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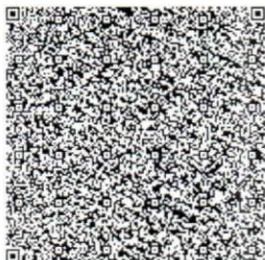
## INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

### e-Stamp

Certificate No.	: IN-DL243713209975070
Certificate Issued Date	: 08-Mar-2016 02:52 PM
Account Reference	: IMPACC (SH)/ dlshimp17/ HIGH COURT/ DL-DLH
Unique Doc. Reference	: SUBIN-DLDSLHIMP17474962237620560
Purchased by	: AMARJIT SINGH ADVOCATE
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: AMARJIT SINGH ADVOCATE
Second Party	: Not Applicable
Stamp Duty Paid By	: AMARJIT SINGH ADVOCATE
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)

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#### 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.

## ARBITRATION AWARD

### **.IN REGISTRY – NATIONAL INTERNET EXCHANGE OF INDIA .IN domain Name Dispute Resolution Policy INDRP Rules of Procedure**

#### **IN THE MATTER OF:**

Dell Inc.  
One Dell Way  
Round Rock, Texas 78682-2244,  
USA

.....Complainant

#### **VERSUS**

Nagendran Kathirvel  
No. 1070-A, Munuswamy Salai,  
K.K. Nagar,  
Chennai, Tamil Nadu-600078

.....Respondent

#### **1. THE PARTIES**

The Complainant in this administrative proceeding is Dell Inc. One Dell Way Round Rock, Texas 78682-2244, USA represented through Anand and Anand, First Channel, Plot No. 17A, Sector 16A, Film City, Noida.

The Respondent is Nagendran Kathirvel No. 1070-A, Munuswamy Salai, K.K. Nagar, Chennai, Tamil Nadu-600078.

#### **2. THE DOMAIN NAME AND REGISTRAR**

The disputed domain name <**dellddealersinchennai.in**> has been registered by the Respondent. The Registrar with whom the



disputed domain is registered is GoDaddy.com, LLC.

### 3. **PROCEDURAL HISTORY**

- 3.1 The Complaint was filed with the .In Registry, National Internet Exchange of India (NIXI), against Nagendran Kathirvel No. 1070-A, Munuswamy Salai, K.K. Nagar, Chennai, Tamil Nadu-600078. The NIXI verified that the Complaint together with the Annexures to the Complaint had satisfied the formal requirements of the .in Domain Name Dispute Resolution Policy ("The Policy") and the Rules of Procedure ("The Rules").
- 3.2 In accordance with the Rules, Paragraph-2(a) and 4(a), NIXI formally notified the Respondent of the Complaint and appointed me as a Sole Arbitrator for adjudicating upon the dispute in accordance with The Arbitration and Conciliation Act, 1996, Rules framed there under, .In Dispute Resolution Policy and Rules framed there under on January 14, 2016. The parties were notified about the appointment of an Arbitrator on January 21, 2016.
- 3.3 The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by NIXI to ensure compliance with the Rules (paragraph-6).

### 4. **FACTUAL BACKGROUND**





- 4.1 The Complainant in this matter is Dell Inc. One Dell Way Round Rock, Texas 78682-2244, USA.
- 4.2 The Complainant was founded in 1984 by Michael Dell and is one of the world's largest direct seller of computer systems. 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 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.
- 4.3 The Complainant 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 wide range of goods and services, including offering its goods and services online through numerous DELL domain names.
- 4.4 The Complainant is a world leader in computers, computer accessories and other computer-related products and services. 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. Dell has used television, radio, magazines, newspapers and the internet as marketing media. Dell has been, and continues to be, extremely successful. Dell sells its products and services in over 180 countries. For several years, Dell has been the world's largest direct seller of computer systems. As a consequence of Dell's marketing and sales success, Dell and its marks have become famous in the United States and many other countries, including India. More information about Dell can be found at [www.dell.com](http://www.dell.com) and [www.dell.co.in](http://www.dell.co.in), Dell's official website for India. Moreover, Dell was recently named by Adweek as #15 of the "Most Loved Companies" in the world.

- 4.5 The Complainant has used the famous mark DELL, as well as various other marks that include the word DELL (the "DELL Marks"), for many years for laptops, desktops, computer parts and accessories, computer service and support and other computer-related products and services. For example, Dell offers technical and repair services for its laptops, desktops and other products on its website at [www.support.dell.com](http://www.support.dell.com). Further, Dell has long used the marks INSPIRON, LATITUDE, PROSUPPORT, VOSTRO and XPS in connection with its products. The complainant has also launched phones available in various models which are sold under different series/sub-brands such as the DELL VENUE series and the






DELL STREAK series. Amongst its many services and facilities, the complainant also provides cloud computing services with its DELL CLOUD COMPUTING SOLUTIONS <sup>TM</sup>, wherein customers are provided with cloud servers with data storage facilities.

4.6 With specific reference to India, the Complainant has more than 22 percent of the market and Dell is the number two PC marker in India. In fact, Dell has been one of the leaders in the India PC market for several years.

4.7 The Complainant began doing business in India in 1993. The complainant 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.

4.8 The complainant also maintains several pages on the social media platforms such as Twitter, YouTube, LinkedIn, Google+. All the social media platforms spread huge awareness and assist in consumers associating the trademark 'DELL' with the complainant only. Even a search



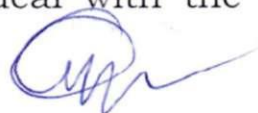
conducted on the Google search engine gives about 1,14,00,00,000 results, wherein most of the results relate to the trademark "DELL" being associated with the complainant.

4.9 The Complainant 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.

4.10 The Respondent in these proceedings is Nagendran Kathirvel No. 1070-A, Munuswamy Salai, K.K. Nagar, Chennai, Tamil Nadu-600078.

4.11 On service of the copy of the complaint, documents attached thereto and notification for the appointment and commencement of arbitration proceedings, the respondent vide e-mail of January 22, 2016 communicated his consent for transfer of the disputed domain name <dellddealersinchennai.in> in favour of the complainant.

4.12 Since the respondent has not disputed any of the claims made by the complainant and has voluntarily agreed to transfer the impugned domain name <dellddealersinchennai.in> in favour of the complainant, this panel does not consider it necessary to deal with the case on

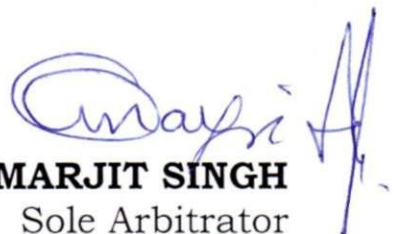


merits and to record findings on the three elements under the policy. The facts establishing all three elements namely-

- i. that the respondent's domain name is identical or confusingly similar to the trade mark/service mark in which the complainant has a right;
- ii. that the respondent has no right or legitimate interest in the impugned domain name;
- iii. that the domain name was registered or is being used in bad faith, for determination of the proceedings are not disputed by the respondent and are deemed to have been admitted. Consequently, this panel does not consider it necessary to enter into debate on the establishment of all three elements of the policy.

## 5 **DECISION**

In view of the above this panel direct to transfer of impugned domain name <dellddealersinchennai.in> in favour of the complainant.

  
**AMARJIT SINGH**  
Sole Arbitrator

Dated: 5<sup>th</sup> March, 2016