

ADMINISTRATIVE PANEL DECISION

Tata Sons Pvt. Ltd. and Tata Play Broadband Private Limited v. Harry Hairy Case No. D2023-0914

1. The Parties

The Complainants are Tata Sons Pvt. Ltd., India, (the “Complainant No. 1”) and Tata Play Broadband Private Limited, India, (the “Complainant No. 2”) represented by Anand & Anand, India.

The Respondent is Harry Hairy, India.

2. The Domain Name and Registrar

The disputed domain name <tataplayfiber.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 1, 2023. On March 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 1, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on March 2, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed amended Complaints on March 4, 2023, and on March 9, 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 March 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 3, 2023.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on April 6, 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant No. 1 was established in the year 1917 as a body corporate. The Complainant No. 1 has trademark registrations for the word TATA and various permutations and combinations in over 100 countries, including in India and the United States of America ("United States"). The Complainant No. 1 is the owner of the trademarks for TATA and TATA PLAY, including the United States Trademark for TATA Registration No. 789432 registered on May 11, 1965, and more than 45 domain names, which contain the word and trademark TATA as a prominent part thereof, including <tata.com>, <tataplayfiber.co.in>, and <tataplay.com>.

The Complainant No. 2 formerly known as Tata Sky Broadband Private Limited, is an indirect subsidiary of the Complainant No. 1. The Complainant No. 2 was established in the year 2015 and has been authorized by the Complainant No. 1 to use the registered and well-known trademark and word mark TATA as well TATA PLAY by virtue of a license agreement.

The Respondent registered the disputed domain name on November 24, 2021. The disputed domain name resolves to a registrar parking page where some pay-per-click advertisements are shown pertaining to the Complainants and their Internet and other services under the mark TATA.

5. Parties' Contentions

A. Complainant

The Complainant No. 1 claims to be India's oldest, largest, and best-known business conglomerate and that its trademark TATA has become a household name in India. The Complainant No. 2 is an authorized licensee of the registered trademarks TATA as well TATA PLAY by virtue of a license agreement. The Complainant No. 1 is the promoter and principal investment holding company of the House of TATA, with a turnover of about USD 128 billion in 2021 and 2022. The name and trademark TATA is patronymic name, derived from the surname of its founder, Mr. Jamsetji Nusserwanji Tata. The Complainant No. 1 claims to have been continuously and consistently using the trademark and trade name TATA since 1868.

The Complainants have submitted their list of trademark registrations, domain name registrations, case precedents and other documents supporting their claims of continuous use, common law rights, global presence, wide Internet presence and the renown.

As a result of the continuous and extensive use of the Complainants' registered trademarks TATA and TATA PLAY over a long period of time spanning a wide geographical area coupled with extensive promotion and publicity, the said trademarks, claim the Complainants, enjoy an unparalleled reputation and goodwill, and have acquired the status of a well-known trademarks globally.

The Complainants contends that the Respondent has unauthorizedly, intentionally with malafides registered the disputed domain name and misappropriated illegally and without authority, the trademarks TATA and TATA PLAY. They also claim that the Respondent was aware of the reputed brand TATA and the fact that the Complainants own and operate their business through their websites "www.tata.com" and "www.tataplayfiber.co.in".

The Complainants have sought that the disputed domain name be transferred to the Complainant No. 1 on the grounds that:

- a) The disputed domain name is identical or confusingly similar to a trademark or service mark in which they have rights;
- b) The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- c) The disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

To transfer the disputed domain name from the Respondent, the Complainant must prove the following element as per Paragraph 4(a) of the Policy:

- (i) that the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Further, since the Respondent has not submitted its reply in the case at hand, this Panel finds it appropriate case to "decide the dispute based upon the complaint" as per paragraph 5(f), Rules, reads with paragraphs 14(a) and 14 (b) of the Rules.

Having considered the Complainants' case and the evidence available, the Panel finds as follows.

A. Identical or Confusingly Similar

The Complainants have established their rights in and to the trademarks TATA and TATA PLAY. In addition, the Complainants have submitted substantial evidence supporting their claims of the trademark TATA having acquired the status of a well-known trademark globally. The evidence includes, amongst many others, the decision in *Tata Sons Private Ltd. v. Registration Private, Domains By Proxy, LLC / Anirudh Sharma, company*, WIPO Case No. [D2019-1212](#), where the well-known status of the trademark TATA was recognized.

The disputed domain name incorporates the well-known trade and service mark TATA as well as the trademark TATA PLAY in their entirety. Per section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing".

The addition of the terms "play" and "fiber" does not prevent a finding of confusing similarity, per section 1.8 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainants' well-known trademark TATA as well as the trademark TATA PLAY and with that the Complainants have satisfied the elements required in Paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

As per section 2.1 of the [WIPO Overview 3.0](#), "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."

The Complainants here have *prima facie* established that the Respondent lacks rights or legitimate interest in the disputed domain name and in this relation, the Complainants have contended that:

- i) they are the legitimate owners of the trademarks TATA and TATA PLAY and have statutory, as well as common law rights therein;
- ii) they have not licensed or otherwise permitted the Respondent to use their registered and well-known trade and service marks TATA and TATA PLAY or to apply for any domain incorporating the same; and
- iii) the Respondent has no rights or legitimate interests in the disputed domain name and that it was registered solely with the motive to make unjust gains by depriving the Complainants of their legitimate rights of registering the disputed domain name.

The Respondent has not replied and failed to introduce evidence to rebut these contentions. The Panel finds that the Complainants have established the second element of the Paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent has registered the disputed domain name in bad faith. It is inconceivable that the Respondent, who resides in India, could not have known of the Complainants' well-known trademark TATA. In fact, and as contended by the Complainants, the disputed domain name was registered and is being used in bad faith also because of the following:

- i) the Respondent should have known of the Complainants' well-known trademark also because of its wide use on the Internet;
- ii) registering the disputed domain name despite such knowledge is an indicator of bad faith;
- iii) the Respondent had constructive notice of the Complainants' rights in the trademarks TATA and TATA PLAY by virtue of their widespread use and reputation worldwide and global registrations;
- iv) there is a great likelihood that actual or potential unwary visitors to the Respondent's present web page resolving on this disputed domain name, will be induced to:
 - a) believe that the Complainants have authorised or licensed the actions of the Respondent or authorized the Respondent to register the disputed domain name.
 - b) believe that the Respondent has some connection with the Complainants in terms of a direct nexus or affiliation with the TATA Group or has been authorized by the Complainants to carry out these activities.
 - c) believe that the said sale of the disputed domain name has been authorized by the Complainants.

The Panel has no hesitation in finding that the disputed domain name is registered by the Respondent in bad faith.

The Panel finds the Complainant has succeeded under the third element of Paragraph 4(a) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <tataplayfiber.com>, be transferred to the Complainant No.1.

/Meera Chature Sankhari/

Meera Chature Sankhari

Sole Panelist

Date: April 21, 2023