



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

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| Certificate No. | : IN-DL57031297062995T |
| Certificate Issued Date | : 08-Mar-2021 03:35 PM |
| Account Reference | : IMPACC (IV)/ dl859003/ DELHI/ DL-DLH |
| Unique Doc. Reference | : SUBIN-DL85900316015676949494T |
| Purchased by | : PANKAJ GARG |
| Description of Document | : Article 12 Award |
| Property Description | : Not Applicable |
| Consideration Price (Rs.) | : 0 (Zero) |
| First Party | : PANKAJ GARG |
| Second Party | : Not Applicable |
| Stamp Duty Paid By | : PANKAJ GARG |
| Stamp Duty Amount(Rs.) | : 100 (One Hundred only) |



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BEFORE SHRI PANKAJ GARG, SOLE ARBITRATOR, AT NEW DELHI

**COMPLAINT NO. INDRP
CASE NO. 1326/2021**

DELL INC.

VERSUS

.....COMPLAINANT

JAMES JENI & ANR

.....RESPONDENTS

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

**AWARD AND ORDER
19.04.2021**



Statutory Alert:

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3. In case of any discrepancy please inform the Competent Authority.

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ORDER

19.04.2021

The matter is taken up today by this Tribunal from its residential office due to Covid-19 pandemic situation for passing an award in terms of the notice issued by this Tribunal on 19.02.2021.



02

The service of the hard copy as well as the soft copy of the Complaint and the Notice of this Tribunal upon the Respondents has already been completed.

Despite the service the Respondents failed to file any reply/counter on the Complaint of the Complainant. The matter was listed for 16.03.2021 for passing an award, but no reply/counter was filed by the Respondents.

This Tribunal to meet out the ends of the justice waited till 19.04.2021 for the reply/counter of the Respondents but no reply/counter is filed by the Respondents till 19.04.2021.

Considering the circumstances that the award has to be passed in time bound manner, within 60 days from the date of initiation of the Arbitral Proceedings, an ex-parte order on merits is passed today on 19.04.2021.

Separately an award of even date is also passed which shall be shortly delivered.

CONCLUSION FOR ORDER

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 unrebutted, it is evident that the domain name www.delllaptopadapterinchennai.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 trademark in relation to the similar or dissimilar business, as the said domain name/trade mark has got a unique goodwill and reputation.

The impugned domain name consists of a prefix and “DELL”, which is already a registered trademark of the Complainant. Henceforth, it is immaterial whether the impugned domain name was registered prior to or after the registration of the DELL trademark. The impugned domain name pertains to the territory of India and the Complainant’s trademark “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 trademark “DELL” and impugned domain name and not the Respondents.

In the opinion of this Tribunal, the impugned domain name is a trademark 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 interests of the Complainant on the following premises:-



- 04
- a) The impugned domain name is identical and confusingly similar to a named trademark as well as a service mark, in which the Complainant has a right;
 - b) Respondents has no right or legitimate interest in respect of the impugned domain name;
 - c) The Respondents impugned domain name has been registered and is being used in bad faith by using the registered trademark of the Complainant and giving a pecuniary loss to the Complainant by using the name and trademark of the Complainant.

The evidences filed by the Complainant have gone unrebutted as well as proved by the Complainant, therefore, the statements and documents filed by the Complainant are accepted as correct deposition. In view of the facts and settled law, with the deposition and documents of the Complainant placed before this Tribunal, the Complaint deserves to allowed for an Award on merits in favour of the Complainant, as prayed in the Complaint by the Complainant.



DECISION

- a) In view thereof, it is directed that the domain name www.delllaptopadapterinchennai.in be transferred in favour of the Complainant by the Registry. As a result, the Respondents, 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.delllaptopadapterinchennai.in or any other deceptively similar trademark, which may amount to infringement of Complainant's registered trademark and also from doing any other thing, which is likely to create confusion and deception with the goods/services of the Respondents for any connection with the Complainant.
- b) The Complaint is allowed in the above terms.
- c) Respondents are hereby directed to pay to the Complainant a sum of Rs 50,000/- (Rupees Fifty Thousand only) towards cost of the proceedings.



06

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: 19th April, 2021