

Bond



**Indian-Non Judicial Stamp  
Haryana Government**



Date : 08/08/2016

Certificate No. G0H2016H5844



Stamp Duty Paid : ₹ 100

(Rs. Hundred Only)

GRN No. 20222722



Penalty : ₹ 0

(Rs. Zero Only)

**Seller Detail**

Name : C A Brijesh

H.No/Floor : Na

Sector/Ward : Na

Landmark : Sec27

City/Village : Gurgaon

District : Gurgaon

State : Haryana

Phone : 9810295016



Purpose : AWARD

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**BEFORE THE SOLE ARBITRATOR C.A. BRIJESH  
.IN REGISTRY  
C/o NIXI (NATIONAL INTERNET EXCHANGE OF INDIA)  
NEW DELHI, INDIA**

**SYSTRA**

72, rue Henry Farman 75015

Paris

**FRANCE**

**..Complainant**

**Versus**

**Prerak Hora**

Lex Mantis

D 4 B Wing 4<sup>th</sup> Floor Barodawal

81 Dr. Annie Besant Road, Worli

Mumbai - 400018

**MAHARASHTRA**

Email: [prerak@lexmantis.com](mailto:prerak@lexmantis.com)

**..Respondent**

**1. The Parties**

The Complainant is SYSTRA of 72 rue Henry Farman 75015, Paris, France through its Authorised Representative CHADHA & CHADHA, F-46 Himalaya House, 23 KG Road, Delhi-110001, India.

The Respondent is Mr. Prerak Hora of Lex Mantis, D 4 B Wing 4<sup>th</sup> Floor Barodawal, 81 Dr. Annie Besant Road Worli, Mumbai – 400018, Maharashtra.

**2. The Domain Name and Registrar**

The disputed domain name is <www.systra.co.in>. The Registrar with which the said domain name is registered is 'India Links Web Hosting Pvt Ltd.'

**3. Procedural Timeline**

**June 08, 2016 :** The .IN Registry appointed C.A. Brijesh as Sole Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of Procedure.

**June 08, 2016 :** Arbitrator accorded his consent for nomination as Arbitrator and submitted Statement of Acceptance and Declaration of Impartiality and Independence to the .IN Registry.

**June 10, 2016 :** Parties to the dispute are informed of the constitution of the Arbitration panel and the effective date of handover.

**June 10, 2016 :** An email was sent by NIXI to the Respondent forwarding a soft copy of the Complaint with annexure as an attachment to the email. A hard copy of the Complaint with annexure was also sent by courier to the Respondent on his address as mentioned in the WHOIS details.

**June 13, 2016 :** The Tribunal addressed a notice to the parties through email, with a copy marked to NIXI, granting the Respondent 10 days time to file its response to the Complaint.

**June 13, 2016 :** The Tribunal received an email from the Respondent stating that they are reviewing the Complaint and upon seeking instructions from its client, Mr. Hiren Dedhia, on

whose behalf the impugned domain has been filed by them, shall revert within the stipulated time.

**June 16, 2016 :** The Tribunal received an email from the Respondent stating that its client does not wish to pursue the arbitration matter and is willing to transfer the impugned domain name to SYSTRA.

**June 17, 2016 :** The Tribunal addressed an email to the Complainant and the Respondent marking a copy to NIXI taking cognizance of the Respondent's email of June 16, 2016 and intimated the parties that an award shall be passed on the basis of Respondent's emails and the material available on record.

The language of the proceedings shall be English.

#### **4. Contentions of Parties as summarised in the pleadings**

##### **4.1 Complainant**

a) **The domain name is identical or confusingly similar to a trade mark of the Complainant in which Complainant has statutory and/or common law rights.**

- i. Complainant submits that the disputed domain name incorporates its well-known, prior used mark SYSTRA and prior registered domain name www.systra.com since the year 1996. The Complainant states that it has not licensed or otherwise authorized or given consent to the Respondent to use/utilize or commercially exploit the Complainant's registered and well-known trade mark in any manner.
- ii. It has further been alleged by the Complainant that the disputed domain name is identical with the Complainant's corporate name and trade mark. The Complainant has filed trade mark application in India seeking registration of the mark SYSTRA on May 11, 2015. Internationally, the



said mark appears to have been applied for/registered since the year 2012.

- iii. The Complainant submits that in addition to loss and damage, the conduct of the Respondent would also result in confusion and deception amongst the members of trade and public. The web users are likely to visit the Respondent's website assuming it to be sourced, sponsored, affiliated, approved, authorized or endorsed by the Complainant. The trade and public may also assume that there exists a connection between the Complainant and the Respondent which is likely to further harm the reputation enjoyed by the Complainant.

**b) The Respondent has no legitimate interest in respect of the domain name**

- i. Complainant has alleged that the Respondent is not and has never been known by the name SYSTRA or by any similar name. The Respondent has no active business in the name of SYSTRA.
- ii. Further, the Complainant has asserted that its trademark SYSTRA has been registered and is widely known long before registration of the impugned domain name by the Respondent. It has further been asserted that the Respondent's website is inactive which confirms that the Respondent does not intend to use the domain name legally or with a bona fide intention.

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

- i. It is claimed by the Complainant that it is the prior user of the mark/name SYSTRA and prior owner of domain name www.systra.com which is registered in the name of the Complainant since 1996. The registration of the impugned domain www.systra.co.in dated March 16, 2016 is much later to that of the Complainant and is with an intention to take advantage of Complainant's substantial reputation and its prominent presence on the internet in order to confuse the public by creating an impression of





authorization from Complainant, divert business as well as tarnish the reputation and good will of the Complainant.

- ii. The Complainant claims that the mark SYSTRA is the main distinctive component of the Complainant's trade mark, company name and domain name and is highly distinctive in nature, particularly in relation to services offered by the Complainant. Therefore, the Complainant alleges that there cannot be any explanation for adoption of an identical mark/domain name by the Respondent.
- iii. The Complainant further alleges that the Respondent is not carrying out any legitimate business activities through the impugned domain name and its registration is aimed at diverting internet traffic. The Complainant submits that the adoption and use of a domain name by the Respondent identical to the trade mark/name/domain name of the Complainant cannot be a co-incidence and is thus, in bad faith.

#### **4.2 Respondent**

On June 13, 2016, the Respondent vide his email stated that he is reviewing the Complaint and upon seeking instructions from his client, Mr. Hiren Dedhia, on whose behalf the impugned domain has been filed, shall revert within the stipulated time. Thereafter, on June 16, 2016, an email was received from the Respondent stating his willingness to transfer the disputed domain name [www.systra.co.in](http://www.systra.co.in) to the Complainant i.e. SYSTRA.

#### **5. Award**

Since the Respondent has agreed and consented to transfer the disputed domain name <www.systra.co.in> to the Complainant, this Arbitral Tribunal is of the view that there is no need to verify and assess the facts supporting the claim and/or delve into the merits of the case. In this regard, this Tribunal relies on *Amgen Inc. v. Texas International Property Associates* wherein it was held that '*given Respondent's consent to transfer, this Panel deems it appropriate to grant the request to transfer. No further consideration or discussion or the elements of the Policy is deemed necessary*'.

Thus, this Arbitral Tribunal directs the disputed domain name <www.systra.co.in> be immediately transferred to the Complainant.

The parties shall bear their own cost.

**Dated:** August 8, 2016



**C.A. Brijesh**  
Sole Arbitrator