

ADMINISTRATIVE PANEL DECISION

Tata Motors Limited v. Digit Pulp Digital
Case No. D2023-4354

1. The Parties

The Complainant is Tata Motors Limited, India, represented by DePenning & DePenning, India.

The Respondent is Digit Pulp Digital, Bangladesh.

2. The Domain Name and Registrar

The disputed domain name <newtatamotorsbangladesh.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 20, 2023. On October 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 23, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on October 25, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2023. The Respondent sent an informal email communication to the Center on November 14, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on November 21, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, formerly known as Tata Engineering and Locomotive Company, began manufacturing commercial vehicles in 1954. Today it is India's largest automobile company. The Complainant is among the top five commercial vehicle manufacturers in the world. It has franchisee/joint venture assembly operations in different countries, among them Bangladesh, where the Respondent is located.

The Complainant owns numerous trademark registrations around the world containing TATA and TATA MOTORS, such as Bangladesh trademark registration number 15303 (registered on November 16, 2016) and Indian trademark registration number 1241123 (registered on October 10, 2013). The Complainant's trademark rights have been recognized in a previous WIPO UDRP decision (WIPO Case No. [D2017-1739](#)). The Complainant is registrant of numerous domain names, for example <tatamotors.com.au> and <tatamotors.com.bd>.

The Domain Name was registered on August 7, 2023. The Domain Name has resolved to a website that sells two wheelers in the name of Tata Motors without authorization from the Complainant. At the time of drafting the Decision, the Domain Name resolved to an error page.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Name is confusingly similar to its trademark in which the Complainant has both registered rights and common law rights, including in Bangladesh where the Respondent is located.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. There could be no plausible explanation for the registration of the Domain Name by the Respondent other than to misappropriate the reputation of the Complainant's trademark. The Respondent has registered the Domain Name to divert traffic from the Complainant's websites.

The Complainant argues among other that Respondent must have had knowledge of the Complainant when the Respondent registered the Domain Name. The Respondent's use of the Domain Name suggests opportunistic bad faith. The Respondent's website has been active selling sells two wheelers in the name of Tata Motors without authorization. It causes misrepresentation of association with the Complainant and damages the reputation of the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established that it has rights in the trademark TATA MOTORS. The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's

trademark and the Domain Name. The Complainant's trademark is recognizable within the Domain Name. The Domain Name adds "new" before and the geographical term "bangladesh" after the trademark. The additions do not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.8. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD") ".com"; see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name. While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name. Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. Rather, the Respondent's use of the Domain Name is evidence of bad faith and as such cannot confer rights or legitimate interests upon the Respondent per section 2.13 of the [WIPO Overview 3.0](#).

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Domain Name was registered after the Complainant's trademarks. Based on the fame of the Complainant's trademark and the use the Domain Name, it is likely that the Respondent had knowledge of the Complainant and its trademark when the Respondent registered the Domain Name. Moreover, the Domain Name has been used in bad faith. The Respondent has tried to impersonate the Complainant to attract Internet users by creating a likelihood of confusion with the Complainant's trademark.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy.

The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <newtatamotorsbangladesh.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: November 29, 2023