



उप-कोषागार दादरी

18 Jan 2018

उत्तर प्रदेश UTTAR PRADESH

CS 182505

उप-कोषाधिकारी

INDRA ARBITRATION

SELL INC.

V.

NAGENDRAN KATHIRVEL

ROANEY J. RYSER

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

**ADMINISTRATIVE PANEL DECISION
SOLE ARBITRATOR: RODNEY D. RYDER**

Dell Inc. v. Nagendran Kathirvel

ARBITRATION AWARD

Disputed Domain Name: <delllaptopbattery.in>

A handwritten signature in black ink, appearing to read "Rodney D. Ryder". The signature is stylized and includes a horizontal line below the name.

The Parties

The Complainant in this arbitration proceeding is Dell, Inc.; represented by Shri Safir Anand and Ms Madhu Rewari, Anand & Anand, New Delhi, India.

The Respondent in this arbitration proceeding is Shri Nagendran Kathirvel, Chennai, Tamil Nadu, India.

The Domain Name and Registrar

The disputed domain name is www.delllaptopbattery.in. The Registrar with which the disputed domain name is registered is Good Domain Name Registry Private Limited, Chennai, Tamil Nadu, India.

Procedural History [Arbitration Proceedings]

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 28th 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.

According to the information provided by the National Internet Exchange of India ["NIXI"], the history of this proceeding is as follows:

In accordance with the Rules, 2(a) and 4(a), NIXI formally notified the Respondent of the Complaint, and appointed Rodney D. Ryder 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 Name 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 Complainant, based on various Indian and international trademark registrations across various classes of the trademark 'Dell', and based on the use of the said trademark[s] in India submitted that it is the sole proprietor of and has sole and exclusive rights to use the said trademark[s] 'Dell'.

On January 22, 2016, the Respondent wrote to the Arbitrator with a request to withdraw from the arbitration proceedings. On January 23, the Respondent reiterated their request to withdraw.

Discussion and Findings

In line with previous decisions, e.g., *Williams-Sonoma, Inc. v. EZ-Port*, [WIPO Case No. D2000-0207](#), *Amgen Inc. v. Texas International Property Associates*, [WIPO Case No. D2007-0155](#), *Valero Energy Corporation, Valero Refining and Marketing Company v. RareNames, WebReg*, [WIPO Case No. D2006-1336](#), *Levantur, S.A. v. RareNames, WebReg*, [WIPO Case No. D2007-0857](#), *Instituto del Fondo Nacional de la Vivienda para los Trabajadores v. Whois Privacy Protection Service Inc., Demand Domains, Inc.* [WIPO Case No. D2007-0917](#), since the Respondent has consented to the transfer of the disputed domain name to the



Complainant, the Panel finds that in this case there is no need to assess the facts supporting the claim.

The Respondent in this proceeding has expressly agreed to transfer – without admitting to the elements of paragraph 4(a) of the Policy – the disputed domain name to the Complainant upon order of the Panel. Therefore, as held in *Amgen Inc. v. Texas International Property Associates, supra*, “given Respondent’s consent to transfer, this Panel deems it appropriate to grant the request to transfer. No further consideration or discussion of the elements of the Policy is deemed necessary”.

Decision

For all the foregoing reasons, in accordance with Paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the domain name, <delllaptopbattery.in> be transferred to the Complainant.

The National Internet Exchange of India [NIXI] is directed to monitor the transfer of the domain name to the Complainant.



Rodney D. Ryder
Sole Arbitrator

Date: January 27, 2016