



सत्यमेव जयते

## INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

### e-Stamp

Certificate No. : IN-DL227784827632810  
Certificate Issued Date : 03-Mar-2016 04:46 PM  
Account Reference : IMPACC (SH)/ dlshimp17/ SUPREME COURT/ DL-DLH  
Unique Doc. Reference : SUBIN-DLDSLHIMP17443133714333460  
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)



Please write or type below this line

ARBITRATION CASE NO. 1 OF 2016

**IN THE ARBITRATION MATTER OF:-**

DELL Inc.

COMPLAINANT

VERSUS

MANI, SONIYA

RESPONDENT

*nikilesh*

**Statutory Alert:**

1. The authenticity of this Stamp Certificate should be verified at "www.shcilestamp.com". Any discrepancy in the details on this Certificate and as available on the website renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority

**AWARD:**

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

The Complainant has filed the instant complaint challenging the registration of the domain name < www.dellshowroominchennai.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.

Upon entering reference with respect to present dispute, notice was sent on 25.01.2016 to the Respondent calling for its response. However, even after granting considerable time to the Respondent, there has been no response. Furthermore, the complaint sent to the Respondent at his/her last known address mentioned in WHOIS, has been come back as undelivered. The service is complete qua the respondent. Accordingly, the Respondent is proceeded ex-parte.

The complainant has filed its complaint stating that it is one of the largest direct seller of computer systems which include, but not limited to, computer hardware, peripherals, computer oriented products such as phones, tablet computers, etc. It is also in the business of software services, computer related consulting, installation, maintenance, leasing, warranty and technical support services. Complainant states that it uses its mark **DELL** for many years for its laptops, desktops, computer parts and accessories and for which it has invested in marketing its products through television, radio, magazines, newspapers and internet, world over. It states that it sells its products in over 180 countries including India. In India, Complainant states that it has started





the business in 1993 and that it has a 22% market share being number two PC maker in India.

The complainant's grievance in the complaint has been stated to be that disputed domain < www.dellshowroominchennai.in > has been registered by the respondent not in good faith and that it has been registered for commercial gain, and that the Respondent is not making legitimate or fair use of the said domain name.

I have perused the records and have gone through the contents of the complaint. Although there has been no reply on behalf of the Respondent to the complaint, I shall deal with the complaint on the basis of its merits. Several grounds have been raised by the Complainant regarding the transfer of the domain name < www.dellshowroominchennai.in > in its favour.

Firstly I shall deal with the ground regarding the rights of the Complainant vis-à-vis that of Respondent's over the domain name < www.dellshowroominchennai.in >. The domain has the mark **DELL**, which according to the complainant is the sole, exclusive and rightful owner and also the registered proprietor. Due to its prior and extensive use by the Complainant, "DELL" is a unique and distinct word and has acquired distinctiveness and is known to be a trademark owned by the complainant. It has been shown by the complainant that the use of the said mark has been for quite some time. The Complainant has registered domain names incorporating the **DELL** trademark in countries across the world as well as in India. The complainant has shown the various trademark registration details world over including in India. Therefore the Complainant has able to establish its rights over the mark "**DELL**", which is part of the entire phrase in the disputed domain name <www.dellshowroominchennai.in>.

Although the Respondent has not appeared in these proceeding to present their case, but it is borne out from the records that Respondent has no




bonafide or legitimate right over the mark "**DELL**". Hence the Respondent's action to register the said domain name is not bonafide as he has no right over the mark "DELL".

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 or organization with the name "**DELL**" nor the complainant has authorized in any way the use of the trademark "**DELL**". Therefore the Respondent has no legitimate right over the said domain name.

The Complainant has relied upon several judgements concerning the issues raised by it in support of its contentions. I have considered each one of them. Since this complaint is not being contested by the Respondent, and on being satisfied that the Complainant has stood its ground on all its issues raised by it, I do not consider it necessary to expatriate each and every judgment.

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.dellshowroominchennai.in** > in favour of the complainant.

Parties to bear their costs.

  
(NIKILESH RAMACHANDRAN)  
ARBITRATOR

Dated: 4<sup>th</sup> MARCH 2016.