



दिल्ली DELHI

ARBITRATION CASE NO.2 OF 2012

T 052788

**IN THE ARBITRATION MATTER OF:-**

DELL INC.  
COMPLAINANT

VERSUS

JACK SUN

RESPONDENT

**AWARD**

The present dispute relates to the registration of the domain name [delldirect.co.in](http://delldirect.co.in) in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the domain name <[delldirect.co.in](http://delldirect.co.in)> in favour of the Respondent. The complainant has stated that it is the world's largest seller of computer system since 1984, when it was founded by one Mr. Michael Dell. The complainant has activities in field of providing services of computer hardware, software, peripherals, computer-oriented products such as phones, tablet computers etc., and computer-related consulting, installation, maintenance, leasing, warranty and technical support services. The complainant has stated that it has began using its trademark /name **DELL** since 1987 and since then it has established itself in the offering wide range of computer related goods and services online through **DELL** domain name.

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It has stated that at present, it owns over 5000 domain names several of which contain the trade mark "**DELL**" including dell.co.in, dell.in, dellcenter.in, dellcomputer.co.in, dellcomputer.in, dellcomputercenter.in, dellcomputers.co.in, dellcomputers.in, dellcustomerstories.co.in, delldatasafe.co.in, delldirect.in, dellinspiron.in, dellaptops.co.in, dellaptops.in, dellmobile.co.in, dellmobile.in, dellpc.in, dellperotsystems.in, dellphones.co.in, dellphones.in, dellprinters.in, dellservices.co.in, dellsmartphone.co.in, dellsmartphones.in, dellsmartphones.co.in, dellsmartphones.in, dellstage.in, dellstore.in, dellstores.in, dellstreak.co.in, dellstreak.in, dellstudio.in, dellstudioone.in, dellsuppliers.co.in, delltablet.co.in, delltablet.in, delltablets.co.in and delltablets.in. The list of such domain name has been produced in support of the statements. The complainant has contended in its complaint that the respondent is using the <delldirect.co.in> to intentionally attract, for commercial gain, internet users seeking complainant's products and services to its own websites, thereby misappropriating illegally and without any authority, trademark **DELL** which is the exclusive property of the complainant.

I entered upon reference regarding the instant dispute on 2<sup>nd</sup> April 2012 and notice was sent to the Respondent calling upon for their response to the said complaint. However, even after granting considerable time to the Respondent, there has been no response. Accordingly, the Respondent is proceeded ex-parte.

On consideration of entire complaint as well as the documents filed along with it, I am of the view that the complainant who has established proprietary right over the mark **DELL** by showing its registration in various countries and especially that the said mark attaches and carries the brand image of the complainant which it has established since 1987 in the field of providing computer services as mentioned in the complaint. Furthermore, the complainant has been able to show its penetration in global markets for rendering services for which it is known. The complainant has also shown that the mark **DELL** has been registered in India. Therefore, in view of such facts the complainant has the right, title and interest over the mark **DELL**. Also in support of is claim to the domain name <delldirect.co.in>, it has also produced in record the domain names with prefix **DELL**.



The complainant's grievance is that the Respondent has registered the domain name delldirect.co.in in bad faith. It has been contended that the intentional use of the instant domain name by the respondent is not bonafide. This is for the reason that the complainant has filed various documents to show that the respondent has even asked for amount of consideration from the complainant after receiving the legal notices from the US based attorney's of the complainant. Since the respondent has not entered its appearance and rebut the assertions made by the complainant, I therefore, hold that the contentions stands proved against the respondent.

Considering such facts and circumstances I am of the view that the complainant as a proprietary right over the mark **DELLDIRECT** and therefore, I deem it fit and proper to allow the prayer of the complainant in its favour and direct the registry to transfer the said domain name i.e. delldirect.co.in in favour of the complainant.

Parties to bear their costs.

Dated 21<sup>st</sup> May 2012.

  
(NIKILESH RAMACHANDRAN)  
ARBITRATOR