



தமிழ்நாடு தமில்நாடு TAMILNADU

29 JAN 2013
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AL 262127
P.S. SHANMUGA SUNDARAM,
STAMP VENDOR,
L No B4 / 109 / 88
HIGH COURT CAMPUS,
CHENNAI-600 104 (TAMIL NADU)

BEFORE THE SOLE ARBITRATOR MR.D.SARAVANAN
.IN REGISTRY
(C/o. NATIONAL INTERNET EXCHANGE OF INDIA)

Disputed Domain Name: <CIC-BANQUE.IN>

Credit Industriel ET Commercial S.A
6, avenue de Provence
75009 PARIS
FRANCE
Represented by
MEYER & Partenaires
(dns@meyer-partenaires.com)

Versus

....Complainant

Simon David
1060 Holyoke Cambridge
Olympia, WA 02138, US
(japan.beauty@live.com)

....Respondent

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भारतीय गैर न्यायिक

पचास
रुपये

रु.50



FIFTY
RUPEES

Rs.50

INDIA NON JUDICIAL

தமிழ்நாடு தமிழ்நாடு TAMILNADU

4031
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PS. CHANDRASEKHAR
STAMP VENDOR,
L No. 84 / 100 / 88
HIGH COURT CAMPUS,
CHENNAI-600 009, TAMIL NADU

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1. The Parties:

The complainant is a limited company registered under the laws of France n 542 016 381 R.C.S.PARIS having address at 6, avenue de Provence, 75009 PARIS, FRANCE.

The respondent is Simon David, 1060 Holyoke Cambridge, Olympia, WA 02138, US.

2. The Domain Name and Registrar:

The dispute domain name : < CIC-BANQUE.IN>

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The disputed domain name is registered with National Internet Exchange of India (NIXI).

3. Procedural History:

24-12-2012	The .IN REGISTRY appointed D.SARAVANAN as Sole Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of Procedure.
24-12-2012	Consent of the Arbitrator was given to the .IN REGISTRY according to the INDRP Rules of Procedure.
01-01-2013	Notice was sent to the Respondent by e-mail directing him to file his response within 10 days, marking a copy of the same to the Complainant's representative and .IN Registry.
11-01-2013	Due date for filing response.
04-02-2013	Notice of default was sent to the respondent notifying his failure in filing the response, a copy of which was marked to the Complainant's representative and .IN Registry.

4. Factual Background

The complainant is a limited company registered under the laws of France n 542 016 381 R.C.S.PARIS having address at 6, avenue de Provence, 75009 PARIS, FRANCE

4.1 The Complainant:

4.2 Complainant's Activities:

The complainant is a French banking group. Its origin can be traced from 1859. Today the complainant has about 4.4 million clients with a network of 2013 branches



in France and also has five regional banks. The complainant's specialized network is organized in four trades of private banking, the capital development, the financial banking and the network's support trades. The complainant also has an international presence and frame through branches displayed all over the world.

4.3 Complainant's Trading Name:

The complainant has been using the trade name and trade mark since its origin. Credit Industriel ET Commercial is the registered owner of a large number of trademarks consisting or including the wording "CIC" in France and abroad. Credit Industriel ET Commercial is also the owner of trademarks containing the wording CIC BANQUES. The trademarks "CIC" and "CIC BANQUES" acquired a great fame and are well and widely known throughout the world and are easily recognizable. The trademarks "CIC" and "CIC BANQUES" owned by Credit Industriel ET Commercial are not only registered and used in commerce in a great majority of countries in world, but are also well-known in the sense of article basis of Paris Union Convention.

Credit Industriel ET Commercial is also registrant of the following generic and country code top-level domain names namely:

- CIC.FR
- CIC.EU
- CIC.ASIA
- CIC.MOBI
- CICBANQUES.COM
- CICBANQUES.FR
- CICBANQUES.MOBI
- CICBANQUES.ORG
- CICBANQUES.BIZ
- CICBANQUES.ASIA
- CICBANQUES.EU
- CICBANQUE.COM
- CICBANQUE.FR
- CICBANQUE.ORG
- CIC-BANQUE.COM
- CIC-BANQUE.FR



- CIC-BANQUE.NET
- CIC-BANQUES.NET
- CIC-BANQUES.ORG
- CIC-BANQUES.BIZ
- CIC-BANQUES.INFO

5. Respondent's Identity and activities:

According to DYNADOT WHOIS database, the respondent in this administrative proceeding is Simon David having communication address at 1060 Holyoke Cambridge, Olympia, WA 02138, US.

6. Dispute

The dispute arose when the respondent registered and used the domain name **CIC-BANQUE.IN**.

7. Parties contentions:

A. Complainant:

I. The domain name is identical and confusingly similar with the trademark CIC and CIC BANQUES:

i. The trademark **CIC** is entirely reproduced in the disputed domain name. The domain name combines the complainant's trademark with the descriptive wording **BANQUE**, which refers to the main activity of the Complainant.

ii. The combination of **CIC** with the wording **BANQUE** does not avoid the risk of confusion with the complainant's trademark. The domain name **CIC-BANQUE.IN** is very confusingly similar to the trademark **CIC BANQUES**; this trademark being identically reproduced in the disputed domain name, except the deletion of the final letter "S".



iii. Such difference should not be taken into consideration, when comparing the trademark CIC BANQUES and the aforesaid domain names, particularly given that the complainant is the owner of several domain names under CIC BANQUE.

iv. The practice of misspelling, which consists in registering a domain name with a slight alphabetical variation from a registered trademark, has been found to constitute confusing similarity by Panels.

v. As a consequence, the complainant states that the domain name is confusingly similar to the trademarks CIC BANQUES.

II. Respondent has no rights or legitimate interests in respect of the domain name CIC-BANQUE.IN:

i. The complainant states that the respondent should be considered as having neither rights or legitimate interests in respect of the domain name CIC-BANQUE.IN. The respondent is not related in any way to the Complainant's business. He is not any agent of the Complainant and does not carry out any activity or business with Complainant.

ii. The respondent has not been granted any license or authorization for the use or application of the disputed domain name.

iii. The complainant has cited various judgements where it was held that usage and application of domain name without any license or authorization could constitute evidence that the respondent has no rights or legitimate interests in the disputed domain name. **WIPO CASE D2011- 1871 Loro Piana S.P.A Versus Mr.Sun King; Case No. INDRP/255 GD Pharmaceuticals Private Limited Versus Duan Zuochun; Case No. IDRP/185 Sensient Technologies Corporation & Sensient India Private Limited Versus Duan Zuochun; Case No. IDRP/125 Lego Juris AS Versus Robert Martin**



III. The registration and usage of domain name CIC-BANQUE.IN by the respondent is in bad faith:

- i. The complainant states that the respondent has no legitimate interests in the disputed domain name.
- ii. The respondent registered the disputed domain name precisely only because of the well-known character of the trademarks "CIC" and "CIC BANQUES".
- iii. Thus the respondent registered the disputed domain name only for its commercial gains.
- iv. The domain name is currently leading to a parking web page containing several hyperlinks among which some of them are in the financial field, the core business of the complainant. Moreover, this domain name is offered for sale by the respondent. Such use may be considered as an infringement of previous trademarks and must be considered as bad faith use.
- v. The complainant stated that the respondent has intentionally attempted to attract, for commercial gains, the internet users to the respondent's websites or other online locations, by creating likelihood of confusion with the complainant's trademarks as to the source, sponsorship, affiliation or endorsements of the respondent website or location or of a product or service on the respondent's website or location.
- vi. The complainant also states that the disputed domain name is parked at SEDO, for sale, which is well-known site for selling domain names which allows registrant to simply park the registered domain names without having to develop any website and SEDO provides and targets ad links. Such an offer to sell the domain name to the registered trademarks' owner or to a competitor, is one of the hallmarks of a cyber squatter and suffice to hold that the domain name has been registered and used in bad faith.



vii. The complainant states that the sole motto of the respondent is to generate revenue through the sale of the disputed domain name or, atleast, through the hyperlinks located in the parking webpage activated by the disputed domain name.

B. Respondent:

The respondent did not submit any response.

8. Discussion and Findings:

It has to be asserted as to whether the Constitution of Arbitral Tribunal was proper? and whether the Respondent has received the notice of this Arbitral Tribunal?

Having gone through the procedural history, this Tribunal comes to the irresistible conclusion that the Arbitral Tribunal was properly constituted and Respondent has been notified of the complaint of the Complainant. However, the Respondent did not choose to submit any response and that non-submission of the Response by the Respondent had also been notified to the Respondent on 04.02.2013.

Under paragraph 4 of the IN Domain Name Dispute Resolution Policy (INDRP), the Complainant must prove each of the following three elements of its case:

- (i) The respondent's domain name is identical and confusingly similar with the trademark CIC and CIC BANQUES;
- (ii) Respondent has no rights or legitimate interests in respect of the domain name CIC-BANQUE.IN; and
- (iii) The registration and usage of domain name CIC-BANQUE.IN by the respondent is in bad faith.

(a) Identical or confusing similarity:

- i. The Arbitral Tribunal finds that the trade marks **CIC** and **BANQUES** and the disputed domain name **CIC-BANQUE.IN** are Complainant's famous and distinctive



trade mark. The sole intention of the Respondent is to derive benefit from the good will and reputation of the Complainant's brand and mislead members of public.

ii. The respondent's unwarranted registration of the impugned domain name with NIXI identical to Complainant's trade mark is clearly an offence under laws of India.

iii. The adoption of impugned domain name by the Respondent is dishonest, fraudulent and bad faith.

iv. The judgments in **IDRP Case/209 Credit Industriel et Commercial S.A & CM-CIC SECURITIES versus Domain masters/ Jewel Poon** and **WIPO Case D2005-0458** cited by the complainant is applicable to the case on hand.

The Arbitral Tribunal concludes that the Complainant has established paragraph 4(i) of the IN Domain Name Dispute Resolution Policy

(b) Respondent's Rights or Legitimate Interests:

i. The Complainant contends that the Respondent has no legitimate interest in the disputed domain name. Paragraph 7 of the IN Dispute Resolution Policy sets out three elements, any of which shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(ii) of the Policy. The Respondent had been given the opportunity to respond and to present evidence in support of the elements in paragraph 7 of the INDRP. The Respondent has not chosen to do so and has not filed any response in these proceedings to establish any circumstances that could assist it in demonstrating, any rights or legitimate interests in the disputed domain name. Although, the Complainant is not entitled to relief simply by default of the Respondent to submit a Response, the Arbitral Tribunal can however and does draw evidentiary inferences from the failure of the Respondent to respond. The Complainant has established a prima facie case of lack of rights and legitimate



interest and the Respondent has failed to rebut the presumption of absence of rights or legitimate interests.

ii. Based on the record, the Respondent does not have rights or legitimate interests in the disputed domain name as the Respondent's current use is neither an example of a bona fide offering of goods or services as required under paragraph 7(i) of the Policy nor is there any legitimate non-commercial or fair use of the disputed domain name and as such there is no evidence that paragraphs 7(ii) or 7(iii) of the Policy apply. The Complainant asserts that they have not licensed or otherwise authorized the Respondent to use their trademark.

iii. The Arbitral Tribunal find that there is no evidence on record to show that Respondent is known by the disputed domain name or that he has used the disputed domain name in connection with a bona fide offering of goods or has any rights in the disputed domain name.

iv. The respondent has failed to show any justification for the adoption, usage or registration of disputed domain name.

v. The Arbitral Tribunal thus holds that the circumstances listed above demonstrate rights or legitimate rights of the complainant in the domain name and holds that the respondent has infringed the rights of the complainant by registering the trademarks of the complainant.

vi. The Arbitral Tribunal is satisfied that the Respondent has no rights or legitimate interests in respect of the disputed domain name and, accordingly paragraph 4(ii) of the Policy is satisfied.

(c) Registration and Use in Bad faith:

(i) Paragraph 6 of the Policy provides the circumstances evidencing registration and use of a domain name in bad faith are that, by using the same, the Respondent has engaged in a pattern of such conduct and the Respondent has



intentionally attempted to attract, for commercial gain, internet users to the Respondent's web site or other online locations, 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 the Respondent's web site or location. It is the specific case of the Complainant that the respondent's modus operandi is by creation of the website under the registered **CIC-BANQUE.IN** mark with generic/descriptive suffix, is seeking illegal commercial gain through its opportunistic bad faith registration of the disputed domain name.

(ii) The Respondent has registered the domain name which appears to have been selected precisely for the reason that it is identical or confusingly similar to registered trademarks and trade names of the Complainant. The Respondent has no affiliation with the Complainant. Registration of a domain name that is confusingly similar or identical to a famous trademark by any entity, which has no relationship to that mark, is itself sufficient evidence of bad faith registration and use.

(iii) In view of the submitted evidence and in the specific circumstances of this case, this Arbitral Tribunal draws the legal inference that Respondent's purpose of registering the domain name was in bad faith within the meaning of the Policy. The Respondent has no legitimate rights or interests in the disputed domain name and there was a malafide intent for registering the disputed domain name other than for commercial gains, and that the intention of the Respondent was simply to generate revenue, either by using the domain name for its own commercial purpose or through the sale of the disputed domain name to a competitor or any other person that has the potential to cause damage to the ability of the Complainant to have peaceful usage of the Complainant's legitimate interest in using their own trade names.



In the light of the above, this Arbitral Tribunal finds that the Complainant has established that the disputed domain name was registered and is being used in bad faith.

9. Decision:

For all the foregoing reasons, in accordance with paragraph 10 of the Policy, the Arbitral Tribunal orders that the disputed domain name < **CIC-BANQUE.IN** > be transferred to the Complainant.

Dated at Chennai (India) on this 7th February, 2013.


(D.SARAVANAN)
Sole Arbitrator