



सत्यमेव जयते

# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

Certificate No.	: IN-DL56170273314276R
Certificate Issued Date	: 16-Sep-2019 12:32 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ SAKET/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP1718459674663448R
Purchased by	: VISHESHWAR SHRIVASTAV
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: VISHESHWAR SHRIVASTAV
Second Party	: Not Applicable
Stamp Duty Paid By	: VISHESHWAR SHRIVASTAV
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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

### VISHESHWAR SHRIVASTAV

SOLE ARBITRATOR

IN

[www.hitachi-automotive.co.in](http://www.hitachi-automotive.co.in)

between

HITACHI LTD.

...COMPLAINANT

ADITYA SINGH

AND

...RESPONDENT

AWARD

1

#### Statutory Alert

1. The current copy of this Stamp Certificate issued is valid and should be used for all legal purposes. The original copy of this Certificate will be available on the website [www.dlt.delhi.gov.in](http://www.dlt.delhi.gov.in).  
2. The validity of checking the complainant is on the basis of the original copy.  
In case of any dispute, 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 09/08/2019. This Tribunal was in receipt of an email from the Complainant dated 09/08/2019 showing that they have given the complaint along with copies of the same to NIXI for dispatch, which was done by NIXI but no copy of the courier receipt was sent to this Tribunal.
2. This Tribunal vide order dated 16/08/2019 directed the Complainants to serve the complaint on the Respondents which they complied on 16/08/2019. A bare perusal of the postal address as given by the respondents in the WHOIS is *ex facie* grossly incomplete and has been furnished with a view to dodge service from any authority. Hence, this Tribunal notes that the complainant have tried their best to effect service of the complaint by Email, WhatsApp, SMS and Courier on the Respondent's last known address. Since, the Respondent was already in receipt of the soft copy of the complaint by email sent by NIXI as well as complainant hence, vide the aforesaid



communication dated 21/08/2019 this Tribunal directed the Complainants to send their Evidence by way of Affidavit by 31/08/2019.

3. Pursuant to the order dated 21/08/2019 the Complainants vide email dated 26/08/19 requested for extension of time to file the affidavit as their clients were based in Japan. Hence, an extension of 15 days was given to the Complainants. The complainants vide email dated 12/09/2019 filed the soft copy of their Evidence by way of Affidavit, but the hard copy had been erroneously dispatched to NIXI which was later rectified and delivered to this Tribunal.

4. The award was reserved vide order dated 13/09/ 2019.

#### **CLAIM**

5. The claim as put forward by the complainant is briefly as under:
  - A. The Complainant claims to be a world-renowned multi-national corporation and / or conglomerate organized and existing under the laws of Japan and having its headquarters in Tokyo and

has presence and/ or establishments in several countries of the world including India. It is further claimed that the complainant owns many group companies or subsidiaries around the globe, including but not limited to Hitachi Automotive Systems, Ltd. and has a history that spans more than 100 years. It is stated that the Complainant's portfolio encompasses a wide array of goods and services including but not limited to Information & Telecommunication Systems, Power Systems, Social Infrastructure: Transportation, Social Infrastructure: Industrial Systems, Electronic Systems & Equipment, Electronic Systems & Equipment: Healthcare, Construction Machinery, High Functional Materials & Components, Automotive Systems, Digital Media & Consumer Products and Financial Services. It is claimed that as of March 31, 2018 the complainants have a capital of 4,58,790 million yen and consolidated revenues of 9,368,614 million yen.

- B. It is claimed that the said mark HITACHI (hereinafter referred to as the **"said name and mark"** / **"the said trade mark"**) was

adopted by the Complainant's founder (Namihei Odaira) in or around the year 1910. It is stated that the said name and mark HITACHI is coined by superimposing two *kanji* characters: *hi* meaning "sun" and *tachi* meaning "rise". It is stated that the trade mark HITACHI forms the essential and prominent part of the corporate name of the Complainant viz. Hitachi, Ltd. (Kabushiki Kaisha Hitachi Seisakusho) and it has been used extensively, continuously and exclusively by the Complainant in many countries around the world including India, United States of America, United Kingdom, Australia, Canada, China, Japan, Hong Kong, France, Germany Russia, Switzerland etc.

- C. By relying on Annexure B and C the Complainants claim to be the registered proprietor of mark HITACHI in many classes in many jurisdictions of the world.
- D. It is claimed that the name HITACHI has been highly publicized and advertised by the Complainant in both the electronic and



print media, both in India and globally. Reliance is placed on

**Annexure D (Colly.)**

- E. It is claimed that the Complainant (or its subsidiaries) have registered and operate a number of domain names comprising HITACHI as an essential and dominant feature thereof. Some of the domain names registered by the Complainant (or its subsidiaries) include:

Domain Name	Created on
<a href="http://www.hitachi.com/">http://www.hitachi.com/</a>	1989-04-04
<a href="http://www.hitachi.co.in/">http://www.hitachi.co.in/</a>	2003-06-29
<a href="http://www.hitachi.us/">http://www.hitachi.us/</a>	2002-05-16
<a href="http://www.hitachi.ca/">http://www.hitachi.ca/</a>	2000-11-21
<a href="http://www.hitachi.co.za">http://www.hitachi.co.za</a>	2007-10-23
<a href="http://www.hitachi.eu">http://www.hitachi.eu</a>	2006-04-25
<a href="http://www.hitachi.co.th">http://www.hitachi.co.th</a>	2006-02-16
<a href="http://www.hitachi.ae">http://www.hitachi.ae</a>	2007-11-13
<a href="http://www.hitachi.co.id">http://www.hitachi.co.id</a>	2000-02-05
<a href="http://www.hitachi-automotive.co.jp">http://www.hitachi-automotive.co.jp</a>	2009-04-02
<a href="http://www.hitachi-automotive.sg/">http://www.hitachi-automotive.sg/</a>	2010-03-02

- F. Thus in view of the aforesaid, the Complainant claims to be the legal proprietor of all right(s), title and interest in and to the said trade mark HITACHI and is entitled to protect and enforce the proprietary rights vested in it in respect of the same.
- G. By relying on Annexure E the Complainant's claim exclusive right(s), title(s) and interest(s) in the mark HITACHI.
- H. The Complainants allege that the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights. The Complainants have relied upon Annexure F (Colly) to buttress its right in trade mark HITACHI.
- I. By relying on Annexure G it is further claimed that as per Google's search engine for HITACHI reflects 20,40,00,000 results, which are associated with the Complainant and its worldwide subsidiaries.
- J. It is alleged that the disputed domain name wholly incorporates the registered trade mark / name HITACHI of the Complainant

which amounts to infringement of the Complainant's registered trade mark and passing off of the disputed domain name as that of the Complainant and the Respondent.

- K. It is vehemently alleged that the Respondent has no rights or legitimate interests in respect of the domain name that is the subject of the Complaint. The Complainants allege that the Respondent is not commonly known by the name "Hitachi Automotive", which is the essential and prominent part of the disputed domain name which is the mark HITACHI and the same is internationally well-known and exclusively associated and identified with the Complainant and / or its group companies since the past several decades. Thus the Respondent has no right to adopt, use or register the disputed domain name as neither he is a licensee of the Complainant or its group companies nor has the Complainant or its group companies granted any permission to the Respondent to use the said name and mark HITACHI in any manner or to incorporate the same in a domain name and thus his act lacks *bonafide*. It is alleged that the Respondent has registered the



disputed domain name to deceive unsuspecting individuals, carry out a scam, commit fraud and make illicit gains by usurping the reputation and goodwill acquired by the Complainant in the said name and mark.

- L. It is also alleged that the disputed domain name in question is registered and being used in bad faith. By relying on Annexure H & I it is alleged that the Respondent has registered the disputed domain name for the purpose of facilitating a job-offer scam.
- M. The Complainants vehemently state that the disputed domain name is being used to deceive unsuspecting individuals, carry out a scam, commit fraud and make illicit gains by usurping the reputation and goodwill acquired by the Complainant in the said name and mark HITACHI. The Complainants allege the act of the Respondent amounts not only to infringement and passing off of the Complainant's said name and mark but also amounts to cheating which is punishable under Section 415 and Section

416 of the Indian Penal Code. Thus, the complainants claim that the disputed domain name is being used in bad faith and for illegal purposes.

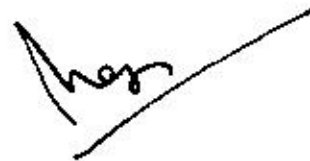
### ORDER

6. This Tribunal has perused the complaint / Evidence and the documents relied upon by the complainants and notices that the same have not been rebutted or challenged 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 do not have any claim on the domain name www.hitachi-automotive.co.in, and this Tribunal directs the Registry to transfer the domain name www.hitachi-automotive.co.in to the complainants.
7. The Complainants too are free to approach the Registry and get the same transferred in their name.
8. There is no order as to the cost as no details of the cost / damages have been specified / detailed in the complaint.

9. The original copy of the Award is being sent along with the records of this proceeding 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 18<sup>th</sup> day of September, 2019.

NEW DELHI  
18/09/2019



V. SHRIVASTAV  
ARBITRATOR