

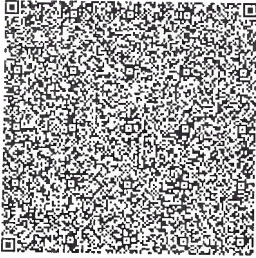
सत्यमेव जयते

## INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

### e-Stamp

Certificate No. : IN-DL88573639517823Q  
Certificate Issued Date : 15-Feb-2018 12:41 PM  
Account Reference : IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH  
Unique Doc. Reference : SUBIN-DL.DLSHIMP1780423068343921Q  
Purchased by : JAYANT KUMAR  
Description of Document : Article Others  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : JAYANT KUMAR  
Second Party : Not Applicable  
Stamp Duty Paid By : JAYANT KUMAR  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



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

BEFORE THE NATIONAL INTERNET

EXCHANGE OF INDIA

*[Signature]*

**Statutory Alert:**

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate
3. In case of any discrepancy please inform the Competent Authority.

IN THE MATTER BETWEEN

Tata Motors Limited

Complainant

v.

Vikram Sharma

Respondent

**ARBITRATION AWARD**

1. The Complainant is Tata Motors Limited, having its address at One Indiabulls Centre, Tower 2A, 14<sup>th</sup> Floor, 841 Senapati Bapat Marg, Elphinstone Road, Mumbai 400013.
2. The Arbitration pertains to the disputed domain name <tatamotors.net.in>, registered on January 18, 2017. The registrar for the disputed domain name is Godaddy.com.
3. The sole arbitrator appointed in this complaint by NIXI is Jayant Kumar. The Arbitrator submitted the Statement of Acceptance and Declaration of Impartiality and Independence to NIXI on December 5, 2017.
4. An electronic copy of the complaint along with annexures was served upon the Respondent by NIXI on December 18, 2017. The Respondent was then directed by the Arbitrator vide email dated December 19, 2017 to file their Reply, if any, by January 9, 2018.
5. On December 26, 2017, the Arbitrator was informed by NIXI that a physical copy of the complaint could not be served upon the Respondent by post since the courier could not be delivered on the address given by the Respondent in WhoIs details as the consignment was returned by the courier agency with the remark "no such person/company at given address".

6. No other address of the Respondent was available in the record and since it is the responsibility of a registrant to provide correct and accurate address in its WhoIs details, a physical copy of the complaint could not be served upon it. In the circumstances, service through email has been considered sufficient.
7. The Respondent did not file its Reply to the Complaint by January 9, 2018. The Respondent was thereafter granted a final opportunity vide email dated January 9, 2018 to file its Reply by January 16, 2018.
8. The Respondent did not file its Reply by January 16, 2018 and is therefore proceeded *ex-parte*.

#### **Complainant's Submissions**

9. The Complainant made following submissions:
  - a. It owns rights in the mark TATA MOTORS and the same also forms a dominant part of its corporate name since the year 1945;
  - b. The domain name in question is identical to the Complainant's well-known trade mark TATAMOTORS;
  - c. The Respondent has no claims, rights or legitimate interests in respect of the disputed domain name;
  - d. The disputed domain name has been registered and is being used by the Respondent in bad faith;
  - e. The Respondent has adopted and registered the disputed domain name, which is identical to the trademark and/or corporate name of the Complainant, thereby wrongfully, illegally trading upon the reputation of the Complainant.



## Discussion and Finding

10. Under the .IN Policy, the registrant of the domain name is required to submit to a mandatory arbitration proceeding in the event that a complaint is filed in the .IN Registry, in compliance with the .IN Policy and the INDRP Rules. The .IN Policy, Paragraph 4 requires the Complainant, to establish the following three elements:

- a. The domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
- b. The Respondent has no rights or legitimate interests in respect of the domain name; and
- c. The Respondent's domain name has been registered and is being used in bad faith.

11. The Complainant is among top five commercial vehicle manufactures, in the world. It is the India's market leader in commercial vehicles. It began commercial vehicles in 1954 with a 15-year collaboration agreement with Daimler Benz of Germany. The Complainant has filed documents pertaining to advertisement of the mark TATAMOTORS in India. The official website of the Complainant is <tatamotors.com>. The Complainant also holds trademark Registration No. 299110 in class 12 for the mark TATA and Registration No. 1241123 in class 12 for the mark TATAMOTORS. It also holds various country level domain names featuring the mark TATAMOTORS.

12. The Arbitrator finds that the Complainant has submitted sufficient documentary evidence to establish its rights in the mark TATAMOTORS. The disputed domain name incorporates the mark TATAMOTORS in entirety and hence, the disputed domain name is held to be confusingly similar with the Complainant's mark.

13. Paragraph 7 of the Policy states a Respondent's or a registrant's rights can be found from the material on record, if (i) before notice of the dispute, the

registrant had used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services or (ii) the registrant (as an individual, business organization) has been commonly known by the domain name, or (iii) the registrant is making legitimate, non-commercial or fair use of the domain name without intent for commercial gain. The Respondent has not filed any evidence on record to show that the Respondent has made preparations to use the disputed domain name for a bona fide offering of goods or services or that the Respondent has been commonly known by the disputed domain name or makes legitimate non-commercial fair use of the website linked to the disputed domain name.

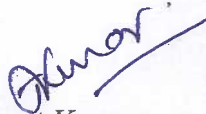
14. The Respondent does not appear to have any connection with the mark TATAMOTORS. The Complainant has rightly submitted that the Respondent is not making a legitimate or fair use of the disputed domain name for offering goods or services and has rather placed the said domain name on sale to extract unfair profits from such sale proceeds. Based on the above, the Arbitrator finds that the Respondent has no rights or legitimate interests in the disputed domain name.

15. The Respondent has not made any bonafide use of the domain name or any website that connects with the domain name, and has placed a forwarder to the Complainant's website [www.tatamotors.com](http://www.tatamotors.com). A user attempting to visit [www.tatamotors.net.in](http://www.tatamotors.net.in) is being redirected to the Complainant's website [www.tatamotors.com](http://www.tatamotors.com). It is the case of the Complainant that it has never permitted the Respondent to create the disputed domain name and then to place a forwarder thereat to the Complainant's website. In these circumstances, it is evident that the disputed domain name was registered and is being used in bad faith by the Respondent.



**Decision**

16. In light of the aforesaid discussion and findings, the Arbitrator directs that the disputed domain name <tatamotors.net.in> be transferred to the Complainant.



Jayant Kumar  
(Sole Arbitrator)

Dated: February 10, 2018