

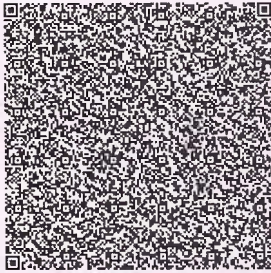


सत्यमेव जयते

# INDIA NON JUDICIAL Chandigarh Administration

## e-Stamp

Certificate No. : IN-CH13169122071190Q  
Certificate Issued Date : 09-Jul-2018 12:44 PM  
Certificate Issued By : chvandani  
Account Reference : IMPACC (GV)/ chimpsp07/ E-SMP MANIMAJRA/ CH-CH  
Unique Doc. Reference : SUBIN-CHCHIMPSP0726289570480205Q  
Purchased by : NITIN  
Description of Document : Article 12 Award  
Property Description : KOTHI NO 6 SHIVALIK ENCLAVE NAC MM CHD  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : DR ASHWINIE KUMAR BANSAL  
Second Party : Not Applicable  
Stamp Duty Paid By : DR ASHWINIE KUMAR BANSAL  
Stamp Duty Amount(Rs.) : 100  
(One Hundred only)



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

### ARBITRATION AWARD

(On Stamp Paper)

#### 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.

**INDRP ARBITRATION**  
**THE NATIONAL INTERNET EXCHANGE OF INDIA**  
**[NIXI]**

**ARBITRAL TRIBUNAL CONSISTING OF**  
**SOLE ARBITRATOR:**  
**DR. ASHWINIE KUMAR BANSAL, L.L.B; Ph.D.**  
**Advocate, Punjab & Haryana High Court,**  
**Chandigarh**

**In the matter of:**

Raytheon Company, 870 Winter Street, Waltham, Massachusetts-  
02451, United States of America

**...Complainant**

**VERSUS**

Randa Newsome, 870, Winter Street, Waltham, Massachusetts-  
02451, United States of America

**...Respondent/Registrant**

**COMPLAINT REGARDING: DISPUTED DOMAIN NAME:**  
**RAYTHEON.ORG.IN**

**1. The Parties:**

**Complainant:**

Raytheon Company, 870 Winter Street, Waltham, Massachusetts-  
02451, United States of America

**Respondent:**

*Ashwinie B.*



Randa Newsome, 870, Winter Street, Waltham, Massachusetts-02451, United States of America

- 2. The Domain Name and the Registrar:** The disputed domain name <raytheon.org.in> is registered with GoDaddy.com, LLC (R101-AFIN), 14455 N Hayden Rd Ste 226, Scottsdale, AZ 85260-6993, United States of America (the "Registrar").

**3. Procedural History [Arbitration Proceedings]**

A Complaint has been filed with the National Internet Exchange of India (NIXI). The Complainant has made the Registrar verification in connection with the disputed domain name <raytheon.org.in>. It is confirmed that at present the Respondent is listed as the Registrant and provided the administrative details for administrative, billing and technical contact. NIXI appointed Dr. Ashwinie Kumar Bansal, Advocate, as the sole Arbitrator in this matter. The Arbitrator has submitted his Statement of Acceptance and Declaration of Impartiality and Independence, as required by NIXI.

NIXI has intimated that it had sent the complaint along with annexures by e-mail as well as by courier to the Respondent on 04.06.2018.

In accordance with the INDRP Rules of Procedure (the Rules), Arbitrator directed the Respondent on 06.06.2018, with copy to Complainant and NIXI, through the email, to give his Reply within 10 days. On failure to file the response, another opportunity was given to the Respondent to give response within 4 days vide e-mail dated 26.06.2018 but to no use.

*Ashwinie B*

Respondent has failed to give any response to the Complaint inspite of expiry of stipulated period given to him.

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

Raytheon Company, the Complainant is a company duly organized and existing under the laws of the United States of America. It was founded in the year 1922 and it provides state of the art electronic, mission systems integration, capabilities in C5I (Command, control, communications, computing, cyber and intelligence), sensing, effects and mission support services. The Complainant owns the Trademark RAYTHEON.

The Respondent has registered the disputed domain name <raytheon.org.in> on 13.10.2017 wholly incorporating Trademark of the Complainant. Hence, present Complaint has been filed by the Complainant against the Respondent.

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

##### **A. Complainant**

The Complainant is a leading provider of technical products and services in different fields, most of them involving electronics, aviation & aeronautics and defense. The several businesses of the Complainant namely, the Intergrated Defense Systems, Intelligence, Information and Services, Missile Systems, Space and Airborne Systems and Global Business Service work together to craft solutions for a wide variety of government and commercial customers.

*Agne B*

The Complainant owns the well-known and distinctive trademark RAYTHEON and its variants (hereinafter referred to as the said marks). The Complainant has had enormous amount of sales for its products under the mark RAYTHEON and posted net sales of \$ 25.3 Billion Dollars for the year 2017. The popularity and worldwide recognition of the Complainant and its well-known RAYTHEON marks may be gauged from the fact that an exclusive page has been dedicated by Wikipedia mentioning about their history and business operations. It is widely known that Wikipedia is an encyclopedia viewed by the masses.

The Complainant holds more than 150 RAYTHEON Trademark Registrations around the world including in India. The earliest Trademark Applications of the Complainant for the Trademark RAYTHEON was filed at least in 18.07.1929 in the United States under application number 71287311 and the mark was first used in commerce in 1928. The Complainant has secured registrations for its RAYTHEON mark in India on 11.04.1946 in class 09 under Registrations number 120915.

The Complainant is also the owner of the domain name www.raytheon.com and secured registrations of the same on 17.04.1995. The said registration is valid and subsisting since at least until 28.11.2018.

The Complainant is the first to conceive, adopt, use and promote the mark/name RAYTHEON and the domain name www.raytheon.com. On account of extensive usage of the RAYTHEON mark/name by the Complainant and its domain name, the same are identified solely and exclusively with the Complainant and none other. The mark RAYTHEON is used by the Complainant worldwide and has gained immense popularity.

*Ashu B*

The mark RAYTHEON and its variants have been extensively showcased over social media websites like Facebook, Twitter, YouTube etc. Such strong presence on social media websites evidences the ever-growing popularity of the mark RAYTHEON of the Complainant.

The Complainant has invested substantial time, money and effort to advertise/promote the mark RAYTHEON and its variants which has led to the mark acquiring a well-known status worldwide, including in India. The Complainant is closely associated with Super Bowl, which is the annual championship game of the National Football League. The Complainant is responsible for the Super Bowl experience exhibit and its commercials are featured before and during the game. The Complaint has also participated in numerous events/trade shows across the world which has led to the widespread publicity of the mark RAYTHEON. Further, the Complainant issues regular news releases which keeps the consumers and the relevant members of the trade updated with the latest developments happening with respect to the Complainant and the mark RAYTHEON. The use of the word RAYTHEON on any leading search engine automatically the webpage of the Complainant among the leading hits.

The Complainant submits that on account of its extensive use and popularity of the domain name/Trademark RAYTHEON across the world, the RAYTHEON mark /name is well recognized. Its use has been popularized by the complainant therefore the Respondent can have no plausible explanation for adoption of a domain name comprising the Complainant's well-known and highly distinctive Trademark RAYTHEON in its entirety. The Respondent's intention is clearly to take advantage of the goodwill and reputation enjoyed by the Complainant's Trademark RAYTHEON and the domain name [www.raytheon.com](http://www.raytheon.com).

*Agne B*



The Respondent's domain name does not redirect to any active websites and upon searching for the websites, the URL is not found on the Internet server. The domain has been merely blocked/registered with an intention to attract internet traffic and benefit from the sale of a famous domain.

The Complainant submits that it will suffer incalculable harm and injury to its goodwill, reputation and business is general if the Respondent is allowed to maintain its domain name [www.raytheon.org.in](http://www.raytheon.org.in). The loss and damage will not only be to the Complainant's reputation but also result in confusion and deception among the trade and public who shall have no reason to consider that an identical domain name with the extension [org.in](http://org.in) does not belong to the Complainant. The trade and public may also assume that there exists a connection between the Complainant and the Respondent which is likely to further harm the reputation enjoyed by the Complainant. In the circumstances, the present case is clearly that of cyber-squatting.

The Complainant submits that it is a settled proposition of law that where there is copying, dishonesty ought to be presumed. In the present case, copying by the Respondent is evident from its adoption of an identical domain name. Further, the fact that the Respondent has used the contact information of one of the employees of the Complainant without any authorization, highlights the dishonest intention on its part. Moreover, the Respondent's intention is clearly to take a free ride on the goodwill and the unique sales appeal that the Complainant's good/service under the name/mark RAYTHEON and domain [www.raytheon.com](http://www.raytheon.com) have achieved over a period of time.

*Ashtu B*

The Complainant submits that all three essential conditions in Paragraph 4 of the Policy are satisfied by the Complainant and is therefore entitled to transfer of the domain name in its favour.

### **Respondent**

The Respondent has not filed the Response to the Complaint inspite of opportunity given to him.

## **6. Discussion and Findings**

As per Paragraph 11 of the INDRP Rules of Procedure where a Respondent does not submit a response, in the absence of exceptional circumstances, the Arbitrator may decide the Complaint in accordance with law. The Arbitrator does not find any exceptional circumstances in this case preventing him from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a response.

It remains incumbent on the Complainant to make out its case in all respects under Paragraph 4 of the Policy, which sets out the three elements that must be present for the proceeding to be brought against the Respondent, which the Complainant must prove to obtain a requested remedy. It provides as follows:

#### *"4. Types of Disputes*

*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:*

*Ashu B*



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

*(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 in bad faith.*

*The Registrant is required to submit to a mandatory Arbitration proceeding in the event that a Complainant files a Complaint to the .IN Registry, in compliance with this Policy and Rules thereunder."*

The Arbitrator will address the three aspects of the Policy listed above.

#### **A. Identical or Confusingly Similar**

The Complainant owns the intellectual property rights in the Trademark RAYTHEON and he has secured Trademark registrations since very long. The Complainant has established that its Trademark RAYTHEON is subject of many trademark registrations in his favour. The Trademark of the Complainant has become associated by the general public exclusively with the Complainant. The Complainant also has many domain name registrations and its presence on the internet.

The disputed domain name was registered by the Respondent on 13.10.2017, which wholly incorporates Trademark RAYTHEON of the Complainant.

The Arbitrator finds that the registration of the Trademark is *prima facie* evidence of the Complainant's Trademark rights for the purposes of the Policy<sup>1</sup>. Internet users who enter the disputed domain name <raytheon.org.in> being aware of the reputation of the Complainant may be confused about its association or affiliation with the Complainant.

The Respondent has registered the disputed domain name <raytheon.org.in> incorporating the Trademark RAYTHEON of the Complainant, which the Arbitrator finds is sufficient to establish confusing similarity for the purpose of the Policy.

The Arbitrator finds that the disputed domain name <raytheon.org.in> is confusingly similar to the website and Trademark RAYTHEON of the Complainant.

## **B. Rights or Legitimate Interests**

The Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in the disputed domain name. Nevertheless, it is well settled that the Complainant needs only to make out a *prima facie* case, after which the burden of proof shifts to the Respondent to rebut such *prima facie* case by demonstrating rights or legitimate interests in the domain name<sup>2</sup>.

---

<sup>1</sup> See *State Farm Mutual Automobile Insurance Company v. Periasami Malain*, NAF Claim No. 0705262 ("Complainant's registrations with the United States Patent and Trademark Office of the trademark STATE FARM establishes its rights in the STATE FARM mark pursuant to Policy, paragraph 4(a)(i)."); see also *Mothers Against Drunk Driving v. phix*, NAF Claim No. 0174052 (finding that the Complainant's registration of the MADD mark with the United States Patent and Trademark Office establishes the Complainant's rights in the mark for purposes of Policy, paragraph 4(a)(i)).

<sup>2</sup> See *Hanna-Barbera Productions, Inc. v. Entertainment Commentaries*, NAF Claim No. 0741828; *AOL LLC v. Jordan Gerberg*, NAF Claim No. 0780200.

*Abhishek*

The Respondent has registered the disputed domain name consisting of the Trademark owned by the Complainant. The Complainant has been using the Trademark RAYTHEON since very long. The Complainant has not authorized or permitted the Respondent to use the Trademark RAYTHEON.

The Respondent has not filed a Response to rebut the Complainant's *prima facie* case and the Respondent has thus failed to demonstrate any rights or legitimate interests in the disputed domain name <raytheon.org.in> as per Paragraph 7 of the Policy.

The Respondent has no right to and legitimate interest in the disputed domain name. The Respondent illegally and wrongfully adopted the Trademark RAYTHEON of the Complainant with the intention to create an impression of an association with the Complainant. The Arbitrator finds that the Complainant has made out a *prima facie* case.

Based on the facts as stated above, the Arbitrator finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name <raytheon.org.in>.

### **C. Registered and Used in Bad Faith**

Paragraph 6 of the Policy identifies, in particular but without limitation, three circumstances which, if found by the Arbitrator to be present, shall be evidence of the registration and use of the Domain Name in bad faith. Paragraph 6 of the Policy is reproduced below:

*"6. Evidence of Registration and use of Domain Name in Bad Faith*





*For the purposes of Paragraph 4(iii), the following circumstances, in particular but without limitation, if found by the Arbitrator to be present, shall be evidence of the registration and use of a domain name in bad faith:*

*(i) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the Trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or*

*(ii) the Registrant has registered the domain name in order to prevent the owner of the Trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or*

*(iii) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location."*

Each of the three circumstances in Paragraph 6 of the Policy (which are non-exclusive), if found, is evidence of "registration and use of a domain name in bad faith". Circumstances (i) and (ii) are

*Ashley B.*

concerned with the intention or purpose of the registration of the domain name, and circumstance (iii) is concerned with an act of use of the domain name. The Complainant is required to prove that the registration was undertaken in bad faith and that the circumstances of the case are such that the Respondent is continuing to act in bad faith.

The Respondent has registered identical domain name <raytheon.org.in> with the .IN Registry. The aforesaid domain name incorporates the Complainant's well-known, prior used mark RAYTHEON and is identical to the prior registered domain of the Complainant i.e. raytheon.com. The Complainant has not licensed or otherwise authorized or given consent to the Respondent to use/utilize or commercially exploit the Complainant's registered and well known Trademark in any manner. The disputed domain name clearly incorporates the Complainant's Trademark RAYTHEON in its entirety. Such use of the disputed domain name is considered evidence of bad faith registration and use<sup>3</sup>.

The domain name does not redirect to an active website therefore there is no legitimate business interest of the Respondent in blocking/registering the said domain name, other than to derive illegal profits by give an indication of possible affiliation/association of the Respondent with the Complainant, thereby unnecessarily causing deception and confusion to the relevant public.

The Respondent registered the disputed domain name in its favour with the Registrar. He has given the administrative contact of Randa

---

3 The Complainant has relied on the decisions of the Hon'ble Delhi High Court and this forum in the cases of *Gulshan Khatri Vs Google Inc* O.M.P(COMM) 497/2016 [www.googlee.in](http://www.googlee.in), and in *TV Sundram Iyengar and Sons Private Limited Vs. Matt Sexton* (INDRP Case No 740) and marked as 'Annexure G'.

*Ashu B*

Newsome, 870, Winter Street, Waltham, Massachusetts-02451, United States of America.

Randa Newsome is Vice President of Human Resources of Raytheon Company i.e. the Complainant. The Complainant has filed her letter of undertaking confirming that she did not register the disputed domain name and that she has no knowledge of existence or registration of same until it was brought to attention by the Complainant. Relevant portion of letter of undertaking is reproduced below:

*"1. I am the Vice President of Human Resources of Raytheon Company.*

*2. The WHOIS record for www.raytheon.org.in lists my name and my company's address under the registrant contact information. A copy of the WHOIS record is annexed herewith as Annexure 1.*

*3. The WHOIS record also lists randa.newsome348@gmail.com as an email address.*

*4. I do not own the email address randa.newsome348@gmail.com.*

*5. I did not register the domain www.raytheon.or.in.*

*Therefore, I hereby confirm that I did not register the domain name raytheon.org.in. I had no knowledge of the existence or registration of this domain name until it was brought to the attention of my company.*

*Therefore, I confirm that I have unlawfully been impersonated by the real registrant of this domain name."*

*Ashme B*



Such unauthorized registration of the Trademark by the Respondent suggests opportunistic bad faith. The Respondent's true intention and purpose of the registration of the disputed domain name <raytheon.org.in> which incorporates the Trademark RAYTHEON of the Complainant is, in this Arbitrator's view, to capitalize on the reputation of the Trademark of the Complainant.

The Arbitrator therefore finds that the disputed domain name <raytheon.org.in> has been registered by the Respondent in bad faith.

The Trademark RAYTHEON has been a well-known name. The domain disputed name <raytheon.org.in> is confusingly similar to the Complainant's Trademark RAYTHEON, and the Respondent has no rights or legitimate interests in respect of the domain name, and he has registered and used the domain name <raytheon.org.in> in bad faith. These facts entitle the Complainant to an award transferring the domain name <raytheon.org.in> from the Respondent.

The Arbitrator allows the Complaint and directs that the Respondent's domain name <raytheon.org.in> be transferred in favour of the Complainant.

## **7. Decision**

Keeping in view all the facts and circumstances of the matter this Complaint is allowed. The disputed domain name <raytheon.org.in> is similar to the Trademark RAYTHEON in which the Complainant has rights. The Arbitrator orders in

*Ashu B*

accordance with the Policy and the Rules, that the domain name  
<[www.raytheon.org.in](http://www.raytheon.org.in)> be transferred to the Complainant.

The award has been made and signed at Chandigarh on the date  
given below.

Place: Chandigarh

Dated: 10.07.2018



**Dr. Ashwinie Kumar Bansal**  
**Sole Arbitrator**

Advocate, Punjab and Haryana High Court  
Arbitration House 6, Shivalik Enclave, NAC,  
Near Housing Board Chowk,  
Chandigarh, India-160101  
Mobile: 9915004500

Email: [akbansaladvocate@gmail.com](mailto:akbansaladvocate@gmail.com)