

**IN THE MATTER OF AN ARBITRATION PROCEEDING UNDER ARTICLE 8(2)(A) OF THE AGREEMENT  
OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT  
OF THE CZECH AND SLOVAK FEDERAL REPUBLIC FOR THE PROMOTION AND PROTECTION OF  
INVESTMENTS AND THE UNCITRAL ARBITRATION RULES (1976)**

**A11Y LTD.**

**v.**

**CZECH REPUBLIC**

**(ICSID Case No. UNCT/15/1)**

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**PROCEDURAL ORDER NO 5  
Decision on Respondent's Document Production Requests**

***Tribunal***

Yves Fortier, PC, CC, OQ, QC, Presiding Arbitrator  
Stanimir Alexandrov, Arbitrator  
Anna Joubin-Bret, Arbitrator

***Secretary to the Tribunal***

Jara Mínguez Almeida

***Assistant to the Tribunal***

Annie Lespérance

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February 18<sup>th</sup>, 2016

Procedural Order No. 5

**I. Procedural Background**

1. In accordance with paragraphs 5 and 6 of Procedural Order No. 3, the Respondent submitted document production requests for the Tribunal's decision on 12 February 2016. The Claimant did not file any document production requests.

**II. Decision**

2. The Tribunal's decisions on the Respondent's requests is set out in the "Redfern Schedule" attached to this Order.
3. The Claimant is ordered to produce the documents indicated therein to the Respondent, but not yet the Tribunal, within the time limit set in paragraph 5 of Procedural Order No. 3, that is, by 11 March 2016.
4. The Tribunal notes that its decision on the Respondent's requests is not intended to provide an implied decision on any issue in dispute between the parties.
5. To the extent that documents responsive to a document production request may be subject to commercial sensitivity such that confidentiality undertakings may be required, the Tribunal directs the parties to agree confidentiality undertakings. Should they fail to agree, the parties are directed to report to the Tribunal by 11 March 2016.
6. To the extent that the Claimant wishes to assert privilege over responsive documents, the Tribunal directs the Claimant to file a privilege log identifying the responsive document, its date, and the basis for the privilege claimed by 11 March 2016.
7. Insofar as documents ordered are not produced or not fully produced as ruled in this Order, the Tribunal may take this into account in its evaluation of the respective factual allegations and evidence including a possible inference against the party refusing production.
8. The costs of and incidental to the Parties' applications shall be reserved for later consideration, if necessary.

Paris, this 18<sup>th</sup> day of February 2016

Signed on behalf of the Arbitral Tribunal

*[signed]*

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L. Yves Fortier, PC, CC, OQ, QC  
President

**Respondent's Request for the Production of Documents of 29 January 2016**

**Definitions:**

Unless the context otherwise requires, defined terms shall have the following meaning:

<b>Claimant</b>	<b>A11Y Ltd</b>
<b>Brailcom</b>	<b>Brailcom ops</b>
<b>Memorial</b>	<b>Claimant's Memorial of 30 May 2015</b>
<b>SoD</b>	<b>Respondent's Statement of Defence of 31 August 2015</b>

**The Claimant's comments:**

The Claimant notes that the Respondent's requests for production are framed in a manner that is, unfortunately, far from compliant with the IBA Rules on the Taking of Evidence in International Arbitration (2010) (the "**IBA Rules**"). The Respondent's requests are at times extremely broadly drafted, often containing no material limitation on the types of documents that are requested, and equally often seeking documents from a period of many years (or even from any point in time at all). In addition, the Respondent has made requests for production that are not on any reasonable interpretation relevant to the jurisdictional case currently being heard and material to its outcome. Indeed, the Respondent often seeks documents relating to issues that the Tribunal has expressly directed will not be considered and decided in this phase of the proceeding. Furthermore, the Respondent makes requests regarding points that are plainly legally irrelevant under the UK-Czech Republic BIT.

If a requesting party cannot identify documents that are relevant to the case and material to its outcome, or if it cannot articulate a narrow and specific category of documents to request, then that party has no basis on which to make that request under Article 3 of the IBA Rules. That is, of course, before one considers if the request is also objectionable under one of the bases set out in Article 9 of the IBA Rules.

The Claimant respected this position, and the proper operation of the IBA Rules, when considering whether to make its own request for production. Because the Tribunal clearly has jurisdiction in this case pursuant to the UK-Czech Republic BIT, the Claimant did not engage in an entirely otiose process of seeking production from the Respondent, and refrained from making any requests. Had the Respondent acted with similar sense and good practice, neither time nor costs would need to be wasted on the Respondent's plainly impermissible requests for production.

In that context, and as elaborated in more detail below, the Claimant submits that none of the Respondent's requests for production can be granted.

<b>Document Request No</b>	<b>1</b>
<b>A. Requesting Party</b>	Respondent
<b>B. Documents or Category of Documents Requested</b>	<p>All documents in the possession, custody or control of Claimant relating to</p> <ol style="list-style-type: none"> <li>(1) the purchase or sale of goods and/or services by Claimant between 2 August 2012 and the date of this request showing a transfer of goods or funds to or from the United Kingdom;</li> <li>(2) the purchase and sale of goods by Claimant's Czech branch office between 2 August 2012 and the date of this request;</li> <li>(3) the employment of any person working for Claimant in the United Kingdom</li> <li>(4) all tax declarations made by Claimant in the period from 2 August 2012 until the date of this request.</li> </ol>
<b>C. Relevance and Materiality:</b>  <b>(1) Ref. to submissions</b>  <b>(2) Comments</b>	<ol style="list-style-type: none"> <li>(1) SoD 67; 114ss</li> <li>(2) These documents will show that Claimant never conducted any business in the United Kingdom.</li> </ol> <p>The requested documents are not in possession, custody or control of Respondent. As the documents regard Claimant's own business, they must be in Claimant's possession.</p>
<b>D. Responses/Objections to Document Request</b>	<p>In paragraph 1.2 of Procedural Order No.1, the Tribunal directed that it would apply the IBA Rules <i>"for any document request of a party."</i><sup>1</sup></p> <p>Under Art. 3(3)(b) of the IBA Rules, the Respondent is required to state how the requested documents <i>"are relevant to the case and material to its outcome."</i><sup>2</sup></p>

<sup>1</sup> Procedural Order No. 1, ¶ 1.2

<sup>2</sup> IBA Rules, Art. 3(3)(b).

In spite of the Respondent's obligation to detail the relevance and materiality of its document disclosure requests, the Respondent has failed even to identify which jurisdictional objection this document request relates to, still less explain how the documents are relevant and material to the outcome of that objection.

Based solely on the reference to particular paragraphs from the Statement of Defence, the Claimant assumes the Respondent's document requests relate to the Respondent's objection that the Claimant is not a qualifying investor.

The Claimant objects to the production of these documents on the grounds that they are not relevant or material to this objection. As the Claimant explained in its Counter-Memorial on Jurisdiction, a corporation incorporated under the law in force in the UK qualifies as a UK investor under the terms of the UK-Czech Republic bilateral investment treaty (the "**UK-Czech Republic BIT**"). The Claimant meets these criteria and no further qualifications are required.<sup>3</sup>

In this arbitration, the Respondent does not dispute the fact that the Claimant is a UK company incorporated in the UK.<sup>4</sup> The Respondent admits that "*under the BIT a company incorporated in the United Kingdom would be considered a UK national for the purposes of the BIT.*"<sup>5</sup> Moreover, documents issued by the Respondent in 2012 confirm that the Claimant is a "*foreign legal entity*", registered under "*the Law of England and Wales (Great Britain)*."<sup>6</sup>

The requested documents (relating to particular aspects of the Claimant's operations in the UK such as employment issues) are, therefore, clearly not relevant or material to the question of whether or not the Claimant is a qualifying investor under the UK-Czech Republic BIT. The Respondent's attempt to procure production of these documents is thus speculative, and does not meet the criteria set out in Article 3(3)(b) or 9(2)(a) of the IBA Rules.

In relation to the particular categories of documents requested (adopting the Respondent's numbering):

(1) The Claimant objects that such documents are not relevant and/or material to the jurisdictional questions in this case, and that producing such documents would impose an unreasonable burden on the Claimant because it is not a narrow and specific category of requested documents.

<sup>3</sup> Claimant's Counter-Memorial on Jurisdiction and Request for Endorsement of the Claimant's Right to Amend the Memorial, ¶¶ 92 – 96. *See generally*: Claimant's Counter-Memorial on Jurisdiction and Request for Endorsement of the Claimant's Right to Amend the Memorial, § III.

<sup>4</sup> Respondent's Counter-Memorial, ¶¶ 63; 72; Claimant's Counter-Memorial on Jurisdiction and Request for Endorsement of the Claimant's Right to Amend the Memorial, ¶ 96.

<sup>5</sup> Respondent's Counter-Memorial, ¶ 93.

<sup>6</sup> Extract of the Czech Commercial Registry, dated 17 October, 2010, **C-0002**.

As noted above, and as admitted by the Respondent, "[t]he Claimant is undisputedly is an entity incorporated under the law in force in the United Kingdom"<sup>7</sup>. The Respondent further concedes that "under the BIT a company incorporated in the United Kingdom would be considered a UK national for the purposes of the BIT."<sup>8</sup>

The Claimant's purchases and sales in the UK are not relevant to the question of whether it is a qualifying investor under the UK-Czech Republic BIT. The Respondent has failed to explain how such documents would be relevant.

As explained in the Amended Memorial, the Claimant planned to expand its operations in the UK and, indeed, in other countries.<sup>9</sup> Indeed, the Claimant had already prepared a pitch pack for its proposed UK operations.<sup>10</sup> In this document, the Claimant specifically noted the size of the potential UK market,<sup>11</sup> its routes into the UK market,<sup>12</sup> and details of its financial projections for the UK.<sup>13</sup> This very expansion in the UK was thwarted by the Respondent's actions that caused irreversible damage to the Claimant.<sup>14</sup>

Moreover, this request is very broadly phrased. It seeks documents covering a period of almost four years, and covering documents relating to the minutiae of a business' operations. It is plainly not reasonable to ask a business to produce evidence relating to every purchase or sale of goods and/or services over such a long period. Indeed, the request is so broadly drafted that it would apparently cover even the purchase of incidentals, such as basic business goods, services of an everyday variety, and purchases of negligible value. If such documents remain in the possession, custody or control of the Claimant – and it would be entirely normal for the purchase of receipts of basic business goods and services not to be retained for such a long period of time – it would be onerous for the Claimant to have to collate and produce them. To require the Claimants to do so would impose an unreasonable burden on the Claimant because it would be responding to a request that is manifestly not a narrow and specific category of requested documents. The Respondent's request thus does not meet the criteria set out in Article 3(3)(b) or 9(2)(c) of the IBA Rules.

(2) The Respondent's request falls outside the scope of the IBA Rules.

First, the category of documents requested is too broad. The IBA Rules require that a request must identify and seek production of "narrow and specific" categories, but the Respondent's request (for "all" documents relating to the Claimant's purchases and sales, over

<sup>7</sup> Respondent's Counter-Memorial, ¶ 72.

<sup>8</sup> Respondent's Counter-Memorial, ¶ 93.

<sup>9</sup> Claimant's Amended Memorial, ¶ 28. For example, the Claimant made specific enquiries about UK employees (Email of Mr. Jan Buchal to Form Online about conditions of employing people in the UK, C-0003). It also undertook discussions with several technology companies such as BAUM, a German manufacturer of magnifiers and braille displays and AI Squared, a US company, in order to become their official distributors in the Slovak Republic as well as the Czech Republic. See: AI Squared Dealer Application dated April 6, 2014, C-0060, Witness Statement of Mr. Jan Buchal, ¶¶ 60; 86 - 91; Distributor contract between A11Y LTD and BAUM Retec A.G, C-0052. See also: Email of Mr. Buchal to Form Online about establishing a branch in the USA, C-0005; and Accessibility consulting pitch-pack, regarding the UK C-0004.

<sup>10</sup> Accessibility consulting pitch-pack, regarding the UK C-0004.

<sup>11</sup> Accessibility consulting pitch-pack, regarding the UK, p. 3 C-0004.

<sup>12</sup> Accessibility consulting pitch-pack, regarding the UK, p. 11 C-0004.

<sup>13</sup> Accessibility consulting pitch-pack, regarding the UK, p. 13 C-0004.

<sup>14</sup> See: Claimant's Amended Memorial, § III.C.

	<p>a period of almost four years) is clearly too broad and non-specific. The Claimant is trying to use its Request as an excuse to conduct a "fishing expedition" into the Claimant's business operations. Moreover, it would also be disproportionate and unduly onerous for the Claimant to be required to produce such documentation. The Respondent's request thus does not meet the criteria set out in Article 3(3)(b), 9(2)(a) or 9(2)(c) of the IBA Rules.</p> <p>Second, and in any event, the Respondent's request for documents relating to the Claimant's business activities in the Czech Republic does not relate to the issue of whether or not the Claimant is a qualifying "investor." Rather, the Respondent is conflating the issue of "investor" with "investment" when the Tribunal has already directed joined the issue of "qualifying investment" to the merits phase of proceedings.<sup>15</sup> Furthermore, the Tribunal specifically directed in Procedural Order No. 3 (paragraph 6) that: "<i>The Tribunal confirms that the scope of the document production phase ... is limited only to the bifurcated jurisdictional objections, namely Objections 1, 3 and 4 (as defined in Procedural Order No. 2).</i>"<sup>16</sup> The Respondent should not be permitted to abuse the bifurcated nature of this arbitration to impose on the Claimant a duty of production that is not applicable at this stage, and which could simply end up being duplicated in any later production process that occurs in the subsequent merits and quantum phase of the arbitration.</p> <p>(3) The Respondent's request for this information is simply a variation on its request for the purchase or sale of goods and/or services by Claimant in paragraph (1) above, except that this request is entirely unlimited by time and seems to seek production of documents prepared by the Claimant at any point in time. The Claimant repeats its objections noted in relation to category (1) above.</p> <p>(4) The Claimant objects that, once again, the Respondent has failed to explain how the requested documents "<i>are relevant to the case and material to its outcome</i>".<sup>17</sup></p> <p>The Respondent has not even specified whether it is referring to tax declarations filed in the UK or tax declarations filed in the Czech Republic. The Respondent should, obviously, have the latter in its possession. In relation to the former, the Claimant's tax declarations in the UK are clearly not relevant to the case or material to its outcome: The Respondent has already in its possession documents proving that the Claimant is a UK company, including the Claimant's certificate of incorporation.<sup>18</sup> It is for that reason that the Respondent has admitted that the Claimant is a '<i>foreign legal entity</i>'.<sup>19</sup> The Respondent's wayward meanderings, such as its request for tax documents, are clearly off-point. Accordingly, the Respondent's request fails to meet the criteria set out in Article 3(3)(b) or 9(2)(a) of the IBA Rules.</p>
<p><b>E. Reply to Objections to Document Request</b></p>	<p>Claimant objects to Respondent's request based on the argument that the documents requested by Respondent are not relevant to the case viewed from Claimant's legal perspective and not material to the outcome that Claimant desires the case to have. As a matter of course and as detailed in Respondent's submissions, Respondent does not share Claimant's legal view.</p>

<sup>15</sup> Procedural Order No. 2, ¶ 63.2. See also: Claimant's Counter-Memorial on Jurisdiction and Request for Endorsement of the Claimant's Right to Amend the Memorial, ¶¶ 123 – 125.

<sup>16</sup> Procedural Order No. 3, ¶ 6.

<sup>17</sup> The IBA Rules, Art. 3(3)(b).

<sup>18</sup> Certificate of incorporation of A11Y LTD dated 2 August, 2012, C-0001.

<sup>19</sup> Extract of the Czech Commercial Registry, dated 17 October, 2010, C-0002.

Respondent argues that the economic reality regarding Claimant's business activities in the United Kingdom is essential for determining its (non-existent) status as an investor and the arbitral tribunal's corresponding lack of jurisdiction *ratione personae*. In order to support its legal argument, Respondent requests the documents necessary to corroborate its position on a factual level.

For the purpose of the document request it is wholly irrelevant whether Claimant shares this view. Claimant is not even alleging that the documents requested by Respondent would not be relevant for proving Respondent's legal argument, but plainly, that Respondent's legal arguments are wrong. At this stage of the proceedings, the parties will gather evidence in order to support their respective arguments. The documents requested "*need to appear likely to contain information that is material to resolving what seem to be the disputed issues in the arbitration.*"<sup>20</sup> Eventually, it is within the tribunal's discretion to decide whether the requested documents are *prima facie* relevant to the case and material to its outcome.

The specific purpose of Respondent's document request is clear and despite Claimant's allegations, Respondent does not confuse the term "investor" with the term "investment". While Respondent agrees that Claimant is incorporated in the UK, that certainly does not by default make it an investor. On the contrary, Respondent argues that Claimant does not qualify as a foreign investor.<sup>21</sup> In order to substantiate its contention, it is relevant and material to the outcome of the case that Claimant produces the documents requested by Respondent.

With regard to Claimant's individual objections:

The degree of specificity of a document request depends on the specific case. Mr. Buchal established Claimant on 2 August 2012. Consequently, Respondent requested the production of all documents from this date onwards in order to prove that Claimant is but an empty corporate shell and that its entire business is conducted exclusively within the Czech Republic.

- (1) The subject matter covered by Document Request No. 1 (B) (1) is thereby restricted to the necessary facts determining the economic activities of Claimant in the abovementioned period of time. As Respondent assumes that there will be only very few documents evidencing such activities, Claimant's insinuation that Respondent's request would result in an unreasonable burden appears quite far-fetched.
- (2) In order to establish the purely domestic nature of the current dispute, Respondent requests the production of all documents evidencing that Claimant's entire business is in fact conducted within the Czech Republic.
- (3) Claimant is correct in noticing that Document Request No. 1 (B) (3) is indeed different from Request No. 1 (B) (1) in requesting documents relating to the employment of persons rather than relating to the sale and purchase of goods. Despite providing this insight, Claimant fails to substantiate its objections by other means than referring to its arguments against Respondent's legal

<sup>20</sup> IBA Rules of Evidence, Art 3 in *Zuberbühler et al.* (2012) mn 141.

<sup>21</sup> SoD, 63ss.

	<p>opinion regarding Claimant’s lack of investor status. Furthermore, since Claimant has been established on 2 August 2012, Respondent’s request is not “unlimited by time”. However, Respondent hereby clarifies the obvious by amending its Document Request No. 1 (B) (3) to state the following:</p> <p style="padding-left: 40px;">“(3) the employment of any person working for Claimant in the United Kingdom between 2 August 2012 and the date of this request.”</p> <p>(4) Since Claimant claims to be a UK national, Respondent’s document request refers to Claimant’s tax declarations filed in the United Kingdom, which are relevant for underpinning Respondent’s contention that Claimant is not actively operating any business in the UK.</p>
<b>F. Tribunal's Decision</b>	The Request, as amended, is granted.
<b>Document Request No</b>	2
<b>A. Requesting Party</b>	Respondent
<b>B. Documents or Category of Documents Requested</b>	<p>All documents in the possession, custody or control of Claimant relating to</p> <p>(1) the alleged transfer of Brailcom’s business activities and client base to Claimant;</p> <p>(2) the alleged transfer of know-how from Brailcom to Claimant;</p> <p>(3) the alleged transfer of a brand from Brailcom to Claimant;</p> <p>(4) the alleged business agreement between Brailcom and Claimant.</p>

<p><b>C. Relevance and materiality:</b></p> <p>(1) para ref to submissions</p> <p>(2) comments</p>	<p>(1) Memorial para 23 and 24</p> <p>(2) Claimant alleges that it took over Brailcom’s business activities, client base, brand, know-how and its expert personnel. Respondent disputes this and maintains that Claimant has no business of its own. The requested documents will establish that the business allegedly conducted by Claimant is still conducted by Brailcom, as the latter’s business was never transferred to Claimant. The documents will therefore serve to establish that Claimant never conducted any business in the United Kingdom. Hence, Claimant does not qualify as a foreign investor.</p> <p>The requested documents are not in possession, custody or control of Respondent. As the documents regard Claimant’s own business and the alleged transfer of Brailcom’s business to Claimant, they must be in Claimant’s possession.</p>
<p><b>D. Responses/Objections to Document Request</b></p>	<p>The Tribunal has joined the issue of <i>"qualifying investment"</i> to the merits phase of proceedings.<sup>22</sup> Further, the Tribunal specifically directed in Procedural Order No. 3 (paragraph 6) that: <i>"The Tribunal confirms that the scope of the document production phase ... is limited only to the bifurcated jurisdictional objections, namely Objections 1, 3 and 4 (as defined in Procedural Order No. 2)."</i><sup>23</sup></p> <p>In this context, the Claimant objects to this document request because it has no relevance or materiality to the issues in the bifurcated jurisdictional phase of proceedings. The Respondent is conflating the issue of <i>"investor"</i> with <i>"investment."</i> Documents concerning the <i>"business allegedly conducted"</i> and the details of that business relate to the Claimant's <i>"investment"</i> in the Czech Republic and not whether or not the Claimant is a qualifying <i>"investor"</i> under the UK-Czech Republic BIT (in respect of which the Respondent does not dispute the fact that the Claimant is a UK company incorporated in the UK, as noted above)<sup>24</sup>. The Respondent should not be permitted to abuse the bifurcated nature of this arbitration to impose on the Claimant a duty of production that is not applicable at this stage, and which could simply end up being duplicated in any later production process that occurs in the subsequent merits and quantum phase of the arbitration.</p> <p>The requested documents are, therefore, not relevant or material to the question of whether or not the Claimant is a qualifying investor as they do not affect whether or not the Claimant is duly incorporated in the UK. The Respondent’s request thus does not meet the criteria set out in Article 3(3)(b) or 9(2)(a).</p>
<p><b>E. Reply to Objections to Document Request</b></p>	<p>As stated under Document Request No. 1, Respondent does not confuse the terms investment and investor. While the obvious lack of any evidence on the alleged transfer of business will of course also be relevant for the question of whether an investment was made, Respondent, by submitting that Brailcom has not transferred any of its business activities, alleged know how or its brand to Mr. Buchal’s UK letterbox company for a lack of the latter’s actual business activity in the UK, also argues that Claimant indeed lacks UK nationality</p>

<sup>22</sup> Procedural Order No. 2, ¶ 63.2. *See also:* Claimant's Counter-Memorial on Jurisdiction and Request for Endorsement of the Claimant's Right to Amend the Memorial, ¶¶ 123 – 125.

<sup>23</sup> Procedural Order No. 3, ¶ 6.

<sup>24</sup> Respondent's Counter-Memorial, ¶¶ 63; 72; Claimant's Counter-Memorial on Jurisdiction and Request for Endorsement of the Claimant's Right to Amend the Memorial, ¶ 96.

	under the BIT. This is corroborated by the fact that Claimant has not yet submitted a written agreement, as required by Czech national law, documenting the alleged transfer. The requested documents consequently are relevant and material to the outcome of the case.
<b>F. Tribunal's Decision</b>	The Tribunal is of the view that the Request pertains to the issue of whether the Claimant has made a qualifying investment, which has been joined to the merits phase of the proceedings. Accordingly, the Request is denied without prejudice on grounds of insufficient materiality to the issues in the bifurcated jurisdictional phase of the proceedings.
<b>Document Request No</b>	<b>3</b>
<b>A. Requesting Party</b>	Respondent
<b>B. Documents or Category of Documents Requested</b>	All correspondence with Form Online Ltd. in the possession, custody or control of Claimant relating to the establishment of Claimant and/or its Czech branch office in 2012.
<b>C. Relevance and materiality:</b>  <b>(1) para ref to submissions</b>  <b>(2) comments</b>	(1) SoD: 118  (2) The requested documents will establish that Claimant was established using Form Online Ltd's online services as described in greater detail in Respondent's Statement of Defence.  The requested documents are not in possession, custody or control of Respondent. As the documents regard the founding of Claimant itself, Claimant must be in possession of these documents.

<p><b>D. Responses/Objections to Document Request</b></p>	<p>The Respondent has, once again, failed to state how the requested documents <i>"are relevant to the case and material to its outcome."</i><sup>25</sup> The Respondent has provided no argument or evidence to explain why the means of the Claimant's incorporation in the UK is relevant to the question of whether or not it was duly incorporated in the UK, or whether it is a qualifying <i>"investor."</i></p> <p>The Claimant has never denied that it was established using Form Online Ltd's online services. The Claimant has also placed documents on the record which demonstrate that it was planning to use Form Online's services for its expansion plans in the UK and the USA.<sup>26</sup> The Respondent made no contemporaneous objection that this was an inappropriate means of incorporation, and in fact issued documentation in 2012 confirming that the Claimant is a <i>"foreign legal entity"</i>, registered under <i>"the Law of England and Wales (Great Britain)."</i><sup>27</sup> In such a context, production of documents in relation to a point that is not in dispute, has already been fully evidenced, and was accepted contemporaneously by the Respondent is entirely unnecessary, and would therefore impose an unreasonable burden on the Claimant.</p> <p>The Respondent's request thus does not meet the criteria set out in Article 3(3)(b), 9(2)(a) or 9(2)(c) of the IBA Rules.</p>
<p><b>E. Reply to Objections to Document Request</b></p>	<p>Respondent's document request is relevant for establishing the concrete circumstances regarding Claimant's incorporation and thereby establishing its status as a mere letterbox company. Consequently, this information is material for determining Claimant's lack of investor-status and the lack of the arbitral tribunal's jurisdiction resulting therefrom (<i>see</i> Document Request No. 1 (E)).</p>
<p><b>F. Tribunal's Decision</b></p>	<p>The Request is denied on grounds of insufficient materiality.</p>

<sup>25</sup> IBA Rules, Art. 3(3)(b).

<sup>26</sup> *See*: Email of Mr. Jan Buchal to Form Online about conditions of employing people in the UK, C-0003; Email of Mr. Buchal to Form Online about establishing a branch in the USA, C-0005

<sup>27</sup> Extract of the Czech Commercial Registry, dated 17 October, 2010, C-0002.