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Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
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NATIONAL INTERNET EXCHANGE OF INDIA
B Wing, 9th Floor, Statesman House Building
148, Barakhamba Road,
New Delhi-110001

Axis AB.

 V/s

Baruch

Statutory Alert:

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AWARD

1. THE PARTIES

The Complainant is **AXIS AB**, which includes its wholly owned subsidiary, **Axis Communications AB**, both having offices at emdalavägen 14, sweden se- 223 69 lund, sweden, by its authorized representative **Mr. Sanjay Chhabra and Mr. Bidyut Tamuly** Archer & Angel, E-mail: schhabra@archerangel.com and btamuly@archerangel.com, both at 5B, 5th Floor, Commercial Towers Hotel J W Marriott, Aerocity New Delhi – 110037 India Telephone: +91 1141954195.

The Respondent is RAJA V, Address: 17 SS Complex, Ramanathapuram 2nd St Pn Road, Tirupur, Tamil Nadu, 641602, Telephone +91 4214240582 and E-mail rameshpcbe@gmail.com and administrative contract is Street 1789, Sri Venkatalakshmi Complex Tirupur, Tamil Nadu, 641045, Telephone (+91).24449144, EMAIL: RAMESHPCBE@GMAIL.COM.

2. THE DOMAIN NAME AND REGISTRAR:

This Arbitration pertains to a dispute regarding the Domain name **axistech.in**

The disputed Domain name is **axistech.in**

The abovesaid domain registered particulars in detail is provided along with the complaint.

Registrar Name: Rediff.com India Limited

IANA ID : 800140

Date of creation: 25.11.2005

Date of Expiry : 25.11.2022

Registrant Client ID : RD-112401164210

Registrant ROID: C276091-IN

Email: rameshpcbe@gmail.com

Phone: +91 4214240582

3. PROCEDURAL HISTORY

- (a) The Complainant has filed a complaint on 04.06.2022 with the NATIONAL INTERNET EXCHANGE OF INDIA. The Complainant made the registrar verification in connection with the Domain name at issue. The annexures received with the complaint are **Annexure-1 to 21**.

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The exchange verified the complaint, satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the 'Policy') and the Rules framed thereunder.

- (b) The NIXI has appointed Sh. R.K. Kashyap, Advocate as the Sole Arbitrator in this matter. The Arbitrator has duly submitted his Statement of acceptance and Declaration of Impartiality and Independence, as required by the Exchange.
- (c) The Arbitrator, as per the INDRP Policy and the Rules, has duly issued the notice on 07.06.2022 and directed the complainant to serve the Respondent with a copy of the Complaint alongwith annexures on the given e-mail as well as on physical address. In the Notice, it has also been mentioned that the respondent to file the reply/response within 10 days from the receipt of notice. The direction of the arbitrator to serve the respondent has duly been complied with and the complainant sent the notice to the respondent, through respondent e-mail on 07.06.2022 and through Shipment Number 22027250032204 dated 07.06.2022 and reported that the respondent was duly served on 17.06.2022 and also sent the delivery report and acknowledgment receipt in its mail dated 21.06.2022. The soft copy through E-mail has also been delivered on the respondent and delivery report has also been sent through mail dated 21.06.2022. Till date the respondent has not filed any reply/response within the stipulated time, hence, the respondent proceeded Ex-parte and Ex-parte Award is being passed.

4. Factual Background:

The following information has been derived from the Complaint and the various supporting annexure to it, the Arbitrator has found the following facts:

Complainant's Activities

- i) The Complainant was incorporated in the year 1984 with the basic motive to offer intelligent security solutions that enable a smarter, safer world. Over the past three decades, the Complainant has collaborated with more than 90,000 partners across 179 countries, has distributors in more than 70 countries and over 3,805 employees across 50 countries, to become the global leader in network cameras and video encoders. The product portfolio of the Complainant comprises of **surveillance cameras, network cameras, video encoders**, accessories and application software. The Complainant was the first company in the world to launch a network camera in 1996, initiating the shift from analog to digital technology. The Complainant, has been hugely acclaimed for innumerable successful installations of its Axis network video products in industries ranging from Healthcare, Transportation, Retail, Government, Critical Infrastructure, Hotel / Tourism / Restaurants, Education, Banking and Finance, Casino / Gaming, Stadiums / Venues, Prisons / Correction Centers, City Surveillance, Military, etc. across the world. In the

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year ending 2020, the Complainant saw a sales turnover of approx. US\$ 1.2 billion. The relevant webpage from the Complainant's website summarizing its history and milestone in the past 34 years, has been provided in **Annexure 4**.

ii) The Complainant has adopted and used a number of **AXIS**-formative marks,

such as,  **AXIS**, **AXIS** (in foreign languages), **AXIS Communications** and , . The relevant trademarks of the complainant are as under:-

Trademark	Application No.	Application Date	Class	Status
	1365703	21/06/2005	09	Registered
	1365704	21/06/2005	42	Registered
AXIS	1652820	12/02/2008	09	Registered
	1654832	18/02/2008	09, 16, 35, 41, 42	Registered
AXIS	3216281	21/03/2016	38, 42 & 45	Registered
AXIS	3216282	21/03/2016	09	Registered

The Complainant is the proprietor of the **AXIS** Marks vide numerous registrations.

5. DISCUSSION AND FINDINGS:

The Rules instructs 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

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and Principles of Law that it deems applicable”.

According to the Policy, the Complainant must prove that:-

- a) The Registrant's Domain name is identical or confusingly similar to a name, Trademark or Service mark in which the Complainant has rights;
- b) The Registrant's has no rights or legitimate interests in respect of the Domain name that is the subject of Complaint; and
- c) The Registrant's Domain name has been Registered or is being used in bad faith.

(A). **Identical or Confusingly Similar:**

- I) The Complainant's Domain Name, Website and Social Media Presence. The Complainant through its subsidiary, owns the top-level domain name <axis.com> since September 19, 1996 and operates its corresponding primary website at www.axis.com, through which it conducts a significant portion of its business and where information about **AXIS** and its products are easily accessible and available to millions of internet users, who may be current or potential consumers. As is evident, the Complainant's domain name in its entirety incorporates its registered trademark **AXIS**, thus further augmenting its proprietary rights in the said mark. Further, as evident the aforementioned domain is based on the corporate name of the Complainant's company **Axis AB**.
- II) The Complainant is also the owner of the India specific domain <axis.in>; which was created on February 16, 2005. The entire details in this regard is provided in **Annexure 8**
- III) As a result of and to leverage its internet-based business model, the Complainant also owns several other dedicated country-specific domain names and websites in major markets such as Anguilla <axis.ai>, Austria <axis.co.at>, Bosnia and Herzeg <axis.ba>, Bolivia <axis.bo> & <axis.com.bo>, Brazil <axiscommunications.com.br>, British Indian Ocean Territory <axis.io>, China <axis.bj.cn>, <axis.fj.cn>, <axis.gd.cn>, <axis.hk.cn>, <axis.js.cn>, <axis.zj.cn>, <axis.net.cn>, <axis.sd.cn>, <axis.sh.cn> & <axis.tj.cn>, Chile <axis.cl>, Costa Rica <axis.cr>, Croatia <axis.com.hr>, Denmark <axis.dk>, Ecuador <axis.com.ec> & <axis.ec>, Egypt <axis.eg>, Estonia <axiscommunications.ee>, Greenland <axis.gl>, Honduras <axis.hn>, Hong Kong <axis.com.hk> & <axiscommunications.hk>, Hungary <axis.co.hu>, Israel <axis.org.il>, Japan <axiscom.co.jp> & <axiscom.jp>, Kyrgyzstan <axis.kg>, Kuwait <axis.com.kw>, Latvia <axis.lv>, Moldova <axis.md>, Mongolia <axis.mn>, Montenegro <axis.me>, Netherlands <axis.nl>, Nigeria <axis.ng>, Niue <axis.nu>, <axiscommunications.nu> & <axis-communications.nu>, Pakistan <axis.pk>, Palestine <axis.ps>, Peru <axis.pe>, Philippines <axis.ph>, Portugal <axis.pt> & <axis.com.pt>, Romania <axis.ro>, Russia <axiscommunications.ru>, Singapore <axis.com.sg> & <axis.sg>, South Africa <axiscommunications.co.za>, Spain <axis.com.es>,

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Sweden <axisab.se>, <axiscommunications.se>, <axis.se> & <axis-communications.se>, Tajikistan <axis.tj>, Taiwan <axis.tw>, Turkmenistan <axis.tm>, Tanzania <axis.co.tz>, Ukraine <axis.ua>, United Arab Emirates <axis.ae>, United Kingdom <axiscommunications.org.uk>, <axis-communications.org.uk>, <axiscommunications.co.uk>, <axis-communications.co.uk> & <axiscommunications.uk>, United States <axiscommunications.us>, Uzbekistan <axis.uz>, Venezuela <axis.com.ve>, Vietnam <axis.vn> & <axis.com.vn>, etc.

- IV) The Complainant also mentioned in the complaint that it is owner of several other domain names containing its registered trademark **AXIS** viz. <axis.academy>, <axis.camera> <axis.email>, <axis.equipment>, <axis.biz>, <axis.co>, <axis.com.co>, <axis.expert>, <axis.guide>, <axis.help>, <axis.international>, <axis.video>, <axis.wiki>, <axis.vision>, <axiscam.com>, <axisbrasil.com>, <axis-communications.info>, <axis-communications.net>, <axiscommunications.org>, <axis.network>, <axis.sale>, <axiscam.net>, <axiscamera.net>, <axis.com>, <axiscameracompanion.com>, <axiscameras.com>, <axiscommunications.asia>, <axiscommunications.biz>, <axiscommunications.org>, <axis.computer>, <axis.digital>, <axis.services>, <axis.sexy>, <axis.software>, <axis.systems>, <axis.tel>, <axis.webcam>, <axis.website>, <axiscommunications.com>, <axiscommunications.info>, <axisinc.com> and <axisinc.xyz>. Details of all the domain registrations are not provided for the sake of brevity. However, the Complainant will be happy to provide details of all its domain registrations is Arbitrator requires.
- V) Beside its websites, the Complainant's **AXIS** Marks and services and goods thereunder are prominently advertised on major social networking sites such as Facebook, Instagram, LinkedIn, Twitter, YouTube, etc. – which collectively has 223K followers. The entire details in this regards are provided in **Annexure 11**.
- VI) The Complainant has extensively and consistently marketed, promoted and advertised its products and services under the **AXIS** Marks as well as participated in trade fairs, organized and/or sponsored a number of events worldwide. Advertisements of the Complainant's products and services have often appeared on Indian magazines. The detail are provided in **Annexure 13**.
- VII) The Complainant has been recognized and conferred with numerous prestigious awards and honors over the decades by various organizations and groups in different countries. The details are provided in **Annexure 15**.
- VIII) The complainant takes any violation / infringement of its Intellectual Property Rights very seriously and keeps a check by publication of Cautionary Notices in leading newspapers, thereby keeping the general

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public and especially potential infringers informed of its rights in its **AXIS** Marks periodically, refer **Annexure 18**.

IX) The Complainant recently learnt of the Respondent's registration of the Disputed Domain Name and use of its corresponding fraudulent website at www.axistech.in for offering products and services *inter alia* network security services, surveillance business and CCTV cameras, which are identical to those offered by the Complainant, refer **Annexure 19**, in this regard.

X) The Complainant firmly believes in exploring an amicable resolution of differences so as to avoid increasing the already heavy burden of various legal forums. To this end, the Complainant has sent various notices to bring about the similarity between the marks/ domain name and explaining them the dispute. However, despite lapse of a period of more than a year the Respondent has either been non-responsive or stated that they are in the process of rebranding the business and changing the trade name. Further, the Respondent adopted various variation of Axis

formative marks such as AXIS / **Axis** /  **AXIS TECH** /



AXIS TECH

etc. The above use is greatly elevated by the fact that the Respondent is advertising itself as leading security service provider and stating that "*Axis tech is the best CCTV Service providers in Coimbatore*", refer **Annexure 20**.

XI) The Complainant submits that the Disputed Domain Name is identical with and/or confusingly similar to the Complainant's **AXIS** Marks. The Disputed Domain Name incorporates the Complainant's registered trademark **AXIS** in its entirety along with the descriptive word "TECH" as a suffix, which, for the reasons outlined below, is insufficient for differentiation.

XII) The Complainant has well-established rights in respect of the **AXIS** Marks which have been recognized and confirmed by NIXI (National Internet Exchange of India). In the matter of **Axis AB v. Axixx Security Services** (Dated February 14, 2019) - The NIXI had recognized the Complainant's prior rights and interest in the trademark **AXIS** and an order for the transfer of domain name was passed by the Arbitrator. The Complainant's rights to the **AXIS** Marks have also been upheld in **Axis AB v. Axis Securetek India Pvt Ltd. (OS.3549/16)** - The City Civil and Session Judge Court of Bengaluru passed an injunction order against the infringer restraining them from claiming any rights and passing off their business, goods/services as that of the Complainant, by using predominant part of the Complainant registered and house mark **AXIS** or any similar mark alone or with suffix or prefix as a part of their trade name or mark, refer **Annexure 21**.

XIII) The complainant refer and relied upon the following cases:-

WIPO Case No. D2005-1249

WIPO Case No. D2001-0903)

WIPO Case No. D2001-0505

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WIPO Case No. D2003-0696

WIPO Case No. D2010-0762

- XIV) The addition of the word 'TECH' as a suffix to the Complainant's registered trademark **AXIS** is incapable of lending the Disputed Domain Name any distinctiveness or reduce its similarity with the Complainant's **AXIS** Marks. On the contrary, presence of the said generic word enhances the degree of similarity between the rival brands. The word "TECH" is simply indicative of the kind of goods/services which may be offered by the Respondent - which will in fact be identical to those offered by the Complainant under the **AXIS** Marks around the world, including in India. The Complainant is known globally with respect to cameras and other products / services related to security surveillance since 1984 and hence use of the Disputed Domain Name will, in all likelihood, make internet users believe that it originates from the Complainant, when that is not the case.
- XV) The Complainant has been continuously and extensively using the registered trademark **AXIS** in commerce since its adoption in 1984 - both internationally - and thus its rights in the **AXIS** Marks are beyond reproach.
- XVI) The Respondent's domain name **axistech.in** is identical to the Complainant's trademark **AXIS**. Therefore, the Complainant is the sole legitimate owner of the trade/service mark **AXIS**.
- XVII) Respondent's registration and use of the domain www.axistech.in is bound to induce members of the public and trade to believe that the Respondent has a trade connection, association, relationship or approval of the Complainant, when it is not so.
- XVIII) The distinctive and the dominant element in the Respondent's domain is the word **AXISTECH** hence, the domain www.axistech.in is identical to the trade/service mark **AXIS** in which the Complainant has statutory and common law rights.

The disputed domain name clearly incorporates the famous trademark **AXIS** of the Complainant in its entirety.

(B). Rights or Legitimate Interests :

- I. The Disputed Domain Name is registered does not imply that the Respondent has any rights or legitimate interests in them. In **Deutsche Telekom AG v. Phonotic Ltd. (WIPO Case No. D2005-1000)**, it has been held that "Registration of a domain name in itself does not establish rights or legitimate interests for purposes of paragraph 4(a)(ii) of the Policy".
- II. The Respondent's use of the Disputed Domain Name is for fraudulent purposes, namely, to imitate a legitimate, well-reputed and trustworthy entity, i.e., the Complainant, so as to deceive the consumers into purchasing security surveillance products.
- III. The Respondent neither has rights or legitimate interests in the Disputed Domain Name nor has the Complainant assigned, granted, licensed, sold,

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transferred or in any way authorized the Respondent to register or make use of its registered trademark **AXIS**. The Complainant relies on the case of **Six Continents Hotels, Inc. v. Patrick Ory, WIPO Case No. D2003-0098**.

- IV. The inclusion of the words 'AXIS' (registered trademark of the Complainant) and 'TECH' in the Disputed Domain Name amply reflects that the intention of the Respondent is to deceive the public into believing that some association or commercial nexus exists between the Complainant and the Respondent and cash-in on such deception. As held in **The Dow Chemical Company v. Hwang Yiyi, WIPO Case No. D2008-1276**.
- V. The Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name. It is clear that the Disputed Domain Name has been registered for commercial gain by misleading and diverting consumers and/or tarnishing the Complainant's brand and **AXIS** Marks, and therefore also the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant relies on **The Sports Authority Michigan, Inc. v. Internet Hosting, NAF Case No. 124516**. Also relied upon **INDRP/522**.
- VI. There is no justification for the Respondent's registration and/or use of the Disputed Domain Name. By virtue of a dishonest adoption and *malafide* intent of the Respondent, as established in the preceding paragraphs of this Complaint, together with its brazen usage of the Complainant's **AXIS** Marks, there is no scenario wherein the Respondent can claim to make legitimate non-commercial or fair use of the Disputed Domain Name.
- VII. The Complainant is the sole legitimate owner of the trade mark **AXIS**. The Complainant neither licensed nor permitted the Respondent to use trade/service mark **AXISTECH** or to apply for any domain name incorporating the said trade/service marks.
- VIII. The Respondent has not made any legitimate use of the domain name www.axistech.in since the date of its registration and is prejudicially blocking the domain register. It is pertinent to note that the impugned domain name is a mere copy of the Complainant's trademark **AXIS**. The malafide intent of the Respondent to infringe the Complainant's trade mark rights is apparent. Further, in view of the popularity of the Complainant's trade mark **AXIS**, the disputed domain name www.axistech.in is bound to induce members of the public and trade to believe that the Respondent has trade connection, association, relationship or approval of the Complainant. The respondent wants to misappropriate and usurp the reputation and goodwill of the Complainant's trademark **AXIS**.

(C). **Registered and Used in Bad Faith:**

- I. The Complainant is vested with worldwide statutory and common law rights in its **AXIS** Marks since the year 1984. In such circumstances, the Respondent's usage of the Complainant's trade name and mark **AXIS** in conjunction with the descriptive and non-distinctive term 'TECH', is of

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concern as it is fraught with the likelihood of creating confusion in the minds of public at large. It is highly probable that consumers looking for the Complainant's **AXIS** branded products and services may perceive the Disputed Domain Name to be another domain name of the Complainant for providing its security & surveillance products. This misconception is highly likely to be amplified when such unwary consumers would receive fraudulent communications from the Respondent which would prominently bear the impugned term 'AXIS' with or without any prefix / suffix - the collective use of which would lull such consumers into a false sense of security, leading to the incorrect assumption that the Respondent's products/ services are originating from the Complainant itself. The Complainant submits that it is exactly this sort of scenario that the Respondent is seeking to create and is in itself evidence of its bad faith and *malafide* intentions.

- II. It is further submitted that the Respondent, being in an identical industry and dealing with same or similar products/services, is bound to have knowledge of the world-renowned repute of the Complainant herein. Hence, it has no cause for adoption of an identical trademark or domain name, except in bad faith and with *malafide* intention. Moreover, the Disputed Domain Name was registered in December 2005, i.e., 21 years of the Complainant actually using its said marks in commerce. The Respondent, therefore, again cannot escape the liability of knowledge of the Complainant and its business - and by extension, its **AXIS** Marks - since no level of coincidence can lead to the Respondent adopting a name / trademark **identical** to the Complainant's much prior adopted, used and registered **AXIS** Marks. In **Compagnie Générale des Etablissements Michelin v. Terramonte Corp, Domain Manager (WIPO Case No. D2011-1951)**. The complainant also relied upon **INDRP/579**.
- III. Since the Respondent are offering CCTV cameras and security services through the Disputed Domain Name, such use would support a finding of bad faith use and registration, as these are the same products/services offered by the Complainant under its famous and registered **AXIS** Marks. The same was upheld in **Kingston Technology Corp. v. c/o Asiakingston.com (WIPO Case No. FA1464515)**. where the Panel observed that "*finding use of domain name incorporating Complainant's trademark in connection with the sale of competing products to constitute bad faith*".
- IV. It is finally submitted that the Disputed Domain Name was registered and is being used in bad faith. If the Respondent is not restrained from using the Disputed Domain Name and the same is not transferred to the Complainant, loss and hardship will be caused to the Complainant.
- V. Respondent has fraudulently provided links to various third party e-commerce sites under the domain name www.axistech.in. It is obvious that the Respondent is making monetary gains by attracting unwary customers by misrepresenting an association with the Complainant. Further, considering the incessant use, reputation and the well-known brand of the Complainant's marks, the illegitimate registration and use of the impugned

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domain name amounts to brand dilution which cannot be compensated monetarily. Hence, it becomes critical that unscrupulous individuals are not allowed usurp renowned trademarks and domain names to unfairly benefit from such act.

The very use of a domain name by someone with no connection with the Complainant suggests opportunistic bad faith, refer **INDRP case No. 1167**.

6. **DECISION**

In light of the foregoing findings, namely, that the Domain name is confusingly/deceptively similar to Complainant's well-known brand "AXIS", a mark in which the Complainant has rights, that the Respondent has no claims, rights or legitimate interests in respect of the disputed Domain name, and that the disputed Domain name was Registered in bad faith and is being used in bad faith, in accordance with the policy and the rules, the Arbitrator orders that the Domain name "**Axistech.in**" be transferred to the Complainant.

a.) This award is passed at New Delhi on this 15th day of JULY, 2022



R. K. KASHYAP
SOLE ARBITRATOR