



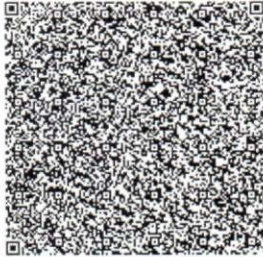
सत्यमेव जयते

# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

Certificate No.	: IN-DL166470549685370
Certificate Issued Date	: 17-Feb-2016 12:50 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP17318712445311930
Purchased by	: DIVYA BALA SUNDARAM
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: DIVYA BALA SUNDARAM
Second Party	: Not Applicable
Stamp Duty Paid By	: DIVYA BALA SUNDARAM
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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Before the Sole Arbitrator, Divya Balasundaram

C/O National Internet Exchange Of India

In the matter of:

Dell Inc.

Versus -

Nagendran Kathirvel

*Divya Balasundaram*

#### Statutory Alert:

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**ARBITRAL AWARD**  
**.IN REGISTRY**  
**C/O NIXI (NATIONAL INTERNET EXCHANGE OF INDIA)**  
**Before The Sole Arbitrator, Divya Balasundaram**

Disputed domain name - dellshowroom.in

IN THE MATTER OF:

Dell Inc.,  
One Dell Way,  
Round Rock, Texas 78682-2244,  
United States of America

Complainant

Versus

Nagendran Kathirvel,  
GBS Systems & Services Pvt. Ltd.,  
No.1070-A, Munuswamy Salai,  
K.K. Nagar, Chennai, Tamil Nadu, 600078

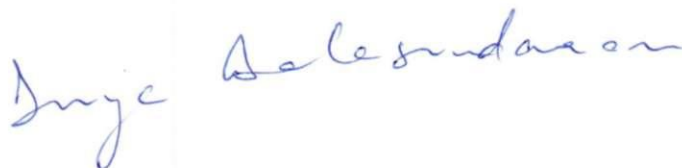
Respondent

**1. The Parties**

- 1.1 The Complainant in this arbitration proceeding is Dell Inc., One Dell Way, Round Rock, Texas 78682-2244, United States of America. The Respondent is Nagendran Kathirvel, GBS Systems & Services Pvt. Ltd., No.1070-A, Munuswamy Salai, K.K. Nagar, Chennai, Tamil Nadu, 600078.

**2. The Domain Name and the Registrar:**

- 2.1 The present arbitration proceeding pertains to a dispute concerning the registration of the domain name <dellshowroom.in> with the .IN Registry. 5. The sponsoring Registrar with whom the domain name is registered is Good Domain Registry Private Limited.



### 3. Procedural History

- 3.1 The arbitration proceeding is in accordance with the .IN Domain Name Dispute Resolution Policy (.INDRP), adopted by the National Internet Exchange of India (NIXI).
- 3.2 NIXI vide its email dated January 14, 2016 requested availability of Ms. Divya Balasundaram to act as the Sole Arbitrator in the matter. The Arbitrator indicated her availability and submitted the Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the .INDRP Rules of Procedure on January 15, 2016.
- 3.3 Arbitrator was appointed vide NIXI's email of January 21, 2016. On January 21, 2016, email was sent by the Respondent to NIXI (copied to Arbitrator and Complainant) stating that Respondent is ready to surrender the domains, and asking for the procedure for surrender. Later on the same day, Arbitrator served a formal notice of the Complaint upon the Respondent.
- 3.4 On January 23, 2016, another email was sent by Respondent stating that he was ready to surrender the domain name and asking for the procedure. In view of the response of the Respondent, the Arbitrator addressed an email dated January 25, 2016 to Complainant's Counsel highlighting the willingness of the Respondent to surrender the domain name and stating this to be a fit case for pre-decision settlement of this dispute. In response to this email, Complainant requested that the Arbitrator pass an award in its favor and also transfer the disputed domain name to it. The respondent re-iterated he had no intention to retain the disputed domain name, and was ready and willing to transfer the disputed domain name to the Complainant.
- 3.5 Keeping the above background in mind, the Arbitrator has proceeded to pass the instant Award.

### 4. Factual Background

- 4.1 It is submitted by the Complainant that it is an American company founded in 1984 by Mr. Michael Dell, and is one of the world's largest

*Divya Balasundaram*



direct seller of computer systems. The Complainant's business includes 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 began using the trade mark /name DELL in 1987.

- 4.2 Since then it has made extensive and prominent use of its trade mark / name DELL in connection with a wide range of goods and services, including offering its goods and services online through numerous DELL domain names. Complainant has also heavily promoted its marks. The trade mark DELL and the DELL formative marks have been registered by the Complainant in over 184 countries across the world including United States of America and India.
- 4.3 Complainant owns over 5000 domain names a majority of which contain the trade mark "DELL" including dell.co.in, dell.in. Numerous arbitration panels including the instant forum have either recognized the fame of the trade mark / name DELL or its very distinctiveness. On the basis of all these factors, the Complainant contends that the "DELL" trade mark has become famous and well-known, and the Complainant has developed enormous goodwill in the same.
- 4.4 The Complainant became aware that the domain name <dellshowroom.in> was registered in the name of the Respondent. Not only the said disputed domain name, but several other domain names containing the term DELL have been registered by the instant Respondent. Additionally, a comparison of the images on the website under the disputed domain name and the Complainant's website show that the Respondent has also copied the design and the layout of the Complainant's website.
- 4.5 The Complainant has filed the present complaint with the Tribunal contending that the Respondent's impugned domain name is identical to a trade mark in which the Complainant has statutory rights. The Respondent has no rights or legitimate interests in respect of the impugned domain name and the Respondent domain name has been registered and / or is being used in bad faith, all in violation of the

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.INDRP. The Complainant is praying that the domain <dellshowroom.in> be transferred to the Complainant. The Complainant has also asked that heavy costs be imposed upon the Respondent.

**5. Discussion and Findings:**

- 5.1 In this case, keeping in mind the procedural background, the decision is based upon the Complainant's submissions and the Respondent's consent to transfer the disputed domain name in favour of the Complainant.
- 5.2 As held by the Learned Panel in previous decisions, (*Avoya Inc. V. Madhuram Sankaran Case No. INDRP/174, Merck Sharp & Cohme Corp. V. Marketing Munch Pry. Ltd. Case No. INDRP/230, IDFC Ltd. Vs. Pankaj Gupta Case No. INDRP/571, Idea Cellular Limited V. Nick Cardew Case No. INDRP/629, Orange Brand Service Limited V. Orange Media Solution Case No. INDRP/660, Lenovo Beijing Limited vs. Shajeem Othayoth Case No. INDRP/708*) on the basis of the Respondent's consent to transfer the disputed domain name, no further consideration or discussion of the Policy is necessary by the Arbitrator.

**6. Decision**

- 6.1 For all the aforementioned reasons, in accordance with Paragraph 4(i) of the Policy and 14 of the Rules, the panel orders that as consented by the Respondent, the domain name <dellshowroom.in> be transferred to the Complainant. The complaint is disposed off accordingly. No order as to costs.



Divya Balasundaram  
Sole Arbitrator

Date: February 24, 2015

Place: New Delhi