



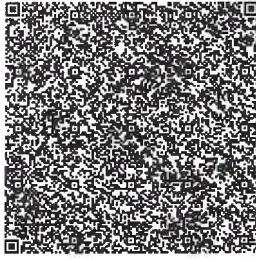
सत्यमेव जयते

## INDIA NON JUDICIAL

### Government of National Capital Territory of Delhi

#### e-Stamp

Certificate No. : IN-DL58620293026711P  
Certificate Issued Date : 29-Nov-2017 04:37 PM  
Account Reference : IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH  
Unique Doc. Reference : SUBIN-DLDSLHIMP1719864183382840P  
Purchased by : NIKILESH RAMACHANDRAN  
Description of Document : Article 12 Award  
Property Description : Not Applicable  
Consideration Price (Rs.) : 0  
(Zero)  
First Party : NIKILESH RAMACHANDRAN  
Second Party : Not Applicable  
Stamp Duty Paid By : NIKILESH RAMACHANDRAN  
Stamp Duty Amount(Rs.) : 100  
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ARBITRATION CASE NO. 4 OF 2017

**IN THE MATTER OF:-**

DELL Inc.

COMPLAINANT

VERSUS

VARUN KUMAR  
LAPTOP SERVICE CENTER  
DISPUTED DOMAIN NAME: **dellservicecenterghaziabad.in**

RESPONDENT

**Statutory Alert:**

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*Nikilesh Ramachandran*

**AWARD:**

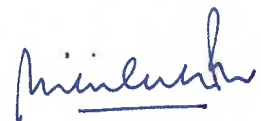
The present domain name dispute relates to the registration of the domain name **dellservicecenterghaziabad.in** in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the domain name **<dellservicecenterghaziabad.in>** in favour of the Respondent. Pursuant to the “.in” Domain Name Dispute Resolution Policy (INDRP) and the rules framed there-under, the Complainant has preferred this arbitration for raising this dispute for reprisal of its grievances.

I gave my consent on the 16<sup>th</sup> of September, 2017 to adjudicate the instant domain name dispute. I was handed over the complaint and accordingly, I issued notice on the 27<sup>th</sup> of September, 2017 calling upon the Respondent to file its reply on the complaint within fifteen days from the date of receipt of the notice and rejoinder within fifteen days thereafter. The respondent was served with the aforesaid complaint on 28<sup>th</sup> of September, 2017. Despite serving of the complaint and the notice dated 28<sup>th</sup> September, 2017, on the addresses and e-mail respectively, there has been no response from the respondent. Accordingly, I proceed ex-parte the Respondent in adjudicating the instant complaint.

**CONTENTIONS:**

Since, the respondent has been proceeded ex-parte, I shall deal with the contention of complainant. The Complaint has been filed for transfer of the disputed domain name **dellservicecenterghaziabad.in**, which was registered by Respondent. Primarily the contention of the complainant is that the Complainant was founded in 1984 by Mr.



Michael Dell, and is one of the world's largest seller of computer system and that since its beginning, the Complainant has diversified and expanded its activities which presently include but are not limited to computer hardware, software, peripherals, computer-oriented products such as phones, tablet computers etc., and computer-related consulting, installation, maintenance, leasing, warranty and technical support service.

The Complainant also contends that it began using the trade mark/name DELL in 1987. Since then it has made extensive and prominent use of its trade mark/name DELL in connection with a range of goods and services, including offering its goods and services online through numerous DELL domain names. In support it contention it has placed documentary evidence as **Annexure C**.

Further, the complainant contends that it is a world leader in computers, computer accessories, and other computer-related products and service and that over the years, Dell has invested heavily in marketing under its marks, devoting hundreds of millions of dollars to advertising and promoting its products and services through many media in many countries and that Dell has used television, radio, magazines, newspapers, and the internet as marketing media.

With specific reference to India, the Complainant contends that it has more than 22 percent of the market share and that it is the number two PC maker in India.

The Complainant States that it had began doing business in India in 1993 and has a highly successful presence in India in respect of its





trade mark and trade name DELL not only on account of the extensive use of DELL products in the country initially by way of imports but also subsequently through extensive after-sales service outlets and direct sales of its products through its Indian subsidiary which was incorporated in June 2000 and through its DELL DIRECT stores which were launched in 2002 as a hands-on complement to their website [www.dell.com](http://www.dell.com) and their increasing phone sales.

The Complainant further states that it has spent substantial time, effort and money advertising and promoting the "DELL" trade mark and the DELL formative marks throughout the world. As a result, the "DELL" trade mark has become famous and well-known, and the Complainant has developed enormous goodwill in the mark and widespread consumer recognition from the very beginning.

In the complaint, it also contended that the Complainant owns multiple domain names comprising the trademark DELL, which would create confusion and that the Respondent has no legitimate right or interest in respect of disputed domain name, and that the disputed domain name is being used in bad faith.

### **ANALYSIS**

As the proceedings are set ex-parte the Respondent, I shall deal with the complaint on its prayer for transfer of the disputed domain name. The disputed domain name <[dellservicecenterghaziabad.in](http://dellservicecenterghaziabad.in)> consists the mark DELL, which is the registered trademark of the Complainant. DELL is a mark registered which has been established by the Complainant over a period of time by its use. The Complainant



has used it world over, including India, and owns registered trademark. In support of which, the Complainant has placed on record the registration certificates, in India as well as world over. Also the Complainant has placed on record the domain name, which has been registered with the mark DELL. All these support the Complainant's right over the name DELL. Therefore, the complainant's claim that it has a right over the disputed name stands proved.

Secondly, as the Respondent's action to register the said domain name is not bonafide, therefore, the said registration is done in bad faith. Neither the Respondent is associated as an individual, business nor organization with the name "DELL" nor the complainant has authorized in anyway the use of trademark "DELL". The Complainant has specifically stated that it has no relation with Respondent commercially or otherwise. So therefore, the use of trademark Respondent "DELL" is not legal. Therefore, the Respondent has no legitimate right over the said domain name.

Also the Complainant has registered website consisting the word "DELL", for which it has ownership, in various CCTLD. And this in itself becomes a good ground for the Complainant to claim transfer of the disputed domain name in its favour. The Complainant has relied upon several decisions of its own to show that it has been diligent in protecting its right against unscrupulous infringers and users. Apart from that, it has relied upon several decisions which is in its favour for enforcing the claim in transfer of ownership in the disputed name.

**CONCLUSION:**

Considering the facts and circumstances of the present matter and taking view of the precedents in this context, I am of the view that the

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complainant has proprietary right over the mark "**DELL**". Under the facts and circumstances and on perusal of the records, 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. <dellservicecenterghaziabad.in> in favour of the complainant.

  
(NIKILESH RAMACHANDRAN)  
ARBITRATOR

Dated: 21<sup>st</sup> November 2017.