



दिल्ली DELHI

M 696796

**VISHESHWAR SHRIVASTAV
SOLE ARBITRATOR**

IN

ARBITRATION PROCEEDINGS OF DOMAIN NAME
"boozallen.co.in"
Between

BOOZ ALLEN HAMILTON INC.

....COMPLAINANT

AND

YUKIO HATOYAMA

....RESPONDENTS

AWARD

1. This Arbitral Tribunal was constituted by nomination of undersigned as the Arbitrator in the aforesaid proceeding vide communication by NIXI. This Tribunal while checking the records of the proceedings, found that there was nothing on

record to show that a copy of the complaint has been supplied to the Respondents. Accordingly vide its communication dated 30/10/2010 this Tribunal directed the Complainants to send a copy of their complaint to the Respondents by Courier. The Respondents were given time of seven days after receipt of the complaint to send their Statement of Defense.

2. That the Tribunal did not get any response from the Complainant hence this Tribunal vide order dated 10/11/2010 gave the last and final opportunity to the Complainants to comply with the said direction within 7 days i.e. by 17/11/2010. This Tribunal in response to its communication received an email from the Complainants showing the DHL Courier receipt and the Tracking records which shows that the address of the Respondent as incomplete. Accordingly this Tribunal vide its order dated 26/11/2010 waited for the Respondent's Statement of Defense to the Complaint but to no avail.
3. This Tribunal finds that the Complainants had duly complied with the directions of this Tribunal and had tried level best to



serve the Respondents on the address provided but to no avail. Besides, copy(s) of the order (s) passed by this Tribunal have also been emailed to the Respondent hence it cannot be said that the Respondents are unaware of the proceedings. It is apparent that the Respondents are avoiding to take service and to participate in the present proceedings.

This Tribunal notes that the Respondent chose not to send any communication or file any Statement of Defense to the Complaint and maintained silence on the same, hence in view of such peculiar facts and circumstances and in view of INDRP which makes it incumbent upon this Tribunal to decide the controversy within 60 days, this Tribunal accordingly proceeds in the matter as per the material available before it.

This dispute concerns the domain name <*boozallen.co.in*> that is registered with the .IN Registry through the sponsoring registrar - Name.com LLC.



CLAIM

The complainants herein after referred to as Booz Allen claim a right in the said name based on the following assertions their complaint which are as under:

1. Booz Allen is a leading global strategy and technology consulting firm, with more than 23,000 employees working on six continents. Since at least as early as 1942, Booz Allen has been using the mark BOOZ ALLEN HAMILTON in connection with its consulting services as well.
2. The complainants as early as 2000, and long before the Respondents registered the <*boozallen.co.in*> domain name, has maintained a significant Internet presence through its web site at <*www.boozallen.com*>, which provides information about Booz Allen and its services. Besides, Booz Allen owns valid and subsisting trademark registration in several countries around the world, including India and Japan, for its BOOZ



ALLEN HAMILTON mark. Reliance has been placed on **Annex B.**"

3. The complainants have also alleged that they own valid and subsisting federal trademark registrations in the United States and many other countries of its BOOZ ALLEN HAMILTON and BOOZ ALLEN marks. Reliance have been placed on **Annex C.**

4. For many years the complainant i.e. Booz Allen has referred to itself and its services by the shortened form of its full name and mark, "BOOZ ALLEN." This can be seen by entries at Booz Allen's web site at www.boozallen.com.(Annex "D."). The Complainants to further buttress their claim of their shortened name have referred to many journals as *Forbes Magazine*, *Washington Technology*, *The New York Times*, *Business Week*, and *The Wall Street Journal* and placed reliance on **Annex "E."** It is stressed by the complainants that public perception and understanding equates "Booz Allen" with the company's full name and registered mark, Booz Allen Hamilton,



and the full and shortened names are used interchangeably to refer to Booz Allen.

5. It is alleged that Booz Allen has invested many millions of dollars in promoting the BOOZ ALLEN HAMILTON marks and has sold billions of dollars in services under these marks and that the BOOZ ALLEN HAMILTON marks have become famous and represent extraordinarily valuable goodwill associated with and owned by Booz Allen.
6. It is also alleged that the complainant's 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.
7. It is alleged that the Infringing Domain Name as registered by the Respondents should be canceled and transferred to Booz Allen in accordance with Paragraph 4 of the Policy and Paragraph 3(b)(vi) of the Rules because:



- A. the Infringing Domain Name is identical or confusingly similar to a trademark or service mark in which Booz Allen has rights; and
 - B. the Respondent has no rights or legitimate interests in respect of the Infringing Domain Name; and
 - c. the Infringing Domain Name should be considered as having been registered and being used in bad faith.
 - D. The Infringing Domain Name is Confusingly Similar to the BOOZ ALLEN Mark
8. Further 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.
9. It has been alleged that the Respondent is not commonly known by the Infringing Domain Name and has not acquired any trademark or service mark rights to use those names.
10. The complainants allege that the Respondents have registered the domain name to intentionally attract Internet users to it's web page by creating confusion. Reliance has been placed on a page captured on October 5, 2010.

ORDER

This Tribunal has given an anxious consideration to the allegations of the complainants and has seen that the Respondent despite being aware of the present proceedings and despite being called upon by this Tribunal to give its Statement of Defense chose not to give any and hence the allegations of the complainants remain un rebutted.

In view of the undisputed weighty evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name "**boozallen.co.in**" hence this Tribunal directs the Registry to transfer the domain name "**boozallen.co.in**" to the complainants. The Complainants too are free to approach the Registry and get the same transferred in their name.

The original copy of the Award is being sent along with the records of this proceedings to National Internet Exchange of India (NIXI)



for their record and a copy of the Award is being sent to both the parties for their records

Signed this 11th day of December, 2010.

NEW DELHI
11/12/2010



V. SHRIVASTAV
ARBITRATOR