegal. The official website of the complainant is '[www.tatamotors.com](http://www.tatamotors.com)'.
- J. It is claimed by relying on **Annexure D** that the Complainant, Tata Motors Limited, on 14 July 2014 adopted the trade mark TATANEXON and filed a trade mark application in class 12 for the goods ; Land vehicles and parts thereof ; accessories, the details of the trade mark application.

- K. It is claimed that TATA NEXON SUV Segment vehicle was unveiled by the Complainant in the Auto Expo 2014 , held in New Delhi in the month of February 2014 and has attracted extensive reviews both in print and online portals and the trade mark is now popularly known as TATANEXON.
- L. By relying on '**Annexure- E**' it is claimed that the complainant has advertised the marks NEXON / TATANEXON through mass media such as print, electronic media and also through participation in the Motor shows etc. and has invested in publicizing the said trademarks. It is claimed that Complainant's SUV Segment vehicle is expected to compete with the likes of Maruti Suzuki Swift, Hyundai Grand i10, Honda Brio, Chevrolet Sail, Volkswagen Polo and Datsun Go. It is claimed that the NEXON hatchback features edgy styling, especially in the headlight and in the grills.
- M. It is claimed that the use of the keyword 'TATANEXON' in any leading search engine throws up the web pages of the

complainant among the leading hits. Reliance is placed on  
**'Annexure - F'.**

- N. It is claimed that on account of extensive usage of the trade mark 'TATA' and the rising awareness on 'TATANEXON', the adoption and/or usage of 'TATANEXON' by others would amount to not only dilution of the complainant's rights over the distinct mark but also would result in confusion and deception amongst the end customers and such unauthorized usage of the complainant's marks 'TATA' and 'TATANEXON', and domain names comprising of 'TATANEXON' by others would also amount to infringement of Complainant's trade mark rights and is liable to be prevented in the Court of Law.
- O. It is claimed that the word 'TATA' forms an important part of the corporate name of the complainant and other companies belonging to 'TATA' Group of Companies and the business carried on by the complainant and it's associated companies including their products and services have come to be associated by the consumers and the members of the public



exclusively with the TATA Group of Companies. It is claimed that the word 'TATA' was adopted as a trade mark and has been extensively used in respect of the products and services manufactured and rendered by the companies belonging to TATA Group of Companies. It is claimed that the complainant and its associated companies are the registered proprietor of various trade marks containing the word 'TATA'. It is claimed that the trade marks are registered in different classes and the earliest valid registration dates back to the year 1974. It is claimed that the products and services of the companies belonging to 'TATA Group of Companies' are of national and international repute and standard and such companies have grown into a dynamic group of diversified companies. It is also claimed that the products and services manufactured and rendered by these companies are popular not only in India but also in a large number of countries throughout the world. It is claimed that the 'TATA Group of Companies' and the trade name 'TATA' is printed on their letterheads, papers, goods, services etc. It is claimed that the word 'TATA' forms part of



corporate name of the complainant and other companies belonging to 'TATA Group of Companies' connotes the distinctiveness; reputation, quality and goodwill acquired over several years and is understood as connoting association with the 'TATA Group of Companies'.

- P. It is further claimed by relying on '**Annexure-G**' that the Respondent has no rights or legitimate interests in respect of the domain name.
- Q. The Claimants by relying on '**Annexure-G**' claim that the trade mark TATA has acquired both statutory right and Common Law right, the complainant relies on the Indian Trade Mark registration.
- R. The Complainants have placed reliance on '**Annexure-H & I**' and have given reference of some decisions to buttress their claim. The same are:



1. *Tata Sons Ltd. V. Manu Kosuri*, 2001 PTC 432; 90 (2001).  
DLT 659
2. *Tata Sons Ltd. v. Ramadasoft*, WIPO Case No. D2000-1713
3. *Tata Sons Limited v. TATA Telecom Inc/Tata-telecom.com, Mr. Singh*, WIPO Case No. D2009-0671
4. *Tata Sons Limited v. Hasmukh Solanki*, WIPO Case No. D2001-0974
5. *Tata Sons Limited v. tataconnect*, WIPO Case No. D2006-0572
6. *Tata Sons Limited v. D & V Enterprises*, WIPO Case No. 02000-0479
7. *Tata Sons Ltd. v. The Advanced Information Technology Association*, WIPO Case No. D2000-0049
8. *Tata Sons Limited v. Tatasky International Corporation*  
WIPO Case No. D2005-0783
9. *Tata Sons Limited v. Imtiaz Kalwar*, WIPO Case No. D2007-1924
10. *Playboy Enterprises International, Inc. v. Zeynel Demirtas*, WIPO Case No. D2007-0768  
<playboyturkey.com>.
11. *The Nasdaq Stock Market, Inc. Vs Vidudala Prasad*, case No. D 2001- 1493 <japannasdaq.com>

S. The complainant claim enormous presence on the Internet and ownership of various domain names consisting of the words

**‘TATAMOTORS’/ ‘TATA’** and have filed a tabular form of the same:

Sl. No.	Domain Name	TLD	Country	Holder	Validity
1	Tatamotors	.com	India	Tata Motors Ltd	May 9, 2023
2	Tatazest	.co.in	India	Tata Motors Ltd	January 16, 2018
3	Tatazest	.com	India	Tata Motors Ltd	January 16, 2018
4	Tatamotorszest	.com	India	Tata Motors Ltd	January 16, 2018
5	Tatamotorsbolt	Com	India	Tata Motors Ltd	January 16, 2018
6	Tatazest	.in	India	Tata Motors Ltd	January 16, 2018
7	Tatamotorszest	.in	India	Tata Motors Ltd	January 16, 2018
8	Tatamotorsservice	.in	India	Tata Motors Ltd	January 16, 2018
9	Tatamotorsbolt	.in	India	Tata Motors Ltd	January 16, 2018
10	Tatazest	.net	India	Tata Motors Ltd	January 16, 2018
11	Tatamotorszest	.net	India	Tata Motors Ltd	January 16, 2018
12	Tatamotorsbolt	.net	India	Tata Motors Ltd	January 16, 2018
13	Tatamotorsbolt	.org	India	Tata Motors Ltd	January 16, 2018
14	Tatamotorszest	.org	India	Tata Motors Ltd	January 16, 2018
15	Tatazest	.org	India	Tata Motors Ltd	January 16, 2018
16	Tatahexa	.co.in	India	Tata Motors Ltd	March 3, 2018
17	Tatahexa	.com	India	Tata Motors Ltd	March 3, 2018
18	Tatahexa	.in	India	Tata Motors Ltd	March 3, 2018
19	Tatahexa	.co	Coloumbia	Tata Motors Ltd	March 3, 2018
20	Tatanexon	.com	India	Tata Motors Ltd	May 7, 2018
21	Tatasumo	.net	India	Tata Motors Ltd	July 6, 2017
22	Tatanano	.in	India	Tata Motors Ltd	July 7, 2017
23	Tatasafari	.co	Coloumbia	Tata Motors Ltd	July 20, 2017
24	Tataaria	.com	India	Tata Motors Ltd	September 15, 2017

T. It is claimed that the disputed domain name was registered and is being used in bad faith.

U. It is alleged that the respondent registered the disputed domain name www.tatanexon..in in its favour with the "Crazy Domains LLC and Referral URL: http://www.crazydomains.com LLC as the registrar, and the same infringes the trade mark '**TATA**' and the prior existing '**TATANEXON**'. It is further claimed that an innocent consumer is bound to be misled by this impugned domain name www.tatanexon.in registered by the respondent. It is alleged that the disputed domain name by use of the word '**TATA**' is without seeking prior concurrence /approval / permission of complainant and the same amounts to "passing off". It is alleged that the intention of the respondent is to commit fraud and mislead innocent and gullible consumer by unfair and dishonest means.

V. It is alleged that the use and existence of the impugned domain name will cause damage and injury both to the complainant's business, their reputation and to the consumers and general public besides deception in the mind of public and



any on-line promotion or reviews which may be carried out by respondent under the name 'TATA' and /or 'NEXON' is bound to cause confusion and/or likely to cause confusion in the minds of the public as being associated with the complainant and its Group of Companies.

- W. It is alleged that the present domain name has been registered with dishonest motive to clandestinely negotiate for transfer of the same for consideration and make illegal profit.

### ORDER

11. This Tribunal has perused the complaint / Evidence and the documents relied upon by the complainants and the same has not been controverted by the Respondents despite opportunity being given to them by this Tribunal. Hence, in view of the un-rebutted evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name www.tatanexon.in hence this Tribunal directs the Registry to transfer the domain name www.tatanexon.in to the complainants.

12. The Complainants too are free to approach the Registry and get the same transferred in their name.
13. There is no order as to the cost as no details of the cost / damages have been specified / detailed in the complaint nor have the complainants disclosed their revenue figures.
14. The original copy of the Award is being sent along with the records of this proceedings to National Internet Exchange of India (NIXI) for their record and a copy of the Award is being sent to both the parties for their records.

Signed this 26<sup>th</sup> day of July, 2017.



NEW DELHI  
26/07/2017

V. SHRIVASTAV  
ARBITRATOR