



सत्यमेव जयते

INDIA NON JUDICIAL

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Certificate Issued By	: chjeevanu
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Unique Doc. Reference	: SUBIN-CHCHSPICG0793405788740754W
Purchased by	: RAJESH KUMAR
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: SAJAL KOSER
Second Party	: Not Applicable
Stamp Duty Paid By	: SAJAL KOSER
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



Please write or type below this line

ARBITRATION AWARD

BEFORE SH. SAJAL KOSER, SOLE ARBITRATOR, CHANDIGARH

INDRP CASE NO. 1791 OF 2023

DISPUTED DOMAIN NAME: <WWW.TATADEVELOPERS.IN>

RID 0021291806

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Tata Sons Private limited, Bombay House, 24, Homi Mody Street,
Mumbai 400 001 India

...Complainant

Versus

Tata Developers, Delhi, India Pin: 110005 Email:
sujitzsharma23@gmail.com contact@tatadevelopers.in,
info@tatadevelopers.in Ph: 91.8873456653.

...Respondent

1. **INTRODUCTION:**

The above titled complaint was submitted to the undersigned for Arbitration in accordance with the .IN Domain Dispute Resolution Policy (INDRP), and the INDRP Rules of Procedure framed there under.

2. **PROCEDURAL HISTORY:**

- i) In response to the email dated 04.12.2023, appointing undersigned as an Arbitrator and vide email dated 05.12.2023, the undersigned submitted Statement of Acceptance and Declaration of Impartiality and Independence.
- ii) The Notice to the Respondent was issued on 17.12.2023, however, the Respondent did not submit any response/reply within the stipulated period of 15 days and even after granting more time, there was no response/reply, accordingly, the opportunity to file reply to the Complaint was closed by order vide email dated 04.01.2024 and the case was fixed for passing award ex-parte, in accordance with the merits of the case and provisions of law.

3. **Further Details**

The details of the Parties, Authorised Representatives and Registrars Information alongwith the disputed domain name is given

in the complaint and the same is matter of record. Further details with regard to the Complainant, disputed domain name and registrar are mentioned below:-

i) The Complainant in the proceedings is Tata Sons Private Limited (formerly known as Tata Sons Limited) which is a company duly incorporated under the Indian Companies Act, 1913 having its registered office at Bombay House, 24, Homi Mody Street, Mumbai- 400-001, India. Its principal place of business Mumbai, India, although the Complainant does business in virtually every state within India and in several foreign countries as well. The Complainant information in detail in para 2 of the Complaint and the Respondent detail are given in para 3 of the Complaint as based upon Whols Details of the impugned domain which is attached and marked as Annexure A.

ii) Disputed Domain Name & Registrar [Rule 3(b) (iv):

- a) The following domain name is the subject of this Complaint namely www.tatadevelopers.in
- b) The registry is the National Internet Exchange of India (henceforth referred to as NIXI).
- c) The sponsoring Registrar with whom the disputed domain name is registered is indicated as www.godaddy.com.
GoDaddy.com, LLC
2155oDaddy Way
Tempe AZ 85284
E-mail: grievanceofficer@godaddy.com;
trademarkclaims@godaddy.com;
courtdisputes@godaddy.com;
support@in.godaddy.com; entitymgmt@godaddy.com;
UDRPdisputes@godaddy.com

iii) **Trademark / Service Mark Information (Rule 3(b)(v)):**
The complaint is based on the trademark/service mark, TATA.

4. **FACTUAL AND LEGAL GROUNDS:**

This complaint is based on the ground that the Respondent has misappropriated the well-known trademark TATA of the Complainant as a part of its domain name. It has been mentioned in the Complaint that the Complainant is the holding company of the TATA Group and the owner and registered proprietor of the well-known trademark and brand TATA. The Complainant has a subsidiary company called TATA HOUSING DEVELOPMENT COMPANY LIMITED, which was established in 1984. TATA VALUE HOMES LIMITED is another TATA Company incorporated in 2009 which is a wholly owned subsidiary of Tata Housing Development Company Limited which has evolved into one of the fastest growing real estate development companies in India. Tata Housing Development Company Limited and Tata Value Homes Limited are collectively known as "Tata Housing". With the primary business being development of properties in residential & commercial sectors, the company's operations span across various aspects of real estate development, such as land identification and acquisition, project planning, designing, marketing & sales, project execution, property services and estate management. It is therefore evident that the Registrant has created this website to defraud people and extract money from the innocent public by promising them real estate projects by impersonating as the Complainant / TATA Group. The Complainant in the Complaint has made following submissions:-

- i) The Complainant, Tata Sons Private Limited represents its own and the interests of all Tata companies (of which Tata Housing is a part of), as also the image and reputation of the name and trademark TATA. The Complainant is also the registered proprietor of the well-known trademark TATA. Mr.

Chetan Nage is the Authorised Signatory of the Complainant and a copy of the documents authorizing him duly executed in his favour have been enclosed as Annexure B with the Complaint.

- ii) Complainant, established in the year 1917 as a body corporate, is the promoter and principal investment holding company of the House of TATA which is India's oldest, largest and best-known business conglomerate. The revenue of the Tata Companies taken together in 2022-2023 was about \$150 billion (INR 12 trillion).
- iii) Further, the House of TATA comprising of the Complainant, its group companies, subsidiaries and the companies promoted by it is one of India's most trusted business houses. The trade name and trademark 'TATA' of the Complainant as derived from the surname of its founder Jamsetji Nusserwanji Tata is a household name in the country today, synonymous with excellence in several fields of business activity. The 'TATA' trade name and trademark has been respected in India for over 140 years for its adherence to strong values and business ethics.
- iv) The Complainant, 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. There are about 29 publicly listed Tata Companies with a combined market capitalization of about \$300 billion (INR 24 trillion) as on July 31, 2023. The TATA companies have employed over 935,000 people worldwide. The 'TATA' name has been respected in India for over 150 years for its adherence to strong values and business ethics.

- v) The Complainant, its group companies, its subsidiaries and the companies promoted by it have laid the foundation in the industrial core sectors, pioneering textiles, iron and steel, power, chemicals, hotels and automobile industries in India. Keeping pace with the changing global scenario, the companies comprising the House of TATA have also branched out into computers and computer software, electronics, telecommunications, financial services, insurance, mutual funds, tea, technology, retail, engineering, housing and real estate development, infrastructure, consulting, aviation etc.
- vi) The group companies of the Complainant have an extensive scale of business operations worldwide and have acquired international recognition and goodwill for their premium quality of goods and services. The said TATA Companies have achieved global leadership in their businesses include Tata Steel, Tata Motors, Tata Consultancy Services, Tata Power, Tata Chemicals, Tata Consumer Products, Tata Teleservices, Titan, Tata Communications, Tata Digital, Tata Electronics, Tata Medical and Diagnostics, Tata Advanced Systems and Indian Hotels.
- vii) The conglomeration of TATA Companies, collectively referred to as the 'House of TATA' was recently declared to be India's most valuable brand by 'Interbrand' in its coveted list of the 'Top 40 brands in India'. The multi brand portfolio of the salt to software conglomerate has been valued at over \$26 billion in 2023 by the UK-based consultancy firm (focused on the management and valuation of brands) called 'Brand Finance'.
- viii) The Complainant, its group companies, its subsidiaries and the companies promoted by have always believed in returning

wealth to the society they serve. 66% of the equity share capital of the Complainant is held by philanthropic trusts which support education, health, livelihood generation and art and culture. These trusts also provide aid and assistance to nongovernment organizations working in the areas of education, health care and livelihoods. The Complainant, and other companies constituting the House of TATA, themselves undertake a wide range of social welfare activities and also deploy sustainable business practices especially at the locations of their operations,

- ix) The trusteeship principle governing the way the group functions casts the Complainant in a rather unique position which is: 'Capitalistic by definition but Socialistic by Character.'
- x) The documents illustrating the Company profile of the Complainant, its chief areas of business, the name of its group companies, the products and services offered by it under the brand name / trademark 'TATA', its philanthropic trusts and innovation initiatives, its history, its key milestones as well as the unprecedented reputation and goodwill enjoyed by its trade name / trademark both in India and worldwide have been enclosed and collectively marked as ANNEXURE-C with the Complaint.
- xi) The Complainant in addition to the documents as referred to hereinabove, have further enclosed with the Complaint following documents which are gleaming testimony of the well-known nature of the trade name and trademark 'TATA'. The said documents as referred and annexed with the complaint are marked as hereunder:

- (a) ANNEXURE-D - Copy of the extract of the New Encyclopedia Britannica having an entry on the Complainant namely Tata Sons Private Limited.
- (b) ANNEXURE-E - Copy of message dated 18th July, 1998 from the then Hon'ble Prime Minister of India, Shri. A B Vajpayee on the 93rd Birth Anniversary of Late Shri. J R D Tata, founder of the Complainant, Tata Sons Private Limited.
- (c) ANNEXURE-F - Copy of the write-up dated 24th May, 2009, titled "T for trust" appearing in 'The Week' magazine acknowledging the Complainant as the world's 11th most reputed company.
- (d) ANNEXURE-G - Copy of the original book titled "TATA- The Evolution of a Corporate Brand' by Morgen WitzeL
- (e) ANNEXURE-H - Copy of the February, 2011 Special Issue of the magazine FORTUNE (India Edition).
- (f) ANNEXURE-I - Copy of the original brochure for the year 2017 containing a comprehensive overview of the history and business activities of the Complainant, its group companies, its subsidiaries and the companies promoted by it.
- (g) ANNEXURE-J - Copy of the financials of Complainant, its group companies, subsidiaries and the companies promoted by it for the years 2012-2017.
- (h) ANNEXURE-K - Copy of the article '10 Questions' featured on Mr. Ratan Tata as appearing in the Time Magazine, in the issue dated 14th January, 2013.

- (i) ANNEXURE-L - Copy of article titled 'Ratan Tata's Legacy' as appearing in the issue of The Economist" dated 7th December 2012
- (j) ANNEXURE-M - Copy of the article titled "Chai with the FT: Ratan Tata" dated 14th December 2012 appearing in the Financial Times.
- (k) ANNEXURE-N - Copy of the article titled "Tata hangs up boots after a transformative innings" appearing in The Mail dated 16th December, 2012.

5. **COMPLAINANT'S TRADEMARK RIGHTS:**

In respect of Complainant's trademark rights the Complainant in the Complaint has made following submissions:-

- i) Since its inception in 1917, the Complainant 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 use of the trademark and name 'TATA' by the Complainant's predecessors in business dates back to 1868. On account of its highly distinctive nature and the pioneering activities of the founder, the trade name 'TATA' has acquired an excellent reputation from the very beginning and down the decades, the said name and trademark has consistently been associated with and exclusively denotes the conglomeration of Tata companies, colloquially referred to as the 'House of TATA', known for high quality of products manufactured and/or services rendered under the trademark/name 'TATA'. The House of TATA consists of over 100 companies which use the name 'TATA' as a key and essential part of their corporate

name. In addition, there are numerous overseas companies, philanthropic bodies and autonomous public institutions promoted by the House of TATA who also carry out their activities under the trade name and well-known trademark 'TATA'.

- ii) The Complainant is the proprietor of the trademark 'TATA' by virtue of priority in adoption, long, continuous and extensive use and advertising, and the reputation consequently accruing thereto in the course of trade. The Complainant, its group companies, its subsidiaries and the companies promoted by it have exclusively used 'TATA' as a trademark so that it is uniformly perceived as indicative of the source of the products / services emanating from the Complainant and other companies constituting the House of TATA. The members of the House of TATA are acknowledged to be the standard bearers of excellence in quality and business ethics in India as well as abroad.
- iii) The Complainant being the proprietor of the trademark 'TATA' and other TATA formative marks holds exclusive rights in the same and is entitled to take action against any unauthorized use of the same by third parties as regards any class of goods or services or in any other manner whatsoever.
- iv) In addition to the common law rights that have accrued to the Complainant in the trademark 'TATA' by virtue of the aforesaid facts, the Complainant is also the registered proprietor of the trademark 'TATA' and other TATA formative marks in numerous classes under the Trade Marks Act, 1999 in relation to diverse range of goods and services. A copy of the tabulated list of the Complainant's trademark registrations under the

various provisions of the Trade Marks Act, 1999, for the word mark 'TATA' with copies of the printouts from the website of the Trademark Registry for some of the said trademark registrations has been enclosed and marked as ANNEXURE-O with the Complaint.

- v) The Complainant has also placed reliance on the following documents:
 - a) ANNEXURE-P - list issued by the Trade Marks Registry, India acknowledging the Complainant's trademarks TATA and TATA formative marks as well-known trademark
 - b) ANNEXURE-Q - Copies of certificates for use in legal proceedings for some of the trademarks registrations for the trademark 'TATA' and other TATA formative marks owned by the Complainant and its sister concerns in India.
- vi) The Complainant also owns trademark registrations for the mark 'TATA' as well as various TATA formative marks in over 50 countries besides India. A table detailing the said trademark registrations as are existing in favour of the Complainant around the world is enclosed herewith and marked as ANNEXURE-R.
- vii) The Complainant, its group companies, its subsidiaries, and the companies promoted by it are the proprietors of the trademark TATA and other TATA formative marks. By virtue of the said registrations, the Plaintiff has the exclusive right to use the trademark TATA in relation to the goods covered thereunder and to obtain relief in respect of the infringement of its registered trademarks.

- viii) The Plaintiff also owns trademark registrations for the word TATA in over 50 countries besides India. A table illustrating the trademark registrations for the word TATA owned by the Plaintiff and its Group Companies are annexed with the present proceedings and marked as ANNEXURE-S, and may kindly be referred to.
- ix) 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. It is 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. 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.
- x) Thus, 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 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.

6. **INTERNET PRESENCE OF THE COMPLAINANT:**

With regard to its internet presence the Complainant has made following submissions:-

- i) The Complainant has devoted an enormous amount of time, effort and energy in promoting and advertising the said mark in print & online media & the said mark is consequently identified solely with the complaint. The Complainant, its group companies, its subsidiaries and the companies promoted by it have various online internet portals. That some of the group companies of the Complainant are also engaged in the business of providing internet based multi-faceted services such as news, information, communication, entertainment and shopping that are accessed by users, shareholders, customers and other Internet users world over.
- ii) It is pertinent to mention here that the Complainant and its Group companies are the owners of various domain names containing its trade/service mark TATA. The details of domain names are given in para 9 (b) of the Complaint and extracts from the Complainant's said websites are collectively annexed with the complaint as Annexure-T and extracts pertaining to the said domain names from whois.com have been annexed as ANNEXURE-U.
- iii) In para 10 of the Complaint, the Complainant has mentioned various decisions upholding complainant's rights and protecting well known trademark TATA of the Complainant and the Complainant has relied upon the said orders in support of

its case and have annexed the same as Annexure V to Annexure AF with the Complaint.

7. **Further in para 11 of the Complaint, the Complainant has referred to the decisions of the WIPO Board Upholding the Complainant's Trademark Rights and have annexed the said decisions/orders as Annexures AG to AAB in support of their case with the complaint.**
8. According to the Complainant, the Respondent in the present dispute has registered the impugned domain name misappropriating illegally and without authority, the trademark TATA which is the exclusive property of the Complainant and this illegal act of the Respondent has forced the Complainant to file the present complaint and accordingly in order to fulfill the ingredients as provided in clause 4, sub clause (a) to (c) of the INDRP, the complainant has submitted following submissions:-
 - a) **The Respondent's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights:**
 - (i) The disputed domain name is identical to the well-known trade/service mark TATA of the Complainant. The Complainant has overwhelming common law as well as statutory rights in the trade/service mark TATA and is its sole legitimate owner and proprietor.
 - (ii) The disputed domain name www.tatadevelopers.in has also unauthorisedly and fraudulently used the Complainant's registered copyrights including the T

within a circle device (ANNEXURE-AAC)as depicted in sub para (b) of para 12.

- (iii) Further, the disputed domain name attempts to associate itself with the Complainant. The Complainant is the holding company of the TATA Group and the owner and registered proprietor of the well-known trademark and brand TATA. The Complainant has a subsidiary company called TATA HOUSING DEVELOPMENT COMPANY LIMITED, which was established in 1984. TATA VALUE HOMES LIMITED is another TATA Company incorporated in 2009 which is a wholly owned subsidiary of Tata Housing Development Company which has evolved into one of the fastest growing real estate development companies in India. With the primary business being development of properties in residential & commercial sectors, the company's operations span across various aspects of real estate development, such as land identification and acquisition, project planning, designing, marketing & sales, project execution, property services and estate management. It is therefore evident that the Registrant has created this website to defraud people and extract money from the innocent public by promising them real estate projects by impersonating as the Complainant / TATA Group.
- (iv) The malicious intention of the Respondent is evident from its blatant misappropriation of the Complainant's trade/service mark TATA, and Respondent is impersonating as part of the TATA GROUP. If any user was to search for the Complainant online as TATA or for

the housing projects of the Complaint i.e. TATA HOUSING, he would be taken to the Respondent's domain name which enhances the possibility of inevitable confusion and would end up paying money to the Respondent thinking that the Respondent's fake projects are endorsed by the Complainant.

- (v) Moreover, any use of the word TATA is understood only as making a reference to the Complainant since the said trade/service mark of the Complainant is a registered and a well-known trademark. Incorporation of a trademark in entirety in a domain name is sufficient for establishing confusing similarity is a settled principle of law and has been upheld in numerous UDRP adjudications such as *Magnum Piering Inc v. The Mudjackers*; WIPO Case No. D2000-1525. A copy of the said decision is enclosed with the Complaint and marked as ANNEXURE-AAD.
- (vi) The unwary internet user and the unsuspecting members of the public who do not know that the Complainant and the Respondent have no affiliation with each other or that the Complainant has not in any manner licensed, authorized or endorsed the use of its famous and well-known mark 'TATA' by the Respondent will confuse the activities of the latter as that of the Complainant. The unauthorised use of the Complainant's registered and well-known trademark 'TATA' by the Respondent will lead to the erosion of the distinctive value and strength associated with the said trade/service mark and



adversely impact the immense goodwill and reputation accruing thereto.

- (vii) The mala fides of the Respondent is also evident from the fact that through the website parked on the impugned domain the Respondent is falsely claiming to be part of the Complainant / TATA Group and impersonating as the Complainant / TATA Group and calling upon the general public and customers to invest money in their fake projects. Extracts from the fake website hosted on the disputed domain name is enclosed herewith and marked as ANNEXURE-AAE.
- (viii) The Complainant submits as stated hereinabove that the Respondent is trying to dupe the innocent and unwary public by inducing them to invest money in their fake projects by misrepresenting its association with the TATA Group. There is every likelihood that the innocent members of public will be influenced by such misrepresentation and be duped into paying huge amounts of money to the Respondent.
- (ix) Very well knowing that the Respondent's identity will be made public and the general public will come to know that the Respondent has no association with the Complainant, the Respondent has cunningly and surreptitiously masked its details in the Whols page. It is clear that that the respondent is from India and very well knows the huge reputation, fame and goodwill that the Complainant's mark TATA enjoys in India and therefore this is a classic case of dishonest adoption and domain squatting.



- (x) The Respondent's act of registering the impugned domain of which the Complainant's trade/service mark TATA forms a conspicuous part is an infringement of the Complainant's overwhelming common law and statutory rights as is vested in its registered and well known mark TATA. There can no plausible explanation for the use of the mark TATA by the Respondent as the said trade/service mark of the Complainant is an invented word.
- (xi) The Complainant states that the Respondent's act of registering the impugned domain name incorporating an identical mark as that of the Complainant's registered and well-known trademark TATA is a mala-fide attempt on its part to scam the innocent members of public and make illegal economic gains and profits by misusing and free riding on the unprecedented goodwill and reputation associated with the registered and well-known trademark TATA of the Complainant.
- (xii) The Complainant submits 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 Complainant from making a legitimate use of the same. It is further stated that the said act of the Respondent were motivated by its nefarious intention of coercing the Complainant to purchase the impugned domain from the Respondent at an exorbitant price. In other words, this is also a clear case of domain name squatting by the Respondent.

(xiii) In order to prevent cyber squatting 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 trademark TATA falls within the category of 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 Complainant has become a well known trademark, enabling the Complainant to restrain others from using the same in any manner whatsoever including its registration in domain names.

(xiv) Hence, in view of the above submissions, the Complainant has asserted that the impugned domain name of the Respondent 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.

b) The Respondent has no rights or legitimate interest in the domain name.

Under this head the Complainant has made following submissions in the Complaint:-

(i) It is the Complainant's contention that the Respondent has no rights or legitimate interest in the disputed domain name for the following reasons:

- The Complainant has overwhelming common law and statutory rights in the trade/service mark 'TATA' as well as in various TATA formative marks. The Complainant being the sole legitimate owner of

the said marks is solely entitled to use the same in relation to its products and services including the incorporation of the said mark as a conspicuous part of domains used to describe the activities of the Complainant, its group companies, subsidiaries and the companies promoted by it. The Complainant has not in any way authorized, licensed, or otherwise permitted the Respondent to use its well-known trade/service mark TATA or to apply for any domain name incorporating its trade/service mark in full.

- The Respondent's registration of the impugned domain name is not bona fide since they are misrepresenting its association with the Complainant and other TATA Group companies dealing in construction and housing activities in order to cause initial interest, confusion and bait internet users into accessing its website and invest money in the respondent's fake projects. The Complainant has no control over the nefarious and illegal activities of the Respondent and will be accused in case some customer is cheated by the Respondent or by his aides and the same will also result in the dilution and tarnishment of its well-known trademark 'TATA'.
- The Respondent has also copied the Complainant's registered copyrights in its entirety and incorporated the same on the impugned

domain name with a view to impersonate as the Complainant and to dupe unwary general public.

- The Respondent's act of registering and commercially exploiting the impugned domain name for scamming unsuspecting members of society is a manifestation of his ulterior motive to cause confusion amongst consumers as regards their association with the Complainant and its subsidiary to scam the innocent public into making them invest their hard-earned money in the Respondent's fake projects.
- There can be no plausible explanation for the registration and use of the impugned domain name by the Respondent as the trade/service mark TATA of the Complainant is exclusively used by the Complainant, its group companies, its subsidiaries and the companies promoted by it as regards the products and services offered by them. The Complainant further reiterates as stated hereinabove that the Complainant, its group companies, its subsidiaries and the companies promoted by it are the owners of various domain names comprising of the its trade/service mark TATA.

It is therefore case of the Complainant that in view of above averments and factors, the Respondent has no rights or legitimate interest in the disputed domain name.



- c) **The domain name was registered and is being used in bad faith.**

To comply with and prove this mandatory requirement, the Complainant has submitted in the Complaint as follows:-

- i) The Respondent had constructive notice of the Complainant's rights in the trade/service mark TATA by virtue of the Complainant's widespread reputation, use and registrations of the said trade/ service mark. While referring to various decisions annexed as Annexure AAF, AAG, the Complainant has further submitted that:

- Respondent should have known of a Complainant's trademark if it is shown to be well-known or in wide use on the Internet or otherwise and;
- Such knowledge of the Respondent is an indicator of the bad faith of the Respondent in registering the disputed domain name.
- The Respondent has deliberately acquired a confusingly similar name in which the Complainant has substantial interest being its registered trade/service mark. The said fact is concretized by the misrepresentation of association publicized by the Respondent on their website by falsely stating that are coming up with housing projects called TATA HOUSING.
- The Respondent has not only copied and unauthorisedly used the Complainant's well-known trademark TATA as part of the impugned domain, but also copied the Complainant's registered copyrights to the T within a circle device / logo in its

entirety and incorporated the same on the impugned domain name with a view to impersonate as the Complainant and to dupe unwary general public.

- ii) The Respondent was clearly aware of the commercial value and significance of the various domains owned by the Complainant of which the word 'TATA' forms a conspicuous part. It is for the exact same reason why the Respondent grabbed the impugned domain name. The registration of the disputed domain name bearing the registered trade/service mark of the Complainant is nothing but an opportunistic bad faith registration on the part of the Respondent.
- iii) The Complainant submits that the Respondent being an Indian entity/person (as seen from the whois page) was clearly aware, prior to its registration of the impugned domain, that there was substantial reputation and goodwill associated with the Complainant's trademark and/or service mark, which inures to the benefit of the Complainant.
- iv) To reiterate the pleadings of the preceding paragraph, the impugned domain name incorporates the Complainant's well-known and famous mark 'TATA' in entirety. It is evident that the Respondent can have no rights or legitimate interest in the disputed domain name and the sole purpose of him having adopted the Complainant's well-known and famous mark 'TATA' was to misappropriate the same along with the goodwill and

reputation accruing to it, and to dupe the public into paying them money for illegal gains and profits.

v) The Complainant has further mentioned the following facts which according to the Complainant very clearly illustrate as to how the instant case is a classic case of registration of the domain names in bad faith:

- (a) First of all, the Respondent uses the Complainant's registered and well-known trademark TATA as part of the impugned domain name in which the Complainant has immense common law and statutory rights. The said acts of the Respondent therefore amount to an infringement of the Complainant's rights as are vested in the trade/service mark TATA.
- (b) Secondly, the Respondent is well aware of the insurmountable reputation and goodwill associated with the Complainant's trade/service mark TATA, which inures and continues to inure to the Complainant.
- (c) Thirdly, respondent knows that the Complainant and its group companies such as TATA HOUSING DEVELOPMENT COMPANY LIMITED and TATA VALUE HOMES LIMITED are one of the fastest growing real estate development companies in India. The respondent has mentioned fake TATA HOUSING projects on the website on the impugned domain with a view to defraud people and extract money from the innocent public by

promising them real estate projects by impersonating as the Complainant / TATA Group.

- (d) Fourthly, the registration of the impugned domain name by the Respondent is not bona fide since the Respondent is trading on the fame and recognition of the Complainant's well-known trademark TATA in order to cause initial interest, confusion, and bait internet users and scam them into paying money, thereby making illegal gains and profits. The Respondent has been portraying to the unwary and gullible public that they are associated with the Complainant inducing them to part with their hard earned money. The said acts of the Respondent thereby are motivated by the ill intent to pass off his actions as those emanating from the Complainant.
- (e) Lastly, the Complainant has no control over the nefarious and illegal activities as is being carried out by the Respondent through the impugned domain name < and will be held accountable for the same. The said activities of the Respondent will diminish the strength and the distinctive value of the trade/service mark TATA resulting in its dilution and tarnishment.
- vi) Further according to the Complainant, the Respondent, by creating the impugned domain name has blocked the Complainant of their legitimate right of registering a domain name that incorporates its well-known trademark / service mark / personal name. Such acts of the Respondent amount to domain name squatting. The

Complainant states that the Respondent is not making a legitimate, non-commercial or fair use of the disputed domain name and has registered the same with a mala-fide intent of scamming the innocent and unwary public into paying them money.

vii) The Complainant has further submitted that general proposition that the registration of a domain name incorporating a well-known trademark of the Complainant is in bad faith has been upheld by numerous UDRP decisions. The Complainant placed reliance on some notable decisions and the same are annexed as Annexure AAH to AAJ with the Complaint, 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.

viii) In addition to above, according to the Complainant, in every likelihood, actual or potential visitors to the website parked on the impugned domain name will be induced to believe:

- a) That the Complainant has authorised, endorsed or licensed the use of its trade/ service mark 'TATA' and TATA HOUSING by the Respondent including the registration of the impugned domain name
- b) That the Respondent has some connection with the Complainant in terms of a direct nexus or affiliation with the TATA Group or has been authorized by the Complainant to carry out their activities of dealing in housing and other construction projects through the impugned domain name.

In view of above the Complainant submitted that the disputed domain name has been registered and is being used in bad faith.

9. Paras 13, 14 and 15 of the Complaint mentioned the Remedy sought by the Complainant as well as other legal proceedings filed by the Complainant and also the certification as required under the relevant rules of INDRP Rules of Procedure. Though, the Complainant has mentioned Rule 3 (b) (vii), (viii) and (ix) but the applicable rule relates to pleading is Rule 4 of the INDRP Rules of Procedure. Nevertheless compliance has been done.

10. RESPONSE/ DEFENSE TAKEN BY THE RESPONDENT

As already stated despite availing more than sufficient time, Respondent has failed to submit any response/defense, therefore, the present case is decided ex-parte on the basis of the averments made in the complaint supported by documents which have gone unchallenged and unrebutted and also settled dictum of law as mentioned in the Complaint which in the opinion of the undersigned are applicable to the facts of the present case.

11. DISCUSSIONS AND FINDINGS

As in the present case, the Respondent has failed to submit any reply/response to the Complaint filed by the Complainant, therefore, the averments as well as contentions and documents annexed with the Complaint have gone unrebutted and unchallenged. However, it is well settled law that even in a case where the Defendant/Respondent chooses not to contest even then the Appellant/Plaintiff/Complainant is required to prove its case with

cogent and reliable evidence. In the present case, the Complainant has been able to sufficiently prove its absolute ownership and complete authorization in respect of trademark "TATA" and its variations established worldwide. The Complainant has also been able to prove 3 ingredients of the policy and it has been established that: a) *The disputed domain name is confusingly similar to the trademark in which Complainant has right, and b) The respondent has no rights or legitimate interest in the domain name, and c) The respondent's domain name has been registered and is being used in bad faith.* The decisions cited by the Complainant are also applicable to the facts of the case.

12. **CONCLUSION:**

As evident from the findings above, since, the Complainant has proven its case as required under the INDRP Dispute Resolution Policy, therefore, the Complaint is allowed and the following award is being passed in favour of the complainant and against the Respondent.

13. **AWARD:**

In view of above, it is awarded that the disputed domain name <WWW.TATADEVELOPERS.IN> be transferred to the complainant. Accordingly, the registry is directed to transfer the said domain name in favour of the Complainant. It is further ordered that the Respondent is barred from using the mark <WWW.TATADEVELOPERS.IN> and therefore, shall immediately be ceased to use the said domain name in any manner whatsoever.

14. **COST:**

In view of the facts and circumstances of the Complaint fully detailed in the Award, the cost of the proceedings are also awarded in favour of the Complainant and against the Respondent.



(Sajal Koser)
Arbitrator
12.02.2024