

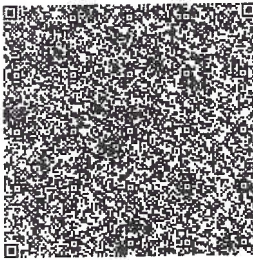
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL42599911778388Q
Certificate Issued Date : 26-Jun-2018 01:33 PM
Account Reference : IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH
Unique Doc. Reference : SUBIN-DLDSLHIMP1789212817442694Q
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
(One Hundred only)



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ARBITRATION CASE NO. 3 OF 2018

IN THE MATTER OF:-

DELL INC.

VERSUS

COMPLAINANT

MANI
LAPTOP STORE

RESPONDENT No.1
RESPONDENT No.2

DISPUTED DOMAIN NAME: <www.dellservicecentre.in>

Statutory Alert:

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AWARD:

The present domain name dispute relates to the registration of the domain name `www.dellservicecentre.in` in favour of the Respondent.

The Complainant has filed the instant complaint challenging the registration of the domain name `<www.dellservicecentre.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 30th April, 2018 to adjudicate the instant domain name dispute. I was handed over the complaint. Accordingly, I issued notice on the 7th May, 2018 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 tried to be served with the aforesaid complaint on its address as founded in WhoIs. However, the respondent could not serve either by registered post, Speed Post or postmaster mail id. Later, under Email dated 7th June 2018, the counsel for the complainant informed that both parties had amicably settled the matters arising out of the present dispute, and that the Respondent was going to transfer the subject domain name to the complainant. Although there is no communication from the respondent with respect to the settlement referred to by the complainant. Be that as it may since there is no response from the respondent, I proceed ex-parte the Respondent in adjudicating the instant complaint.



CONTENTION

Since, the respondent has been proceeded ex-parte, I shall deal with the contention of complainant.

The complainant Company states in its complaint that it was founded in the year 1984. 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.

It has further contended that the products of the complaint are widely available in India since 1993. The said products are marketed in India by the subsidiaries of the complainant in India. The complainant's subsidiaries have tied up with the 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 around 200 cities in India. By virtue of this use, the relevant section of the public associates the trademark DELL with the complainant alone.

Further it has contended that the Complainant has a very strong internet presence with the website 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 India. Additionally, the complainant also has country specific domain names such as www.dell.co.in for India.

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. Thus, in order to secure rights over the mark Dell around the globe. Thus, in order to secure rights over the mark DELL the complainant has registered the said mark in several countries including India. In support of its contentions it has placed documentary evidence as Annexure-1. The Complainant also uses various DELL formative marks like DELL PRECISION, DELL CHAMPS, DELL PROSUPPORT, DELL PREMIUM CARE, ETC.

The complainant has been using the trademark DELL since the last 30 years and has built an enviable reputation in respect of the trademark Dell. By virtue of such use the mark DELL is well recognized amongst the consuming public and can be termed as a well known trademark.

The complainant has also initiated several actions against domain name squatters in past several years. A list of case details wherein awards have been passed in favour of the complainant is attached as Annexure-2.

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 <www.dellservicecentre.in> consists of 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 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 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 has organization with the name "DELL" nor the complainant 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 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. <**www.dellservicecentre.in**> in favour of the complainant.



(NIKILESH RAMACHANDRAN)
ARBITRATOR

Dated: 26.06.2018