



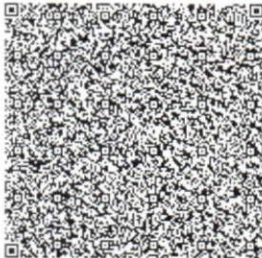
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL244262353187490
Certificate Issued Date	: 08-Mar-2016 03:51 PM
Account Reference	: IMPACC (IV)/ dl921303/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL921303476007244246560
Purchased by	: V SHRIVASTAV
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: V SHRIVASTAV
Second Party	: Not Applicable
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

www.boursorama.in

between

BOURSORAMA SA

...COMPLAINANT

AND

CREALART

...RESPONDENT

AWARD

1

[Signature]

Statutory Alert:

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

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 14/01/2016. However, while checking the records of the proceedings, this Tribunal found that there is nothing on record which shows 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 Complainants vide their email dated 14/01/2016 conveyed to this Tribunal that they have complied with the directions of this Tribunal.
3. This Tribunal received an email dated 15/01/2016 from NIXI stating that they have sent the complaint by courier on 12/01/2016 to the Respondents. However, NIXI vide email on 19/01/2016 had informed this Tribunal that the courier sent by



NIXI is undelivered with a note "*Consignment RTO to origin because incomplete address, please wait for next operation*".

4. That vide its order dated 23/01/2016 this Tribunal directed the Respondent to send their correct postal address by the return email within next three days as the emails sent by this Tribunal have been received by him as the same have not bounced back. Hence this Tribunal noticed that it is not the case that the Respondent is not aware of the present proceedings and it was apparent that the Respondent was evading service.
5. The Respondents were notified that in case no response is received from the Respondent this Tribunal will be constrained to move further and pass its award based on the material placed before it. Hence this Tribunal vide its order dated 27/01/2016 directed the Complainant to file their Evidence by way of Affidavit by dispatching a soft copy by email and hard copy by courier within 7 days so that it reaches this Tribunal by 04/02/2016.



6. The Complainant and their Counsels surprisingly showed their ignorance as to filing of the Evidence by way of Affidavit. First they tried to show the Courier slip as evidence and later they tried to show their Power of Attorney as the Evidence of affidavit. Finally this Tribunal had no other option but to supply them a format, a practice that is unheard of so as to make them understand the term "evidence by way of affidavit". After several orders dated 6th Feb. 2016, 13th Feb. 2016, 17th Feb. 2016 and giving several opportunities the Complainants filed their affidavit.
7. This Tribunal received the soft copy of the Evidence on 19/02/2016 but the hard copy was not sent and instead there were queries about the postal address of this Tribunal which was shocking as this Tribunal had in its first email supplied the postal address to the parties showing that the complainants were not vigilant about the orders passed. The Complainants queerly sent their evidence to NIXI and the same reached this



Tribunal on 08/03/2016. Not to talk of that the evidence was addressed to NIXI and not this Tribunal.

8. This Tribunal finally reserved its award vide its order dated 08/03/2016 clarifying that incase the respondents send their response /evidence in support thereof the same will be taken into consideration by this Tribunal at the time of making the award.

CLAIM

9. The claim as put forward by the complainant is briefly as under:
 - A. The Complainant is claimed to be a company founded in 1995, and is purportedly involved in e-commerce and a range of financial products online. It is claimed that in France, BOURSORAMA is an online banking reference with over 505,000 customers in late 2013. Reliance is placed on **Annex 2.**

B. It is also claimed by relying on **Annex 3 & 4** that the Complainant is the owner of the trade mark "BOURSORAMA" and it also owns domain names as under:

Trademark	Country	International Class	Registration Number	Registration Date
BOURSORAMA	Europe	9, 16, 35, 36, 38, 41, 42	1758614	2001-10-19
BOURSORAMA	France	9, 16, 35, 36, 38, 42	98723359	1998-03-13
BOURSORAMA	France	36	3565867	2008-03-31
BOURSORAMA	France	35, 36, 38	3676765	2009-09-16

Domain names	Registration Date
boursorama.com	01/03/1998
boursorama.fr	03/06/2005
boursorama.ch	12/07/2000
boursorama.biz	15/11/2001
Boursorama-banque.com	26/05/2005
boursorama.eu	24/07/2006
boursorama.info	20/02/2007
boursorama.net	24/09/1998
boursorama.co.uk	19/03/2014

C. It is alleged by relying on Annexure 1 that the Respondent has registered the disputed domain name <boursorama.in> on June 2nd, 2015 and that the domain name is identical to complainants trademark BOURSORAMA® and the same is identical or confusingly similar to a trademark in which the Complainant has rights.

D. To buttress their claims the complainants have relied upon the following decisions:

- *NAF 1635902 BOURSORAMA S.A. vs Sebastien Martin <boursorama.xyz>;*
- *CAC 100995 BOURSORAMA S.A. vs Stephane Arninda <boursoramasecuritycheck.com>;*
- *WIPO D2014-1522 Boursorama S.A. vs Osaki Kyle <service-boursorama.com>, <boursorama-msg.com>;*
- *WIPO DCO2014-0023 Boursorama S.A. vs Daven Mejon <boursorama.com.co>;*



- CAC 100854 BOURSORAMA S.A. vs Williams HALUS
<aspace-boursorama.com>

- E. It is also contended by the Complainants that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Reliance is placed on WIPO case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.
- F. It is contended that the Respondent has no rights or legitimate interests in the disputed domain name nor has he any relationship with the Complainant's business and is not authorized or licensed to use the trademark BOURSORAMA®.
- G. By relying on the WHOIS information, given in **Annex 5** it is contended the Respondent is "**crealart**" he is not known by the disputed domain name <**boursorama.in**>. Further the Respondent is an Indian company specialized in web design and web marketing.



- H. It is contended by relying on **Annex 6** that the website in relation with the disputed domain shows commercial links in relation with the Complainant's activity, especially Credit, insurance, warranties, etc. Thus it is being used in bad faith.
- I. The Complainant contends that the Respondent has intentionally registered the domain name in order to attract, for commercial gain, and to attract 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.

ORDER

10. This Tribunal has perused the complaint and the documents relied upon by the complainants which have not been rebutted by the Respondents despite opportunity(s) being given to them by this Tribunal. Hence, in view of the unrebutted



evidence of the Complainants this Tribunal holds that the respondents did not have any claim on the domain name www.boursorama.in hence this Tribunal directs the Registry to transfer the domain name www.boursorama.in to the complainants.

11. The Complainants too are free to approach the Registry and get the same transferred in their name.
12. There is no order towards costs.
13. 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 10th day of March, 2016.

NEW DELHI
10/03/2016



V. SHRIVASTAV
ARBITRATOR