

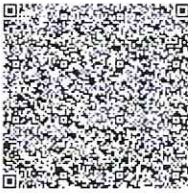
सत्यमेव जयते

## INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

## e-Stamp

Certificate No.	: IN-DL25217360060797T
Certificate Issued Date	: 02-Jan-2021 01:35 PM
Account Reference	: IMPACC (IV)/ dl859003/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL85900353825923269300T
Purchased by	: PANKAJ GARG ADVOCATE
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: PANKAJ GARG ADVOCATE
Second Party	: Not Applicable
Stamp Duty Paid By	: PANKAJ GARG ADVOCATE
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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**BEFORE THE NATIONAL INTERNET EXCHANGE OF  
INDIA [NIXI]**

**SOLE ARBITRATOR: PANKAJ GARG  
COMPLAINT NO. INDRP 1297/2020**



DELL INC

V.

TARUN VIJ

ARBITRATION AWARD

DISPUTED DOMAIN NAME: [www.dellcenters.in](http://www.dellcenters.in)

1. This e-stamp should be verified at [www.shiltestamp.com](http://www.shiltestamp.com) or using e-Stamp Mobile App of Stamp India Ltd.  
2. The e-stamp is valid for 30 days from the date of issue and as available on the website / Mobile App for details.  
3. The e-stamp is not valid for the purpose of the certificate.  
4. The e-stamp is not valid for the purpose of the Certificate of Arbitration.

**CORAM:**  
**HON'BLE MR. PANKAJ GARG**

**REPRESENTATIONS:**

a. The Complainant **M/s DELL Inc.**

Through,  
Authorized Representative in these proceedings are :  
Akhilesh Kumar Rai,  
AZB & Partners  
Email: Akhileshkumar.raai@azbpartners.com  
Plot No.: A 8, Sector 4  
Noida 201301  
India  
Ph: + 911204179999

b. The Respondent **Tarun Vij**  
Dell Centre V.S. Enterprises,  
E-8/12, Shop No.3 Main Road,  
Malviya Nagar,  
New Delhi,  
Delhi 110017,  
India  
Through None

The present Complaint has been filed by the Complainant against the Respondent before the National Internet Exchange of India (NIXI) under the INDRP Rules of Procedure (The Rules of Procedure) with regard to the domain dispute [www.dellcenters.in](http://www.dellcenters.in) seeking the transfer of the



impugned domain name to the Complainant, who is the legitimate owner of the trade mark "DELL".

2. The NIXI referred this Complaint to this Tribunal and this Tribunal accepted the reference of the NIXI on 02.12.2020.

3. Notice was issued by this Tribunal to the parties through e-mail on 07.12.2020, with the direction to the Respondent to file Reply/Counter with all documents and evidences before this Forum on or before 17.12.2020 with an advance copy to the Complainant for filing Rejoinder, if any, latest by 21.12.2020. Under the Rules of Procedure, the a hard copy of the Complaint was also served by the Complainant upon the Respondent.

4. In the notice issued by this Tribunal on 07.12.2020 it was directed that failure on the part of the Respondent to file Reply/ Counter, an Award shall be passed on merits on 31.12.2020.

5. The matter was taken up by this Tribunal on 31.12.2020 and it was observed that as neither the Reply/Counter was filed nor any extension was sought by the Respondent, therefore,



this Tribunal closed the rights of the Respondent for filing the Reply/Counter and reserved its order for passing an Award on merits.

6. The Complainant DELL Inc. was established in the year 1984 and is a Company, incorporated and exists under the laws of Delaware, United States of America.

7. It is the case of the Complainant that-

- (i) The Complainant is the world's largest direct seller of computer systems, since its establishment in 1984, the Complainant has diversified and expanded its activities which presently include, but are not limited to, computer hardware, software, computer peripherals, computer-oriented products such as phones, tablet computers etc., and computer-related consulting, installation, maintenance, leasing, warranty, data computing, cloud computing, information security, virtualization, analytics, data storage, security/compliance and technical support services. The Complainant's business is aligned to address the unique needs of large enterprises, public





institutions (healthcare, education and government), small and medium businesses' and individuals.

(ii) Currently, the Complainant is one of the leading providers of computer systems to large enterprises around the world and does business with 98 percent of Fortune 500 corporations. The Complainant sells more than 100,000 systems every day to customers in 180 countries, including India. The Complainant has a team of 100,000 members across the world that caters to more than 5.4 million customers every day.

(iii) The Complainant has been in global news, owing primarily to Michael Dell taking the Complainant private, for \$ 24.4 billion, in the biggest leveraged buyout since the financial crisis. The other reason for the Complainant to be in news has been the acquisition of EMC Corporation for around \$ 67 billion, which is the largest technology company acquisition ever. Both these happenings have been widely reported by press and electronic media all over the world, including in India.



- (iv) The Complainant has been using the mark 'DELL' for several decades now and is also the registered proprietor of the said trademark in various countries, including India. The details of some of the registrations for 'DELL' and 'DELL' formative marks in India, are as follows:

Trade Mark	Registration No.	Registration Date	Class	Status
DELL	575115	June 5, 1992	9	Registered
www.dell.com	826095	November 5, 1998	9	Registered
	923915	May 10, 2000	9	Registered
DELL	1190375	April 7, 2003	2	Registered
DELL	1190376	April 7, 2003	9	Registered
DELL	1239350	September 24, 2003	37	Registered
DELL	1239349	September 24, 2003	42	Registered
DELL	1335057	January 28, 2005	36	Registered
	3597740	October 06, 2016	41	Registered



The aforesaid registrations have been renewed from time to time and are valid and subsisting.

(v) The Complainant's first use of the mark "DELL" can be traced back to 1988. Since then the Complainant has expanded its business into various countries and has extensive use of the mark "DELL" around the globe. The Complainant also uses various 'DELL' formative marks like 'DELLPRECISION', 'DELL CHAMPS', 'DELL PROSUPPORT', 'DELL PREMIUMCARE', etc.

(vi) The products of Complainant are widely available in India since 1993. The said products are marketed in India by the Indian subsidiaries of the Complainant. The Complainant's subsidiaries have tied up with various channel partners such as authorized distributors and resellers all over the country. Complainant's products are sold through a wide network of 'DELL' exclusive stores and at other stores in and around 200 cities in India. By virtue of this use, the relevant section of the



public associates the trade mark 'DELL' with the Complainant alone.

- (vii) As a part of its initiative to increase its presence in India, the Complainant's Indian subsidiary has tied up with several channel partners, authorized distributors / resellers and launched Dell exclusive stores, multiple brand outlets and solution/service centers, all over the country. In addition to the exclusive Dell stores, the Complainant operates an interactive website with URL [www.dell.com](http://www.dell.com), wherein customers can log in and place orders for laptops and also make payments online.
- (viii) The Complainant, its subsidiaries and licensee in India and the subsidiary's authorized distributors and resellers alone have limited rights to use the trademark and trade name/corporate name 'DELL' in India. No one other than those permitted by the Complainant can use 'DELL' as a trademark or part of corporate name or in any manner whatsoever.
- (ix) The Complainant has a very strong internet presence with the website [www.dell.com](http://www.dell.com). The website can be





accessed from anywhere in the world including India and provides extensive information on the activities of the Complainant throughout the world, including in India. Additionally, the Complainant also has country specific domain names such as [www.dell.co.in](http://www.dell.co.in) for India. Upon clicking on [www.dell.co.in](http://www.dell.co.in), the user gets re-directed to [www.dell.com](http://www.dell.com). In addition to the details of the Complainant, these websites also provide details of products, stores and authorized service centers.

- (x) In view of the above, it is evident that the Complainant has been using the trademark 'DELL' since the last 30 years and has built an enviable reputation in respect of the said mark. By virtue of such use, the mark 'DELL' is well recognized amongst the consuming public and can be termed as a well-known trademark. In order to protect its rights in and to the trademark 'DELL', the Complainant has also initiated several actions against domain name squatters in past several years.



8. As stated by the Complainant, according to the Whois records, the disputed domain name [www.dellcenters.in](http://www.dellcenters.in) is

registered in the name of Respondent as Dell centre V.S. Enterprises, E-8/12, Shop No. 3 Main Road, Malviya Nagar, New Delhi, Delhi - 110017, India, with contact No. (91)9953770351 and with E-mail: [tarunvij85@gmail.com](mailto:tarunvij85@gmail.com).

9. It is also stated by the Complainant, as per the Whois records, the accredited registrar of the impugned domain is Key-Systems GmbH, having an address- Im Oberan Werk, St. Ingbert, DE with E-mail address- [info@key-systems.net](mailto:info@key-systems.net) with phone No. +49 (0) 68 94 - 93 96 850.

10. The Complainant has raised the following factual and legal grounds:-

- (i) From the description provided under the head of **A. Complaint**, it is evident that the Complainant has a long and extensive use of the mark 'DELL' and by virtue of such use, the trademark 'DELL' can be termed as a well-known mark. In order to protect the mark 'DELL' from third party adoption, the Complainant undertakes various periodical searches. Upon conducting one such search for cyber squatters, the Complainant became aware of



the registration of the disputed domain name www.dellcenters.in.

(ii) The Impugned Domain hosts a website (“Website”), wherein the Respondent represents itself as Dell’s authorized store, sale and service center. Further, the Website displays the trademark ‘DELL’ of the Complainant at several places.

(iii) Additionally, the write up/statements mentioned on the Website are portrayed in a manner to show association with the Complainant, like:

- *“Authorised Dell Service in New Delhi.”*
- *“Dell is just not about selling / Dell is satisfaction”*
- *“Dell inspiron / vostro / latitude / xps / convertible laptops are all available and all dell laptop service , we believe in giving service.”*
- *“Dell inspiron desktops / laptops Vostro Latitude Precision. All services can be provided, Dell genuine products available.”*



Additionally, the Website also mentions the email of the Respondent, which has been made in a manner to show that the Respondent is a Dell center. The said email is Servicesupport@dellcenters.in.

- (iv) Further, the Website also shows an image of the Display board used by the Respondent and it clearly reads that it is an authorized store of Dell, which also provides after sale services.
- (v) The Website also claims that it sells Sony accessories with warranty support. The fact that the Respondent has mentioned Sony indicates that the Respondent uses famous marks of information technology companies and misrepresents itself to be the authorized reseller/services provider of such information technology companies only to dupe the customers.
- (vi) It is evident that the Respondent has registered the said domain with the sole intent of illegally benefitting from the goodwill and reputation built by the Complainant for its mark DELL.





- (vii) The Complainant's products, that the Respondent offers, may be of inferior quality, which upon use can burst or catch fire and cause injury to the individual using the same. Such activities will tarnish the name and reputation of the Complainant which has been built after years of toil by the Complainant.
- (viii) In view of the above, it is evident that the Respondent has registered the Impugned Domain which incorporates the trademark of the Complainant, to host a website on the same and misrepresents to the relevant section of the public that it is associated with the Complainant, whereas no such association exists. In view of the above, the Respondent cheats innocent consumer in the name of the Complainant by providing below par services and products, which may not be genuine.
- (ix) The Respondent has no legitimate reasons for adoption of the 'DELL' in the Impugned Domain. It is to be noted that 'DELL' is not a common word in India and the adoption of the same by the Respondent for a website only reeks of dishonesty in the first instance. The



Respondent has no right whatsoever to use or adopt the well-known trademark 'DELL' of the Complainant.

- (x) The adoption of the Impugned Domain by the Respondent is malafide for the following reasons:

**A. The domain name is identical or confusingly similar to a trademark in which the Complainant has rights;**

- a. The Complainant offers, inter alia, repair and maintenance services under the mark "DELL" and also claims to sell various kinds of DELL products. The Complainant is also registered Proprietor of "DELL" and "DELL" formative marks in class 37 for computer repair and maintenance services.
- b. The Respondent has adopted the identical mark of the Complainant and is blatantly using the same. Moreover, the Respondent is using the said mark for identical goods and services and duping customers by giving them an impression that the Respondent is associated with the Complainant. Furthermore, the Respondent uses the mark "DELL" and the logo on the website.



**B. The Respondent has no right or legitimate interest in the domain name:**

a. The Respondent has no right to use the mark “DELL” of the Complainant, as it is the full property of the Complainant. The Complainant has statutory and common law rights on the mark “DELL”. Owing this reason alone, the Respondent cannot have any legitimate rights in trade mark “DELL”. The use of the mark “DELL” by the Respondent is not licensed/permitted, thus adoption and use thereof of the mark “DELL” as part of the offending domain name or in any manner whatsoever, results in infringement and passing of the right of the Complainant in and to the trade mark “DELL”.

b. The Respondent is taking advantage of innocent customers, who may or may not enquire about the authenticity of the Respondent or its relation with the Complainant. Even if the Respondent informs the purchasing customers that they are not related to the



Complainant, the same does not bestow any right to use the trade mark "DELL" of the Complainant.

- c. The Respondent has developed the offending domain name comprising of the well known mark "DELL" with the sole aim to make illegal riches from the goodwill and reputation of the mark "DELL", which has been built by the Complainant.

**C. The domain name is registered and being used in bad faith.**

- a. The bad faith is evident from the use of 'DELL' in the Impugned Domain, which is the property of the Complainant and is associated with the Complainant only. The Impugned Domain is worded in such a manner that it appears to be the authorized center for Dell.
- b. The use of the mark 'DELL' in the Impugned Domain is without due cause and has been done to gain illegal benefit from the goodwill of the same, which has been created by the Complainant. The registration of the





Impugned Domain has been done in bad faith and with dishonest intention to mislead the innocent public.

- c. The adoption of the trademark of the Complainant is without a license or other authority, which is evidence of bad faith in itself. The Respondent has no reason to adopt the trademark of the Complainant. The use of the Impugned Domain by the Respondent is not for non-commercial purposes and would not fall under the ambit of 'fair use'. The only reason of adoption of the mark 'DELL' is to make illegal profit by duping the relevant public.
- d. The bad faith is evident from the write ups, which are present on the Website, wherein, the Respondent portraying itself to be the Complainant's authorized store, seller and service center.
- e. The Respondent's adoption of the well-known trademark 'DELL' of the Complainant as part of the Impugned Domain, providing services for maintaining 'DELL' devices, offering for sale 'DELL' branded products and projecting themselves as the "Dell Authorized Store Sale



& Service', is a violation of the Complainant's rights in and to the mark 'DELL'. Further, the very Website of the Respondent is only accessed owing use of the trademark 'DELL' of the Complainant.

11. Complainant prays that since the Respondent is eroding the distinctive character of the Complainant's mark and also diluting the same, the balance of convenience rests entirely in favor of the Complainant. Accordingly, in the interest of justice and as measure of relief in equity, it is requested that the appropriate authorities be instructed by the Learned Tribunal to have the Impugned Domain transferred to the Complainant.

**APPRECIATION & OBSERVATION:**

12. Since no reply was filed by the Respondent even after giving sufficient opportunities to the Respondent, this Forum proceedings for passing an ex parte Award on merits but before the Award was pronounced, an e-mail was received from Respondent on 04.01.2021 by this Tribunal with a copy to Complainant and NIXI admitting the claim of the complainant.



13. The Complainant filed the Complaint along with all necessary documents and evidences. In the evidence, the Complainant proved the facts stated in the Complaint by way of documents duly annexed with the Complaint.

14. The dispute relates to the domain name www.dellcenters.in., which is a trade mark backed domain name. The Respondent's domain name www.delicenters.in also amounts to an infringement of the statutory and common law rights of the Complainant in its registered 'DELL' mark. The Trade Mark "DELL" is already registered in India and complainant has already acquired a legal right in the trade mark "DELL" in terms of the provisions of section 17 of The TM Act, 1999. It is also a settled law that domain name may have all the characteristics of a Trade Mark and could found a connection for passing of (*Satyam Infoway Ltd. Vs. Sify Net Solutions Pvt. Ltd.*, (2004) 6 SCC 145—Para 16).



15. For the purpose of examination that whether the reliefs sought by the Complainant can be allowed or not, it is much necessary to appreciate the legal position along with the facts submitted by the Complainant. In this regard it is much

necessary to discuss the provisions of Section 29 of the Trade Marks Act, 1999 (for short 'T M Act, 1999'). Section 29 of the T M Act, 1999 reads as under:-

*"29. Infringement of registered trade marks.—*

*(1) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which is identical with, or deceptively similar to, the trade mark in relation to goods or services in respect of which the trade mark is registered and in such manner as to render the use of the mark likely to be taken as being used as a trade mark.*

*(2) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which because of—*

*(a) its identity with the registered trade mark and the similarity of the goods or services covered by such registered trade mark; or*

*(b) its similarity to the registered trade mark and the identity or similarity of the goods or services covered by such registered trade mark; or*





*(c) its identity with the registered trade mark and the identity of the goods or services covered by such registered trade mark, is likely to cause confusion on the part of the public, or which is likely to have an association with the registered trade mark.*

*(3) In any case falling under clause (c) of sub-section (2), the court shall presume that it is likely to cause confusion on the part of the public.*

*(4) A registered trade mark is infringed by a person who, not being a registered proprietor or a person using by way of permitted use, uses in the course of trade, a mark which—*

*(a) is identical with or similar to the registered trade mark; and*

*(b) is used in relation to goods or services which are not similar to those for which the trade mark is registered; and*

*(c) the registered trade mark has a reputation in India and the use of the mark without due cause takes unfair advantage of or is detrimental to, the distinctive character or repute of the registered trade mark.*

*(5) A registered trade mark is infringed by a person if he uses such registered trade mark, as his trade name*



*or part of his trade name, or name of his business concern or part of the name, of his business concern dealing in goods or services in respect of which the trade mark is registered.*

*(6) For the purposes of this section, a person uses a registered mark, if, in particular, he—*

*(a) affixes it to goods or the packaging thereof;*

*(b) offers or exposes goods for sale, puts them on the market, or stocks them for those purposes under the registered trade mark, or offers or supplies services under the registered trade mark;*

*(c) imports or exports goods under the mark; or*

*(d) uses the registered trade mark on business papers or in advertising.*

*(7) A registered trade mark is infringed by a person who applies such registered trade mark to a material intended to be used for labelling or packaging goods, as a business paper, or for advertising goods or services, provided such person, when he applied the mark, knew or had reason to believe that the application of the mark was not duly authorised by the proprietor or a licensee.*

*(8) A registered trade mark is infringed by any advertising of that trade mark if such advertising—*



*(a) takes unfair advantage of and is contrary to honest practices in industrial or commercial matters; or*

*(b) is detrimental to its distinctive character; or*

*(c) is against the reputation of the trade mark.*

*(9) Where the distinctive elements of a registered trade mark consist of or include words, the trade mark may be infringed by the spoken use of those words as well as by their visual representation and reference in this section to the use of a mark shall be construed accordingly."*

16. Section 29 of The TM Act speaks the owner/proprietor of the registered trade mark claiming the infringement of the said mark by another person, who is neither a registered Proprietor in relation to the goods and services, for which the mark is registered, nor has permission to use such mark in the course of his trade. Under the provisions of Section 29(1), infringement results if the mark is identical with or deceptively similar to the already registered trade mark and is in relation to the goods and services, for which the trade mark has been registered.



17. Under Section 29(2)(b), infringement occurs where the impugned mark is similar to the registered mark and the goods and the services, for which is used is identical with or similar to the goods and services, for which the registered mark is used. Under Section 29(2)(c), infringement occurs where the impugned trade mark is identical to the registered trade mark and the goods or services, for which the impugned mark is used is also identical to the goods and services covered by the registered trade mark.

18. An additional ingredient in the above three situations for the infringement is that the use of impugned trade mark is likely to cause confusion on the part of the public or is likely to have an association with the registered trade mark. Under Section 29(3), when the impugned trade mark is identical to the registered trade mark and the goods/services, for which it is used, are also identical to the goods or services, for which the registration has been granted, then the adjudicating authority shall presume that it is likely to cause confusion on the part of the public.





19. Thus, under Section 29(1), (2) and (3) for infringement to result-

- (a) The impugned mark has to be either similar to or identical with the registered mark;
- (b) The goods or services, for which the impugned mark is complained, has to also either be identical with or similar to the goods or services, for which the registration has already been granted.

The scenario is different as regards Section 29(4) of The TM Act, 1999. For infringement to result under Section 29(4), the following conditions are required to be fulfilled:-

- (i) The person using the impugned mark is neither a registered Prop. in relation to the goods and services, for which the mark is registered, nor is using it by way of permitted use;
- (ii) The impugned mark must be used in course of trade;



- (iii) The impugned mark has to be either similar to or identical with the registered mark;
- (iv) The impugned mark is used for goods and services different from those, for which the registration has been granted;
- (v) The registered trade mark has a reputation in India;
- (vi) The use of impugned mark is without due cause and takes unfair advantage of or is detrimental to-
  - The distinctive character of the registered trade mark; or
  - The reputation of the registered trade mark.

20. The question to be adjudicated by this Forum is whether the person using the impugned mark has obtained it *bona fide*ly or whether the permission given for the impugned trade mark/mark does not violate the conditions, as discussed



hereinabove. For the purpose of analyzing this, the expression “mark” has to be understood. The mark has been defined under Section 2(m) of The TM Act to include a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of good, packaging or combination of colour and any combination thereof. Thus, for the purpose of Section 29(4), the use of mark which is a part of domain name would also attract infringement. What is important is that the registered trade mark must be shown to have been used by the infringer. It should be shown without such adoption or use as resulted into infringer taking unfair advantage of the registered trade mark or is detrimental to the distinctive character or reputation of the registered trade mark.

21. Section 2(zg) of The TM Act defines a well-known trade mark in relation to any goods or services to mean a mark, which has become so popular to the substantial segment of the public, which uses such goods or receives such services that the use of such mark in relation to either goods or services would be likely to be taken as indicating a connection in the course of trade or rendering of services between those goods or services



and a person using the mark in relation to the first mentioned goods and services.

22. In *Apple Computer Inc. Vs. Apple Leasing and Industries*, 1999 SCC Online Del. 308 it is held that where improper use of the name or trade mark is considered, then the confusion created between the two trade mark has to be considered. Further, coming to Section 29(5) of The TM Act, it is seen that it relates to a situation where the infringer uses his trade mark as his trade name or part of his trade name and the business concerned of the infringer is for the same goods or services, in respect of which the trade mark is registered. In view of this Tribunal, the provisions of Section 29(5) cannot be said to render Section 2(4) of The TM Act, 1999 as infructuous. Even when the infringer is the registered user of the same mark, then the question arises for the purpose of adjudication is whether the registration of the mark was obtained in good faith or whether it is being used in good faith or whether it is creating a confusion in the public or whether it is a creature of the infringer or not or whether it is copied by the infringer from the mark of the Complainant.





**CONCLUSION:**

23. As per the material placed on record and the averments made in the Complaint and also in the annexed evidences and documents, which have been proved in evidence since un rebutted and admitted by the Respondent, it is evident that the domain name www.dellcenters.in is a well known domain name. The same is known to most of the people of the entire world. No one is entitled and can be authorized to use the same either as a domain name or as a trade mark in relation to the similar or dissimilar business, as the said domain name/trade mark has got a unique goodwill and reputation.

24. The impugned domain name consists of a prefix word "DELL", which is already a registered trade mark of the Complainant. Henceforth, it is immaterial whether the impugned domain name was registered prior to or after the registration of the DELL trade mark. The impugned domain name pertains to the territory of India and the Complainant's trade mark "DELL" is not only worldwide recognized but also a registered trade mark in India, therefore, only the



Complainant can be the legitimate owner of the trade mark "DELL" and impugned domain name and not the Respondent.

25. In the opinion of this Tribunal, the impugned domain name is a trade mark backed domain name and it not only violates the provisions of The TM Act, 1999 but also violates Clause 4 of the INDRP policy issued by the NIXI. The impugned domain name conflicts with the legitimate rights and interest of the Complainant on the following premises:-

- (a) The impugned domain name is identical and confusingly similar to a named trade mark as well as service mark, in which the Complainant has a right;
- (b) Respondent has no right or legitimate interest in respect of the impugned domain name;
- (c) The Respondent's impugned domain name has been registered and is being used in bad faith by using the registered trade mark of the Complainant and giving a pecuniary loss to the



Complainant by using the name and trade mark of the Complainant.

26. The evidences filed by the Complainant have gone un rebutted. Further, the Respondent by his communication dated 04.01.2021 addressed to this Tribunal, with a copy to the Complainant and NIXI, admitted the fact that the impugned domain name was taken by him erroneously, therefore, the statements made by the Complainant are accepted as correct deposition. In view of the settled law, with the deposition of the Complainant, the Complainant is entitled for an Award in terms of Para 31 of its Complaint.

### **DECISION**

- a) In view thereof, it is directed that the domain name www.dellcenters.in be transferred in favour of the Complainant by the Registry. As a result, the Respondent, his agents, servants, dealers, distributors and any other person(s) acting for and on its behalf are permanently restrained from using the domain name www.dellcenters.in or any other deceptively similar trade mark, which may amount to infringement of



Complainant's registered trade mark and also from doing any other thing, which is likely to create confusion and deception with the goods/services of the Respondent for any connection with the Complainant.

- b) The Complaint is allowed in the above terms.
- c) Respondent is hereby directed to pay to the Complainant a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) towards the costs of the proceedings.
- d) National Internet Exchange of India (NIXI) is advised to take incidental or ancillary action involved in the transfer of the domain name, as directed.

  
**(PANKAJ GARG)**  
**SOLE ARBITRATOR**

**Place: New Delhi**  
**Date : 5<sup>th</sup> of January, 2021**

