



उत्तर प्रदेश UTTAR PRADESH

AP 231038

**BODHISATVA ACHARYA  
ARBITRATOR**

(Appointed by. IN Registry-National Internet Exchange of India)

Case No. .... Of 2011.

ARBITRATION AWARD: DISPUTED DOMAIN NAME: [www.nolet.in](http://www.nolet.in)

In the matter of:

Double Eagle Brands 1 N V  
Kaya W.F.G. Mensing 32,  
Willemstad, Curacao.

(Formerly part of Netherlands Antilles)

Email: [f.fontein@double-eaglebrands.com](mailto:f.fontein@double-eaglebrands.com)

Filed by its authorized representative attorney -

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... Complainant

*Vs.*

Mr. Jim Muller,  
Domain Solutions,  
1658 Kanchipuram,  
Tamilnadu 603109  
Email: [iceloops@gmail.com](mailto:iceloops@gmail.com)

Respondent.

## A W A R D

### 1. The Parties:

The complainant in this arbitration proceeding is **Double Eagle Brands 1 N V Kaya W.F.G. Mensing** 32, Willemstad, Curacao. (Formerly part of Netherlands Antilles) Email : [f\\_fontein@double-eaglebrands.com](mailto:f_fontein@double-eaglebrands.com) filed by its authorized representative attorney **DePenning & DePenning Patents Trademarks Designs Copyright**, 120 Velachery Main Road, Guindy, Chennai-600032 Email: [trademark@depenning.com](mailto:trademark@depenning.com)

Respondent in this arbitration proceeding is **Domain Solutions, Jim Muller** 1658 Kanchipuram, Tamilnadu 603109, with Email: [iceloops@gmail.com](mailto:iceloops@gmail.com)

### 2. The Domain Name, Registrar & Registrant:

The disputed domain name is [www.noiet.in](http://www.noiet.in)

### 3. Procedural History:

The complainant, through its authorized representative, filed this complaint to NIXI regarding the disputed domain name [www.noiet.in](http://www.noiet.in) following the clause 4 of the policy of .IN Registry and .IN Registry appointed **Mr. Bodhisatva Acharya** (The Arbitrator) as Sole Arbitrator under clause 5 of the policy. The Arbitrator submitted his statement of acceptance and declaration of Impartiality and the **Independence** on February 10<sup>th</sup>, 2011 and The complaint was produced **before** the Arbitrator on February 15<sup>th</sup>, 2011 and the Arbitrator sent a notice to the Respondent through his email on February 18<sup>th</sup>, 2011 for the Arbitration Proceeding with a 10 days deadline to submit his reply but due to technological mistake the said notice couldn't attached to the mail then the Arbitrator sent the

same notice on **March** 18<sup>th</sup> , 2011 but the Respondent didn't give any response and Hence on the 31<sup>st</sup> day of March, 2011 the Award is being declared as Ex-parte.

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

The Complainant in this proceeding is Double Eagle Brands 1 N V, having Headquartered in CURACAO in Netherlands, which is in the business of Alcoholic Beverage, was started by its predecessor in title and Complainant has registration for the trade mark NOLET for alcoholic beverages worldwide and same has been extensively used in commerce worldwide since 1983.

The brand NOLET is used in Premium VODKA and Premium Dry GIN and the websites [www.ketelone.com](http://www.ketelone.com) and [www.noletsqin.com](http://www.noletsqin.com) provide the complete knowledge about the goods manufactured and marketed on behalf of Complainant. The Complainant is a leading global alcoholic beverages company, promotes the goods online worldwide through their well known Domain Names as [www.noletdistillery.com](http://www.noletdistillery.com) and [www.noletsqin.com](http://www.noletsqin.com) as well as through other country level domains and same were registered on March 29<sup>th</sup>, 2007 and the connected websites were launched in the subsequent years. The Complainant owns the intellectual property of all the trade marks worldwide under the mark NOLETORNOLETS.

The Complainant has spent a considerable amount approximately an average US\$ 17.9 Million per year on advertisement in promotion of its **brand under trade** mark NOLET worldwide and Complainant has **earned and** generated a good reputation and goodwill through the trade mark NOLET.

When the Complainant came to know, about the registration of similar Domain name [www.nolet.in](http://www.nolet.in) and about the cyber squatting of Respondent then he filed the complainant on January 27<sup>th</sup>, 2011 for the arbitration proceeding about the aforesaid disputed domain name.

#### **5. Parties Contentions:**

(a) Complainant contends that



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

The Registrant has no rights or legitimate interests in respect of the domain name; and

- (iii) The Registrant's domain name has been registered or is being used in bad faith, and the domain name be transferred to the Complainant.

(b) Respondent contends that

The respondent gave no response and produced no reply.

## **6. Discussion & Findings:**

Under the Paragraph 4 of the Policy (INDRP) Any Person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint to the .IN Registry on the following premises:

- (i) The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has right.
- (ii) The Registrant has no rights or legitimate interests in respect of the domain name; and
- (iii) The Registrant's domain name has been registered or is being used with bad faith

After having gone through the *records*, documents, produced by the **Complainant**, Arbitrator's findings are:

- (i) That the Respondent's performance was clearly *ab initio* in bad faith because the main motive , the intention and fraudulent behavior of respondent only to make money by registering similar domain names of various well known brand names because previously I *decided* an Award on February 18<sup>th</sup> , 2011 against the same Respondent Mr. Jim Muller in the disputed domain name www.louisxiii.in which proves the



act of respondent is with malafide intention and it is a clear case of cyber squatting on the other hand complainant proves by all documental proof produced along with this complaint that the name, trademark or mark in which the Complainant has right, the Registrant's domain name is identical or confusingly similar to the Complainant's Mark and has been registered or being used in bad faith,

- (ii) That the Name/Mark NOLET is distinctive unique and has reputation worldwide and the mere mention of the said Mark establishes an identity and connection with Complainant and none else.
- (iii) The complainant has proved all the aforesaid premises as mentioned in paragraph 4 of Policy in his favor and he is has produced all the documentary proof in his favor.

## **7. Decision:**

Hence the Arbitrator decides, 'the Disputed Domain Name www.nolet.in is identical or confusingly similar to registered trademark of the Complainant and Respondent has no right to use the disputed domain name and the Respondent domain name has been registered in bad faith.

The Arbitrator further decides and orders that the domain name www.nolet.in shall be transferred to the Complainant with immediate effect.

  
BODHISATYA ACHARYA  
SOLE ARBITRATOR  
NIXI

DATED: March 31<sup>st</sup>, 2011,  
PLACE: NEW DELHI,  
INDIA

