



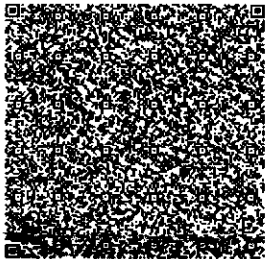
सत्यमेव जयते

# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

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Certificate Issued Date : 06-Mar-2014 11:58 AM  
Account Reference : IMPACC (IV)/ dl776103/ DELHI/ DL-DLH  
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Purchased by : NIKILESH RAMACHANDRAN  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : NIKILESH RAMACHANDRAN  
Second Party : Not Applicable  
Stamp Duty Paid By : NIKILESH RAMACHANDRAN  
Stamp Duty Amount(Rs.) : 100  
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ARBITRATION CASE NO.2OF 2014

**IN THE ARBITRATION MATTER OF:-**

M/S TATA MOTORS LIMITED

COMPLAINANT

VERSUS

MR. LIU JIAPENG

RESPONDENT

**Statutory Alert:**

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## **AWARD**

The present dispute relates to the registration of the dispute domain name <www.tatanano.in> in favour of the respondent.

The Complainant has filed the instant complaint challenging the registration of the disputed domain name <www.tatanano.in> in favour of the Respondent. In pursuance to Rule 3 of the In Domain Name Dispute Resolution Policy (INDRP) and the rules framed there under, the Complainant had preferred this arbitration for raising this dispute for redressal of its grievances.

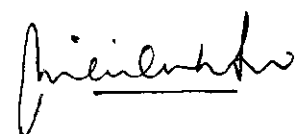
The complainant states that it belongs to the well known Tata Group of Companies consisting of over 100 operating companies in seven business sectors: communications and technology, engineering, materials, services, energy, consumer product and chemicals. The group has operations in more than 80 countries across six continents, and its companies export products and services to 85 countries.

The complainant has stated 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. The mark "TATA" is not only the trademark of the Complainant but is also a dominant and prominent part of its trading style, brand name and corporate name.

The complainant states that on or about January 2008, the complainant unveiled its People's Car i.e. "TATA NANO" as the lowest priced car in the world. The complainant further states that the trademark "TATA NANO" was first used in the year 2008 when it started promoting its world's passengers cheapest car in India

The complainant had shown registration with regard to said mark "TATA NANO" in class 12 bearing no. 1634663 and 1634700 and the status shown is registered. The complainant has also relied upon various trademark registrations around the world.

That the complainant has contended that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the



complainant has rights as the trademark "TATA NANO" has acquired statutory right and Common law rights, the complainant has shown registration of the said mark in India as well as abroad.

That the complainant has also urged that the respondent has no rights, claims or legitimate interests in respect of the disputed domain name as the complainant had already established considerable reputation in the trademark "TATA NANO" and had been actively using the websites tata-nano.com, tatanano-car.com and tatananocars.com.

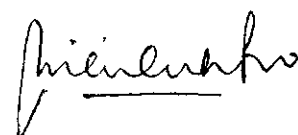
The complainant has averred that the dispute domain name was registered and is being used in bad faith. The complainant has stated that the purpose and intent of the Respondent in adopting the domain name 'www.tatanano.in' is to en-cash on the name, fame, reputation and image and goodwill of the Complainant.

On the basis of the aforesaid averments and contentions on behalf of the complainant, the complainant has sought remedy that the domain name <www.tatanano.in > may be transferred to the Complainant.

I entered upon reference regarding the instant dispute on 21.01.2014 and a notice dated 29.01.2014 was sent to the respondent calling upon for a response to the complaint filed by the complainant. However the respondent after being given ample opportunity to file a reply/ response to the aforesaid complaint failed to do so. Accordingly, the respondent is proceeded ex-parte.

I have perused the records and have gone through the contents of the complaint. Although there has been no reply on behalf of the respondent to the complaint, I shall deal with the complaint on the basis of its merits.

Firstly I shall deal with the ground regarding the rights of the complainant vis-à-vis that of respondent's over the disputed domain name <www.tatanano.in>. The trademark <TATA NANO> is a reputed trademark and is used worldwide by the complainant. The complainant has shown its various trademark registration details in India as well as abroad. The complainant has filed various documents regarding

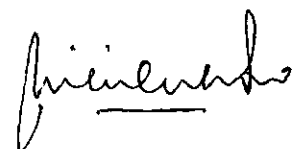


registration of the trademark <TATA NANO> and the trademarks registered by it under class 12.

Since the respondent has failed to file any response to the complaint or appear in the proceedings before me to present his case. Hence the averments made by the complaint and the documents filed as evidence are left un-rebutted.

I have carefully considered the averments and perused the records filed by the complainant. I am of the view that that respondent has no legitimate right over the mark "TATA NANO". From the averments of the complaint it is amply clear that the trademark adopted in the year 2008 by the complainant is in its entirety part of disputed domain name i.e. <www.tatanano.in>. Hence the respondent's action to register the said domain name is not bonafide as he has no right over the mark "<TATA NANO>."

Secondly, the respondent has stated that the disputed domain name is identical to the trademark in which the complainant has prior rights. The complainant has shown registration of trademark "TATA NANO" in India as well as abroad. It was held in **Satyam Infoway Ltd. V. Sifynet Solutions Pvt. Ltd. [AIR 2004 SC 3540]** that "the use of identical or similar domain name may lead to diversion of users which would result from such users mistakenly accessing one domain name instead of another. This may occur in e-commerce with its rapid progress and instant (and theoretically limitless) accessibility to users and potential customers and particularly so in areas of specific overlap. Ordinary consumers/users seeking to locate the functions available under one domain name may be confused if they accidentally arrived at a different web site with an identical name which offers no such services. Such users could well conclude that the first domain name owner had misrepresented its goods or services through its promotional activities and the first domain owner thereby lose their customers." **It was also held in Yahoo! Inc Vs. AkashArora&ANR[78(1999) Delhi LawTimes 285]** that the act of registering a domain name similar to or identical with or famous trade mark is an act of unfair competition wherby the domain name registrant takes unfair advantage of the fame of the mark to either increase traffic to domain, or to seize a potential asset of the trademark owner in the hope that the trademark owner will pay the



requirement to relinquish the domain name. Therefore I am of the view that the respondent is using the trademark of complainant which is identical to the trademark and liable to confuse the public. Hence the use of the disputed domain name by the respondent cannot be treated as a fair one.

Thirdly, the respondent has acted in bad faith in respect of domain name as the trademark of the complainant is reputed one and has been using his trademark worldwide. In **Adidas-Saloman AG V. Domain locations** bearing Case No. D. 2003 0489, it was held that, "the registration of a well known trademark of which the respondent must reasonably have been aware of is in itself sufficient to amount to bad faith". I am of the view that respondent's action suggest that the registration of the domain name has been done by him in bad faith as the use of domain name by the respondent will cause substantial harm to complainant.

Considering the facts and circumstances of the present case and in view of the precedents in this context, I hold that the complainant has proprietary right over the trademark "TATA NANO". Thus under the facts and circumstances of the present case and on perusal of the records filed by the complainant, I deem it fit and proper to allow the prayer of the complainant in its favour and direct the registry to transfer the said domain name i.e. <www.tatanano.in> in favour of the complainant.

Parties to bear their own costs.

Date:-15.03.2014



(NIKILESH RAMACHANDRAN)

ARBITRATOR