



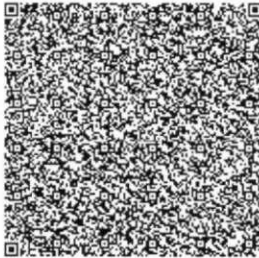
सत्यमेव जयते

## INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

### e-Stamp

Certificate No. : IN-DL64969153052214L  
Certificate Issued Date : 08-Jan-2013 10:43 AM  
Account Reference : IMPACC (IV)/ dl851803/ DELHI/ DL-DLH  
Unique Doc. Reference : SUBIN-DL85180329727166355845L  
Purchased by : V K AGARWAL  
Description of Document : Article Others  
Property Description : NA  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : V K AGARWAL  
Second Party : NA  
Stamp Duty Paid By : V K AGARWAL  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



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NATIONAL INTERNET EXCHANGE OF INDIA  
Incube Business Centre, 5<sup>th</sup> Floor,  
18, Nehru Place,  
NEW DELHI – 110 019

Credit Industriel et Commercial v. Duan Zuochun

AWARD

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NATIONAL INTERNET EXCHANGE OF INDIA  
Incube Business Centre, 5<sup>th</sup> Floor,  
18, Nehru Place,  
NEW DELHI – 110 019

**Credit Industriel et Commercial v. Duan Zuochun**

AWARD

**1. The Parties**

The Complainant is Credit Industriel et Commercial S.A. 6, avenue de Provence, 75009 Paris, France.

The Respondent is Duan Zuochun, XinXiangZhou ChangYeRoad 70, Anjuyan 33 Dong 1-7-4 Shop, Zhuhai, Guangdong 519000, China..

**2. The Domain Name and Registrar**

The disputed domain name is <www.CIC-BANQUE.CO.IN>.

The particulars of registration of the disputed domain name are as follows:

- |                            |                       |
|----------------------------|-----------------------|
| (a) Name of the Registrant | : Duan Zuochun, China |
| (b) Created on             | : 04 January 2012     |
| (c) Expiration date        | : 04 January 2013     |
| (d) Registrar              | : dynadot.LLC         |

**3. Procedural History**

- (a) A Complaint dated November 16, 2012 has been filed with the National Internet Exchange of India. The Complainant has made the registrar verification in connection with the domain name at issue. It is confirmed that the Respondent is listed as the registrant and provided the contact details for the administrative, billing, and technical contact. The Exchange verified that the Complaint satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the "Policy") and the Rules framed thereunder.

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- (b) The Exchange appointed Dr. Vinod K. Agarwal, Advocate and former Law Secretary to the Government of India as the sole arbitrator in this matter on January 10, 2013. The arbitrator finds that he was properly appointed. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Exchange.
- (c) In accordance with the Rules, the Sole Arbitrator formally notified the Respondent of the Complaint on e mail address <domainlaw@foxmail.com>. The Respondent was required to submit his defence within 10 days. The Respondent was informed that if his response was not received within that period, he would be considered in default and the matter will proceed ex-parte. No response has been received from the Respondent.

#### **4. Factual Background**

From the Complaint and the various annexure to it, the Arbitrator has found the following facts:

##### **Complainant's activities**

In these proceedings the Complainant Credit Industriel et Commercial S.A. of France is a French banking group tracing its origin back to 1859. Presently, it has 2103 branches in France. In addition, it has 15 branches in Europe; 4 branches in Africa; 5 branches in Latin America and 11 branches in Asia.

This group comprises five regional banks. Further that the specialized network of the Complainant is organized around four trades: (i) the private banking; (ii) the capital development; (iii) the financial banking, and (iv) support trades.

##### **Respondent's Identity and Activities**

Respondent did not file any reply. Hence, the Respondent's activities are not known.



## 5. Parties Contentions

### A. Complainant

The Complainant contends that each of the elements specified in the Policy are applicable to this dispute.

In relation to element (i), the Complainant contends that its name is CREDIT INDUSTRIEL ET COMMERCIAL abbreviated as CIC. The disputed domain name is <www.cic-banque.co.in>. Thus, the disputed domain name contains the complete abbreviated name of the Complainant. The addition of a hyphen (-) in between “CIC” and “Banque” or the words “co” or “in” is insignificant.

In the cases of **Farouk Systems Inc., v. Yishi**, Case No. 02010-0006 it has been held that the domain name wholly incorporating a complainant’s registered trademark may be sufficient to establish identity or confusing similarity, despite the addition of other words to such marks. Further that, in the case of *Alta Vista Company v. Curtis Claard/b/a Tae Po Promotions*, FA 0009000095549 (NAF Oct. 24, 2000) it has been held that the domain name <altavistas.com>, irrespective of addition of the word “s” was confusingly similar to the ALTAVISTA trademark. See also *M/s Satyam Infoway Ltd., v. M/s Siffynet Solutions (P) Ltd.*, JT 2004 (5) SC 541. See also *Lego Juris AS v. Robert Martin*, INDRP/125 regarding the domain name <lego.co.in>; *Starbuck Corporation v. Mohanraj*, INDRP/118.

Further that the Complainant is the registered owner of a large number of trademarks consisting or including the words “cic” and “CIC” in France and various other countries. They are registered in Classes 35 and 36. Therefore, the Complainant is well known to its customers as well as in business circles as CIC and CIC BANQUE all around the world. However, along with the Complaint the Complainant has submitted the copies of the trademark registration certificates only of France (Annexures G 1, G 2 and G 3). Even these documents are in French. The trademark registration certificate of any other country has not been attached with the Complaint.

The Complainant contends that it has several domain names containing its trademark “CIC” <www.CIC.FR>; <www.CIC.EU>;

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<www.CIC.ASIA>; <www.CIC.MOBI>;  
 <www.CICBANQUES.COM>; <www.CICBANQUES.ORG>;  
 <www.CICBANQUES.FR>; <www.CICBANQUES.MOBI>;  
 <www.CICBANQUES.ASIA>; <www.CICBANQUES.ORG>;  
 <www.CICBANQUES.BIZ>; <www.CIC-BANQUES.COM>;  
 <www.CIC-BANQUES.ORG>; <www.CIC-BANQUES.NET>; etc.

In relation to element (ii), the Complainant contends that the Respondent (as an individual, business, or other organization) has not been commonly known by the mark “CIC-BANQUE”. Further, the Respondent is not making a legitimate or fair use of the said domain name for offering goods and services. The Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public.

Regarding the element at (iii), the Complainant contends that the main object of registering the domain name <www.cic-banque.co.in> by the Respondent is to mislead the general public and the customers of the Complainant. The Complainant has stated that the use of a domain name that appropriates a well known trademark or service mark to promote competing or infringing products cannot be considered a “*bona fide offering of goods and services*”.

## **B. Respondent**

The Respondent did not submit any evidence or argument indicating his relation with the disputed domain name <www.cic-banque.co.in> or any trademark right, domain name right or contractual right. Therefore, the Respondent has no legal right or interest in the disputed domain name.

## **6. Discussion and Findings**

The Rules instruct this arbitrator as to the principles to be used in rendering its decision. It says that, “a panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any rules and principles of law that it deems applicable”.

According to the Policy, the Complainant must prove that:

- (i) The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;



- (ii) The Respondent has no rights or legitimate interests in respect of the domain name that is the subject of Complaint; and
- (iii) The domain name in question has been registered and is being used in bad faith and for the purposes of trafficking;

**A. *Identical or Confusingly Similar***

The Complainant contends that he is the owner of the trademark CIC-BANQUE for a long time and that the said trademark is registered in a number of countries including France.

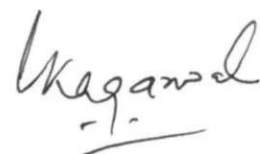
The present dispute pertains to the domain name <www.cic-banque.co.in>. The Complainant possesses a number of other domain names, as mentioned above, with the word “CIC” and “CIC-BANQUE”. The Complainant is also the owner of trademark “CIC-BANQUE” or “cic-banque”. Most of these domain names and the trademark have been created by the Complainant much before the date of creation of the disputed domain name by the Respondent. The disputed domain name is very much similar or identical to these domain names and the trademark of the Complainant.

Therefore, I hold that the domain name <www.cic-banque.co.in> is confusingly similar to the Complainant’s marks.

**B. *Rights or Legitimate Interests***

The Respondent may demonstrate its rights to or legitimate interest in the domain name by proving any of the following circumstances:

- (i) before any notice to the Respondent of the dispute, the Respondent’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) The Respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to



misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent's response is not available in this case. There is no evidence to suggest that the Respondent has become known by the disputed domain name anywhere in the world. Based on the evidence adduced by the Complainant, it is concluded that the above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

Credit Industriel et Commercial S.A. is the name of the Complainant. The trade mark of the Complainant "CIC" and "CIC-BANQUE" has acquired unique importance and is associated with the Complainant. A mention of the said trademark establishes an identity and connection with the Complainant. The Respondent is known by the name of Mr. Duan Zuochun. It is evident that the Respondent can have no legitimate interest in the domain name. Further, the Complainant has not licensed or otherwise permitted the Respondent to use its name or trademark or to apply for or use the domain name incorporating said name. The Complainant has no relationship whatsoever with the Respondent.

The decisions relied upon by the Complainant support its contentions that the use of domain name consisting of a trademark to divert users to another commercial websites is not a bona fide offering of goods or services and cannot confer any rights or legitimate interests upon the Respondent.

I, therefore, find that the Respondent has no rights or legitimate interests in the domain names.

C.       Registered and Used in Bad Faith

Any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) Circumstances indicating that the Respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service

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mark or to a competitor of that Complainant, for valuable consideration in excess of documented out of pocket costs directly related to the domain name; or

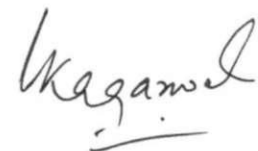
- (ii) The Respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that it has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or location.

The contention of the Complainant is that the present case is covered by the above circumstances. There are circumstances indicating that the Respondent has intentionally attempted to attract, for commercial gain, internet users to the disputed website.

The Complainant has further contended that, the domain name is currently pointing to a parking webpage containing several hyperlinks among which some of them are in the financial field, the core business of the Complainant. Moreover, this domain name is parked at SEDO and offered for sale by the Respondent. SEDO is the well known site for the same of domain names.

The Respondent's registration of the domain name <www.cic-banque.co.in> is likely to cause immense confusion and deception and lead the general public into believing that the said domain name enjoys endorsement and/or originates from the Complainant.

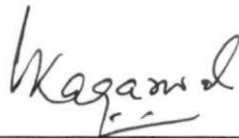
The foregoing circumstances lead to the presumption that the domain name in dispute was registered and used by the Respondent in bad faith. Therefore, I conclude that the domain name was registered and used by the Respondent in bad faith.





## 7. Decision

In the light of the foregoing findings, namely, that the domain name is confusingly similar to a mark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the domain name, and that the domain name was registered in bad faith and is being used in bad faith, in accordance with the Policy and the Rules, the Arbitrator orders that the domain name <www.cic-banque.co.in> be transferred to the Complainant.



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Vinod K. Agarwal

Sole Arbitrator

Date: February 7, 2013