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BEFORE SMT. DEEPA GUPTA, SOLE ARBITRATOR OF  
**NATIONAL INTERNET EXCHANGE OF INDIA**  
.IN REGISTRY – NATIONAL INTERNET EXCHANGE OF INDIA  
.IN domain Name Dispute Resolution Policy and INDRP Rules of Procedure

**ARBITRATION AWARD**

DATED: 4<sup>th</sup> APRIL, 2012

In the matter of:

BOOZ ALLENS HAMILTONS INC.  
8283 Greensboro Drive McLean,  
Virginia 22102

..... Complainant

Vs

JACK SUN, Domain Jet Inc.  
Shu Yang Xian Su Quien,  
Jiong Su China 223611

..... Respondent

**1. THE PARTIES:**

The parties to domain name dispute are:

(a) Complainant firm is: BOOZ ALLEN HAMILTONS Inc. Is an MNC with registered office at 8283 Greensboro Drive McLean, Virginia 22102.

(b) Respondent firm is: JACK SUN, Domain Jet Inc. Shu Yang Xian Su Quien, Jiong Su China 223611. It is also a consulting firm but its details are sketchy. It has presence on internet with domain name of www.booz.co.in which is subject of dispute.





## 2. THE DOMAIN NAME IN DISPUTE, REGISTRAR AND POLICY

- i. The disputed domain name is www.booz.co.in registered with the .IN Registry through the A to Z Domains Solution Pvt. Ltd.
- ii. The registrar NIXI is at Incube Business Centre, 38 Nehru Place, New Delhi
- iii. The Arbitration Proceeding is conducted in accordance with the Arbitration and Conciliation Act of 1996 (India), the current .IN Domain Name Dispute Resolution Policy (the "INDRP Policy"), and the INDRP Rules of Procedure (the "Rules").
- iv. Paragraph 4 of the Policy and paragraph 3(b)(vi) of the Rules states:
  - (a) The Infringing Domain name is identical or confusing similar to a trademark or service mark in which complaint has rights,
  - (b) The respondent has no rights or legitimate interest in respect of Infringing Domain Name, and
  - (c) The Infringing Domain Name should be considered as having been registered and is being used in bad faith.

## 3. BRIEF BACKGROUND

- a) This Arbitral proceeding commenced in accordance with the .IN Dispute Resolution Policy (INDRP) and rules frame there under.
- b) Complainant submitted his complaint in the registry of NIXI
- c) Booz Allen, Complainant, claims rights in its registered trademark BOOZ ALLEN HAMILTON with domain names: www.booz.com, www.boozallen.com, www.boozallen.in. Complainant has provided list of trademarks which BOOZ & COMPNAY owns in different countries Annexure-B attached to the complaint. Complainant claims that having "co.in" is an extension in its registered trade mark, and is infringing his domain name and confusingly similar to the trademark held by the BOOZ & COMPANY. That complainant is using this trademark Booz Allen Hamilton since 1942. As per the complainant, it holds its presence on the internet through domain names like http://www.booz.com/, http://www.boozallen.com. Complainant claims that as per Trade mark Registry the Certification of Trade mark under Section 23(2), Rule 62(I) trade mark no. 383136, the BOOZ ALLEN & HAMILTON is registered in India on 18 August 2006.
- d) A Complaint has been filed with the National Internet Exchange of India disputing the validity of registration of the aforesaid domain name <booz.co.in>.
- e) The Exchange verified that the Complaint satisfied the formal requirements of the .IN Domain Name Dispute Resolution Policy (INDRP) (the "Policy") and the Rules framed thereunder.
- f) The Respondent has not responded to the Complaint.
- g) The issue to be resolved is that domain name www.booz.co.in is confusing similar to domain names of www.booz.com, www.boozallen.com, www.boozallen.in
- h) Ms. Deepa Gupta, has been appointed as the as the Sole Arbitrator to decide the disputed domain name.





#### **4. PARTIES CONTENTIONS:**

##### **A. COMPLAINANTS CONTENTIONS:**

**a) THAT INFRINGED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO A TRADEMARK OR SERVICE MARK IN WHICH BOOZ ALLEN , BOOZ & COMPANY HAS RIGHTS**

THAT It is a leading global strategy company with 23,000 employees working in six Continents. Since then Booz Allen has been using the mark BOOZ ALLEN HAMILTON. In 2008 Booz Allen's business was spun-off into Booz & Company, Inc.

THAT Since 2000, Booz Allen has maintained a significant internet presence through its web site at [www.boozallen.com](http://www.boozallen.com).

THAT Since 2008 Booz Allen, Booz & Company maintained internet presence through [www.booz.com](http://www.booz.com).

THAT Since 2005 Booz Allen has maintained internet presence through [www.boozallen.in](http://www.boozallen.in) providing information about Booz Allen and its services.

THAT Booz Allen owns subsisting trademark registrations in several countries including India, copies of records attached as Annex "B." Booz Allen owns federal trademark registrations. Copies of records are attached as Annex "C".

THAT before Respondent registered the < booz.co.in> domain name, BOOZ Allen referred its services by shortened form "BOOZ ALLEN". Similarly, Booz & Company referred to itself "BOOZ & CO". Business, press around the world, including several business magazines in India, commonly refer to Booz Allen and its licensee with nicknames "Booz & Co. "and/or "Booz," samples of media attached as Annex "E."

THAT Booz Allen has invested many millions of dollars in promoting the BOOZ ALLEN HAMILTON and BOOZ & COMPANY with extensive marketing efforts, substantial sales and the resulting success was that BOOZ ALLEN HAMILTON and BOOZ & COMPANY became famous and represent extraordinarily valuable goodwill associated with it and owned by Booz Allen. The fame and reputation symbolized by the BOOZ ALLEN HAMILTON and BOOZ & COMPANY developed through Booz Allen's extensive efforts to rigorously protect these marks. Booz Allen's BOOZ ALLEN HAMILTON and BOOZ & COMPANY marks are exceedingly well-known and famous, and recognized in India and around the world as an indication of products and services emanating from Booz Allen and its licensee, Booz & Company.

THAT because the infringed name consists of BOOZ together with the extension ".co.in," making it virtually identical to BOOZ & CO.





**b) THAT RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN THE INFRINGED DOMAIN NAME**

Booz Allen has not licensed or otherwise permitted Respondent to use the BOOZ ALLEN mark or to apply for or use any domain name incorporating or simulating these marks. Respondent is not commonly known by the Infringing Domain Name and has not acquired any trademark or service mark rights to use that name. Respondent has not applied for or obtained any trademark or service mark registrations of the Infringing Domain Name.

**c) RESPONDENT HAS REGISTERED AND IS USING THE INFRINGING DOMAIN NAME IN BAD FAITH**

Respondent registered the Infringing Domain Name intentionally to attract internet users to respondent's web page by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of respondent's website. Respondent has directed the Infringing Domain Name to a page that contains click through ads for other third-party firms. Respondent registered and uses the Infringing Domain Name to deliberately trade on Booz Allen's reputation and goodwill. Cementing its bad faith registration of the Infringing Domain Name, Respondent has offered to sell the Infringing Domain Name through the marketplace at [www.sedo.com](http://www.sedo.com). Complainant has attached as Annex "G". BOOZ ALLEN HAMILTON and BOOZ & COMPANY marks have a strong reputation and are widely known and famous throughout the world ;

Booz Allen submits that the Infringing Domain Name should be canceled and transferred to Booz Allen in accordance with Paragraph 4 of the Policy and Paragraph 3(b)(vi) of the Rules

**B. Respondents Contentions**

Not responded at all.

**5. OPINION:**

- 1. Issue:**
- A) to obtain relief under the dispute resolution policy and the rules framed by the .IN registry the complainant is bound to prove each of the following :
1. Manner in which the domain name in question is identical or confusingly similar to a trademark or service mark in which the complainant has rights.
  2. Why the respondent should be considered as having no rights or legitimate interests in respect of the domain name that is the subject of the complaint.
  3. Why the domain name in question should be considered as having been registered and being used in bad faith.

Complainant's principal contention as enumerated in Para 4 and on the basis of perusal of the records submitted by Complainant with the complaint –





This tribunal is of confirmed opinion that the Complainant has origination since Year 1942 and is using the mark BOOZ ALLEN HAMILTON since year 1942 and has made masive efforts to promote the brand name 'BOOZ' by consuming various resources available at his end and word 'BOOZ' has certainly acquired a popular Brand name in the process and is a popular brand across the length and breadth of the India and the World and a prominent place in internet electronic media also.

On the basis of the records submitted by the complainant it's proved that the domain name 'booz.co.in' is related to the business of Complainant and is being used for purpose and related to his work.

It is confirmed that Complainant is user of name 'BOOZ'.

That trade mark ' BOOZ ' alone and with other symbol or Figure or other injunctions has been registered effectively in different places in India as attached in the Annexures submitted. Respondent's registration of the infringing Domain with knowledge of the fame and public recognition of the BOOZ ALLEN HAMILTON and BOOZ & COMPANY marks in India and throughout the world establishes that Respondent has registered the Infringing Domain Name to prevent Booz Allen from using its BOOZ ALLEN HAMILTON and BOOZ & COMPANY marks as a domain name in India.

Furthermore, if a trademark is incorporated in its entirety in a domain name, it is sufficient to establish that said name is identical or confusingly similar to Complainant's registered mark.

It cannot be overlooked that whenever a domain name registration is sought ample professional efforts need to be made to make sure that there is no pre existence of same or similar domain names on the world wide web so as to avoid any intentional or unintentional imbroglio or illegality of its operation and to ensure that no illegalities are committed.

.The respondent does not have clear intentions and has flouted the legal requirements and rules of registration of getting a Domain name and its registration. Knowing fully well of the pre existence of the domain name wishing to be registered and even without understanding whether he has rights to register such a name or not and whether similar domain names were legally registered at the various registries of internet by the Complainant much before the respondent started the process of registration, still respondent went in for the registration of the domain name in question, and was purportedly using the name for business purposes though indirectly and illegitimately putting it for sale.

Cementing its bad faith registration of the Infringing Domain Name, Respondent has offered to sell the Infringing Domain Name through the marketplace at [www.sedo.com](http://www.sedo.com). Respondent has used the Infringing Domain Name to intentionally trade on Booz Allen's reputation, goodwill and trademarks; It profusely empowers Complainant with the First right to the domain name booz.co.in and therefore any rights of the Respondent in this regard stand defeated in favor of Complainant.





This tribunal holds that such misuse of the names should be checked in most efficient manner and that the complainant has tried to prove his good faith and right on the domain name in question should be considered good and that the domain name as having been registered and being used in bad faith by the respondent.

Complainant has amply demonstrated that he has been in the business of Consulting, Strategic Planning etc since the year 1942. That complainant Booz Allen Hamilton Inc offers a wide range of services over the length and breadth of the World. That the complainant Booz Allen Hamilton Inc. has service marks registered with the Trade mark Office at different registrations all over the world.

That the Respondent has not been commonly known by the domain name. That Respondent has no relationship with or permission from the complainant for use of its marks. That Respondent cannot have ignored the fact that BOOZ.com is a registered and protected trademark of the Complainant.

Complainant is well-known with its trademark. The complainant has the right to exercise control on how its trademark is used by the third parties on the Internet. Complainant has prior rights in that trade/service mark, which precede the respondent's registration of the domain name.

Respondent's aim is to make a illegitimate, commercial gain, unfair use of the <booz.co.in> domain name, with intent to misleadingly divert consumers or to tarnish the BOOZ trade/service mark. Respondent has offered to sell the Infringing Domain Name and it is not possible to conceive of any plausible or contemplated use of the Infringing Domain Name by Respondent that would be legitimate or lawful, establish that Respondent's registration and use of the Infringing Domain Name were in bad faith in accordance with paragraph 6 of the policy. Respondent has registered and used the Infringing Domain Name to direct Internet users familiar with Booz Allen's reputation and services to third party links on a portal site constitute bad faith use under the policy. It is very clear that the domain name was registered primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of the trademark for valuable consideration. Respondent has attempted to take unfair advantage of Complainant's rights in his mark by using it to attract Internet users. Parking of such domain names to obtain revenue through web traffic and sponsored results constitutes bad faith.

The tribunal is of confirmed opinion that the domain name trade name and trade are factually and correctly conjoint to each other and is proof of the same of widespread recognition of the services provided by the Complainant make this complaint a plausible case of action.





## **II. Domain name hijacking**

This is an established rule that if the tribunal finds that the complaint was brought in good faith, for example in an attempt at forfeiting domain name hijacking or was brought primarily to rightly support the true domain name holder, the tribunal shall declare that the complaint was brought in good faith and constitute true use of administrative proceedings.

As enumerated in para 4 the Complainant asked for finding of bad faith, under this principle. In support of this prayer the Complainant cites the Respondent's misuse of name and its dummy parking for sale through direct or indirect but related vendors. Further, in support of this the Complainant submitted documents marked as Annexures which demonstrate and prove beyond any doubt that the complainant filed this complaint with no ulterior motive. Complainant's complaint is uncolorable and confirms beyond doubt the mind of tribunal that the present complaint is filed with no ulterior motive. Therefore, I am bound to conclude with the certainty that the present complaint by the complainant is an effort to save the disputed domain name from misuse and intention to harass or abuse the process of Law.

## **III. Conclusion**

On the basis of the available records produced by the parties their conduct in the proceedings and the establish law, this tribunal is of considered opinion that the complainant succeeded to prove the necessary conditions. Further, this tribunal is bound to conclude with certainty that the present complaint by the complainant is an attempt by the complainant to save the domain name of complainant from hijacking by the respondent and in good faith with no intention to harass the respondent or abuse process of law and the name booz.co.in be and is hereby transferred to Complainant with immediate effect.

Further the arbitration court takes an adverse view on the bad faith registration by the respondent and to act as a deterrent to future misuse it further imposes a fine of Rs. 25000/- on the respondent to be given to NIXI for putting the administration to unnecessary work and wrongful registration by respondent.

Given under my hand and seal on this day of 4<sup>th</sup> day of April 2012.



The image shows a handwritten signature in blue ink over a circular purple stamp. The stamp contains the text 'DEEPA GUPTA' at the top, 'NIXI' in the center, and 'ARBITRATOR' at the bottom. The signature is written across the stamp.

**Deepa Gupta**  
**Arbitrator**