

हरियाणा HARYANA

K 140787

RANJAN NARULA

ARBITRATOR

Appointed by the .In Registry – National Internet Exchange of India

In the matter of:

**Areva**

33 rue La Fayette  
75009  
Paris  
France

..... Complainant

**Domain Investment Inc.**

**Liyu**

Weihaishi  
Weihai  
Sandong 22911  
China

..... Respondent

Disputed Domain Name: [www.areva.co.in](http://www.areva.co.in)

## **AWARD**

### **1) The Parties:**

The Complainant in this arbitration proceeding is Areva, 33 rue La Fayette, 75009, Paris, France. The Complainant is represented by its authorized representatives Nathalie Dreyfus, Dreyfus & associates 78, Avenue Raymond Poincare, 75116, Paris France, who have submitted the present Complaint.

The Respondent in this arbitration proceeding is **Domain Investment Inc.**, Liyu Weihaishi, Weihai, Shandong 22911, China as per the details available in the whois database maintained by National Internet Exchange of India (NIXI).

### **2) The Domain Name, Registrar & Registrant:**

The disputed domain name is [www.areva.co.in](http://www.areva.co.in). The Registrar is Directi Internet Solutions Pvt. Ltd.

### **3) Procedural History:**

This arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28<sup>th</sup> June, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. By registering the disputed domain name with the NIXI accredited Registrar, the Respondent agreed to the resolution of the disputes pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

As per the information received from NIXI, the history of the proceedings is as follows.

In accordance with the Rules 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed Ranjan Narula as the Sole Arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996, and the Rules framed thereunder, .IN Domain Dispute Resolution Policy and the Rules framed thereunder. The Arbitrator submitted the Statement of Acceptance and Declaration of impartiality and independence, as required by NIXI.

The complaint was produced before the Arbitrator on January 10, 2013 and the notice was issued to the Respondent on January 10, 2013 at his email address with a deadline of 10 days to submit his reply to the arbitration. The Respondent on 14<sup>th</sup> January send the following response to the Arbitrator

*the price of this domain is 600 USD. If you cloud accept it, I cloud send the Auth Code to you ASAP.*





The Arbitrator on the same day informed the Respondent that as per INDRP Rules he is required to copy Complainant on all correspondence. The Arbitrator further granted time until 20<sup>th</sup> Jan, 2013 to the Respondent for making any additional submissions. No response was submitted by the Respondent. On January 21, 2013 the Arbitrator granted further opportunity to the Respondent to submit its response on or before January 31, 2013. However, again no response was submitted by the Respondent within the stipulated time of thereafter. In the circumstances the complaint is being decided based on materials submitted by the Complainant and contentions put forth by them and also taking into account their offer to sell the domain name.

**Grounds for administrative proceedings:**

- A. The disputed domain name is identical with or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- B. The Respondent has no rights or legitimate interests in respect of the impugned domain name;
- C. The impugned domain name was registered and is being used in bad faith.

**4) Summary of the Complainant's contentions:**

**The Complainant in support of its case has made the following submissions**

- a) The Complainant, AREVA, is a world leader in the energy industry.
- b) The Complainant is ranked first in the global nuclear power industry. It covers the entire nuclear cycle, from uranium mining to used fuel recycling, including reactor design and related services. Complainant also expanding its operations in renewable energies, including biomass, wind power, solar power and fuel cells.
- c) Complainant also enjoys trademark protection in the United States where Respondent is located. Complainant is well-established in Asia-Pacific, where prospects for growth are high. The objective of the Complainant is to bolster its market leadership and develop a balanced presence in Europe, north and South America, and Asia offering a la carte solution to each customer. Complainant has manufacturing and commercial facilities in every content.
- d) Complainant has had a presence in India since 2004, in the provision of turnkey biogas and biomass power plants. Complainant opened a new subsidiary in India, based in Mumbai, AREVA India Pvt. Ltd. serves as centre of corporate operations in India, representing all business lines and supporting the development of their activities in India. Areva already operates 18 units in India and is currently building five more ones. It is also involved in supplying contracts and agreements to develop its activities in this county to satisfy its ever growing energy needs. India is a key market for Complainant.



- e) The Complainant claims that AREVA is also well-established in North America where it is present throughout the nuclear power cycle. AREVA especially experiences a very fast growing presence in the United States. Complainant is very substantial operator in the nuclear power field in the United States of America and that its operations have from time to time attracted media coverage in that country.
- f) Complainant is the owner of several domain names that incorporate the name AREVA i.e <areva.in>, <areva.com>, <areva.info>. The name Areva is also the corporate and trade name of Complainant.
- g) The domain name registered by Respondent is identical to the trademark of Complainant. Complainant and its trademark AREVA enjoy a worldwide reputation. Areva is the owner of numerous trademarks across the world.
- h) The predominant part of disputed domain name is AREVA, which is Complainant's registered trademark, company name and trade name. Complainant is also the owner of many domain names incorporating the term AREVA. Respondent does not have prior rights or legitimate interests in the AREVA trademark.
- i) Respondent also appears to be engaged in a cyberflight pattern. Indeed, Complainant noted several change on Whois databases as to the owner of the disputed domain name Bharat Domains then Domainjet then again Bharat Domains while these entities appear to be linked one to another and have similar post address. After Complainant filed the complaint another change occurred on Whois database the current owner is Domain Investments Inc. which seems to be linked to the two previous registrants. Further it can be assumed that Respondent has registered this domain name to capitalize on Complainant's long history, reputation and goodwill.
- j) The Respondent's domain name resolves a parking page displaying pay-per-click links related to different goods and services. The use of the disputed domain name is to divert internet users and directing them to a webpage providing click through revenues to Respondent evidences bad faith. Respondent is taking undue advantage of Complainant's trademark to generate profits.
- k) The Disputed domain name was also placed for sale on the Sedo Platform. As of today, the parking page to which the disputed domain name resolves features a form enabling internet users to submit an offer.





## **5) Respondent**

The Respondent has not filed any substantive response to the Complaint though they were given an opportunity to do so. The Complainant in fact offered to sell the domain for US \$ 600 as per their email of 14<sup>th</sup> Jan, 2013. Thus the complaint is being decided based on submissions on record and analyzing whether the Complainant has satisfied the conditions laid down in paragraph 3 of the policy.

## **6) Discussion and Findings:**

The submissions and documents provided by Complainant in support of use and registration of the mark 'AREVA' leads to the conclusion that the Complainant has superior and prior rights in the mark 'AREVA'. Thus it can be said a) the web users associate the word 'AREVA' with the goods and services of the Complainant b) the web users would reasonably expect to find Complainant's products and services at the areva.co.in and c) they may believe it is an official website of the Complainant and the services being offered/ advertised are associated or licensed by the Complainant.

Based on the elaborate submission and documents, I'm satisfied that the Complainant has established the three conditions as per paragraph 4 of the policy which is listed below. Further the Respondent has not contested the claims therefore deemed to have admitted the contentions of the complainant.

- (1) the Respondent's domain name is identical or confusingly similar to the trademark in which he has rights;

It has been established by the Complainant that it has trademark rights, and rights on account of prior and longstanding use of the mark 'AREVA'. The Complainant has in support submitted substantial documents. The disputed domain name contains or is identical to Complainant's 'AREVA' trademark in its entirety. The mark is being used by the Complainant to identify its business. The mark has been highly publicized by the Complainant and has earned a considerable reputation in the market.

- (2) the Respondent has no rights or legitimate interests in respect of the domain name;

The Complainant has not authorised the Respondent to register or use the 'areva.co.in' domain name. Further, the Respondent has never used the disputed domain name for legitimate business services and their purpose for registration appears to be purely for monetary gain as evidenced by their response to transfer the domain for US\$ 600.

The Respondent has not rebutted the contentions of the Complainant and has not produced any documents or submissions to show interest in protecting his own rights



and interest in the domain name. Further, the Respondent has not used the domain name or a name corresponding to the disputed domain name in connection with a bonafide offer of goods or services. The domain name is being monetized by diverting internet traffic through pay per click links. The above leads to the conclusion that Respondent has no right or legitimate interest in respect of the disputed domain name 'areva.co.in'.


(3) the domain name has been registered in bad faith.

It may be mentioned that since the Respondent did not file any substantive response and rebut the contentions of the Complainant, it is deemed to have admitted the contentions contained in the Complaint. As, the Respondent has not established its legitimate rights or interests in the domain name, an adverse inference as to their adoption of domain name has to be drawn. More so their offer to sell the domain name shows bad faith in registration and use

Based on the documents filed by the Complainant, it can be concluded that the domain name/mark 'AREVA' is identified with the Complainant's products, therefore its adoption by the Respondent shows 'opportunistic bad faith'.

#### **7. Decision:**

In view of the foregoing, I am convinced that the Respondent's registration and use of the domain name [www.areva.co.in](http://www.areva.co.in) is in bad faith. The Respondent has no rights or legitimate interests in respect of the domain name. In accordance with the Policy and Rules, the arbitrator directs that the disputed domain name [www.areva.co.in](http://www.areva.co.in) be transferred from the Respondent to the Complainant.



**RANJAN NARULA**  
**SOLE ARBITRATOR**  
**NIXI**  
**INDIA**

**08 February, 2013**