



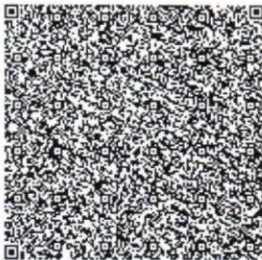
सत्यमेव जयते

INDIA NON JUDICIAL

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e-Stamp

Certificate No.	: IN-DL47907540293463K
Certificate Issued Date	: 23-Nov-2012 12:38 PM
Account Reference	: SHCIL (FI)/ dl-shcil/ HIGH COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDL-SHCIL95726075831645K
Purchased by	: V SHRIVASTAV
Description of Document	: Article 12 Award
Property Description	: NA
Consideration Price (Rs.)	: 0
	(Zero)
First Party	: V SHRIVASTAV
Second Party	: NA
Stamp Duty Paid By	: V SHRIVASTAV
Stamp Duty Amount(Rs.)	: 100
	(One Hundred only)



Please write or type below this line.....

VISHESHWAR SHRIVASTAV

SOLE ARBITRATOR

IN

ARBITRATION PROCEEDINGS OF DOMAIN NAME

"LOUIS-XIII.CO.IN"

between

E.REMI MARTIN

...COMPLAINANT

DING RIGUO

AND

...RESPONDENT

AWARD

1. This Arbitral Tribunal was constituted by nomination of undersigned as the Arbitrator in the aforesaid proceeding vide communication by NIXI and accordingly this Tribunal issued notice to the parties on 08/11/2012. However, while checking the records of the proceedings, this Tribunal found that there was nothing on record which showed that the copy of the complaint has been supplied to the Respondents. Accordingly vide the aforesaid communication this Tribunal directed the Complainants to either supply proof of dispatch of the hard copy of the complaint to the respondent or send a copy of their complaint to the Respondents vide Courier .
2. That the compliance was done by the Complainants vide their letter dated 09/11/2012 in which they sent a scanned copy of the Courier receipt having no. RK 57 705 523 9 FR addressed to the Respondent which had a received stamp of 21st October, 2012, but the soft copy of the complaint was not sent to this Tribunal. Hence, this Tribunal vide order dated 12/11/2012 again directed the complainant to comply with the directions of



08/11/2012 which was done the same day. The Respondent's email id was not responding but the hard copy of the complaint has been delivered at the last known address. In view of the above the Respondent was directed by this Tribunal to send their Response/ Statement of Defense together with documentary evidence to the Complaint by sending the soft copy by email and a hard copy by Courier so as to reach this Tribunal latest by 22nd November, 2012.

3. That this Tribunal finds that the Complainants have duly complied with the directions of this Tribunal and have tried their level best to serve the Respondents on the email id provided by him in WHO IS. Be it that as it may this Tribunal notes that the hard copy have also been duly received by the Respondent at his notified address as well hence it cannot be said that the Respondents are unaware of the present Arbitration proceedings.



4. In view of the above this Tribunal vide order dated 24/11/2012 reserved the award and also gave liberty to the Respondent to send any communication on any date prior to the publication of the award so that suitable orders can be passed. This Tribunal notes that the Respondent has not filed any Statement of Defense till the date of signing of Award nor sent any communication and has chosen to remain silent.
5. In view of these peculiar facts and circumstances and in view of INDRP this Tribunal which requires adjudication of a controversy within 60 days, this Tribunal accordingly proceeds in the matter as per the material available before it.

CLAIM

6. The claim as put forward by the complainant is briefly as under:
 - A. It is claimed that "Louis XIII" is a cognac produced by E. REMY MARTIN which is a branch of the company CLS REMY

COINTREAU and the Brand "Louis XIII" is composed of three limited collections namely: Louis XIII, Louis XIII Rare Cask, Louis XIII Black Pearl. Reliance is placed on Annex 2.

B. The complainants further submit that E. REMY MARTIN owns numerous trademark registrations with the term "Louis XIII" in several countries and its Indian trademarks, which are given as under:

Trademark	Country	Registration Number	Date of registration
LOUIS XIII DE REMY MARTIN	India	641400	28.09.1994
Louis XIII Grand Champagne Rémy Martin	International	465058	14.12.1981
LOUIS XIII BRAND	International	623068	19.08.1994
LOUIS XIII DE REMY MARTIN	International	629594	04.01.1995
LOUIS XIII DE RÉMY MARTIN CARE CASK	International	1027200	17.12.2009
LOUIS XIII DE REMY MARTIN	International	1030355	30.12.2009

For the above reliance is placed on Annex 3.



C. It is further claimed that E. REMY MARTIN owns various websites in the worldwide including “www. louis-xiii.com” which was registered on 21/01/2003, besides E. REMY MARTIN has also registered numerous domain names similar to trademark “Louis XIII” such as:

louis-xiii.fr	registered on 28/03/2007
louisxiii.fr	registered on 25/04/2007
louisxiii.in	registered on 24/05/2010
louis-xiii.co.in	registered on 13/09/2010
louisxiii.cn	registered on 17/09/2007
louis-xiii.cn	registered on 23/03/2007
louisxiii.com.cn	registered on 17/09/2007
louisxiii.asia	registered on 04/12/2007
louis-xiii.asia	registered on 10/12/2007
louisxiii.net	registered on 04/05/2011
louisxiii.de	registered on 11/03/2008

Reliance is placed on Annex 4.

D. It is alleged that the disputed domain name < **louis-xiii.co.in** > registered on 08/01/2012 by the Respondent is identical to the trademark “Louis XIII”, besides it has been put up on sale for \$3000 USD. Reliance is placed on Annex 5.



E. It is further alleged that the domain name is identical and confusingly similar to a trademark or service mark in which the Complainant has rights.

F. It is alleged that E. REMY MARTIN sells its goods worldwide, on the following pattern:

- i. Asia and others: 52.6%
- ii. Americas: 32.8%
- iii. Europe: 14.6%

G. It is also claimed that the aforesaid brand has enhanced its position in Singapore and Taiwan and enjoys remarkable growth in Vietnam besides efforts are being made for a year in Cambodia and India which have a strong potential. It is further claimed that despite a difficult environment in Japan, Rémy Martin was able to maintain its position.

H. Thus it is claimed that "Louis XIII" trademark has acquired substantial reputation and its mark can be termed a well-known

brand through out the world. Emphasis is also put on prior decision namely *INDRP/187 <louisxiii.in>* *INDRP/188 <louis-xiii.in>*

- I. It is alleged that the Respondent has no rights or legitimate interests in respect of the domain name nor he has any relationship with the Complainant's business as he is not authorized or licensed to use the mark, nor is he known by the disputed domain name. It is also alleged that the Respondent is not affiliated with nor authorized by the Complainant in any way.
- J. It is also alleged that there is no bona fide offering of goods or services or legitimate use of the domain name by the Respondent.
- K. It is also alleged that the domain name was registered for being used in bad faith.



L. It is complainants contention that its trademark "Louis XIII" is well known in the world, especially in Asia which its activities created 52.6 % of sales in 2009 and the disputed domain name is identical to the Complainant's brand which is reproduced in its entirety. It is also alleged that the Respondent has also registered another disputed domain name identical to the Complainant's trademark "REMY MARTIN" : <remy-martin.co.in> Reliance is placed on Annex 6.

M. It is alleged that the Respondent was fully aware of the Complainant brand and has tried to create confusion by registering a domain name that was identical to the trademark and has been deliberately registered for misleading and diverting Internet traffic.

ORDER

7. 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 his Statement of Defense chose not to give any and hence the allegations of the complainants remain un rebutted.

8. In view of the undisputed weighty evidence of the Complainants and the irrefuted allegations *qua* putting domain for sale this Tribunal holds that the respondents did not have any claim on the domain name <Louis-XIII.co.in> hence this Tribunal directs the Registry to transfer the domain name < Louis-XIII.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 28th day of November 2012.

NEW DELHI
28/11/2012



V. SHRIVASTAV
ARBITRATOR