



# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

सत्यमेव जयते  
Certificate No.

Certificate Issued Date

Account Reference

Unique Doc. Reference

Purchased by

Description of Document

Property Description

Consideration Price (Rs.)

First Party

Second Party

Stamp Duty Paid By

Stamp Duty Amount(Rs.)

: IN-DL72999802856980T  
: 14-Apr-2021 12:37 PM  
: IMPACC (IV)/ dl881103/ DELHI/ DL-DLH  
: SUBIN-DL8110346655332315286T  
: VIKRANT RANA  
: Article 12 Award  
: Not Applicable  
: 0  
: (Zero)  
: VIKRANT RANA  
: Not Applicable  
: VIKRANT RANA  
: 100  
: (One Hundred only)

सत्यमेव जयते



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BEFORE THE SOLE ARBITRATOR UNDER .IN DISPUTE RESOLUTION POLICY  
(Appointed by .IN Registry- National Internet Exchange of India)

#### ARBITRATION AWARD

Disputed Domain Name: <DELLSHOWROOMCHENNAI.CO.IN>

#### IN THE MATTER OF

Dell Inc.,  
One Dell Way, Round Rock,  
Texas, 78682, U.S.A

...Complainant

-----versus-----

James Jeni,  
Laptop Shoppe,  
Opp CSI Mission Hospital Main Road,  
Marthandam, Kanyakumari,  
Tamil Nadu- 629165  
Email: james.jeniservice2020@gmail.com

...Respondent No. 1

*Signature of Respondent No. 1*

#### Statutory Alert:

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1. The authenticity of this Stamp certificate should be verified at 'www.sholestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App 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.

AND

**Synergy Systems and Peripherals,**  
No. 165, Vallur Kottam High Road, Near Sotc.  
Nungambakkam,  
Chennai- 600034

...Respondent No. 2

**1. The Parties**

The **Complainant** in this arbitration proceeding is **Dell Inc.**, of the address: **One Dell Way, Round Rock, Texas, 78682, U.S.A.**, a company incorporated and existing under the laws of Delaware, United States of America.

The **Respondents** in this arbitration proceeding are **James Jeni** ("**Respondent No. 1**") of the address Laptap Shoppe, Opp CSI Mission Hospital Main Road, Marthandam, Kanyakumari, Tamil Nadu- 629165 and **Synergy Systems and Peripherals** ("**Respondent No. 2**"), of the address. No. 165, Vallur Kottam High Road, Near Sotc., Nungambakkam, Chennai- 600034.

**2. The Domain Name, Registrar and Registrant**

The present arbitration proceeding pertains to a dispute concerning the registration of domain name <**DELLSHOWROOMCHENNAI.CO.IN**> with the .IN Registry. The Registrant in the present matter is "**James Jeni**", and the Registrar is **Good Domain Registry Private Limited**.

**3. Procedural History**

The present arbitration proceedings is in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP), adopted by the National Internet Exchange of India (NIXI). A brief timeline of the proceedings is given below:

NIXI vide its email dated February 08, 2021, had sought consent of Mr. Vikrant Rana to act as the Sole Arbitrator in the matter. The Arbitrator informed of his availability and gave his consent vide Statement of Acceptance and Declaration of Impartiality and Independence in compliance with the INDRP Rules of Procedure vide email on the same day, i.e. February 08, 2021.

Thereafter, NIXI forwarded the soft copy of the Complaint, along with Annexures, as filed by the Complainant in the matter, to all Parties, including the Arbitrator vide email dated February 17, 2021 and made the pronouncement that Mr. Vikrant Rana, in his capacity as Arbitrator, would be handling the matter. The Arbitrator then vide email to NIXI on the same date, confirmed receipt of the soft copy of the Complaint along with annexures, and in accordance with the amended rules of the INDRP, requested the Complainant to confirm once the copy of the Complaint (along with annexures) has been served upon the Respondents (by post as well by email) and provide proof of service thereof.





Shortly thereafter, the Arbitrator received an email on the same date (i.e. February 17, 2021) from the Complainant, forwarding a soft copy of the final accepted Complaint along with annexures and informing that they are taking necessary steps to serve both soft and hard copies of the Complaint with annexures on the Respondents and that they shall provide proof of service in due course. The Arbitrator was then also copied on an email of the same date (i.e. February 17, 2021) from the Complainant to the Respondents, wherein the Complainant provided a soft copy of the Complaint to the Respondents and also informed that they are also taking necessary steps to serve the hard copy of the Complaint with annexures upon the Respondents.

Thereafter on February 23, 2021, the Arbitrator received an email from the Complainant, informing about the successful service of the Complaint and annexures thereto upon the Respondents via email as well as post/ hard copy.

The Arbitrator, vide email dated February 24, 2021, announced that the Complaint along with Annexures had been duly served upon the Respondents vide hard copy/post and email. Therefore, the Respondents were deemed to have been duly served with the Complaint and Annexures thereto and was granted a period of **fourteen (14) days** from the date of receipt of the email dated February 24, 2021, within which to file a response to the Complaint in hard as well as soft copy and forward copies of the same to the Complainant, the Arbitrator and the .IN Registry, failing which, the matter will be decided on the basis of material already available on record and on the basis of applicable law.

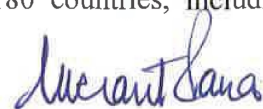
On March 11, 2021, the Arbitrator, vide email, addressed to the Respondents brought it on record that despite the prescribed deadline for the Respondents to respond in the matter having elapsed on March 10, 2021, in the interests of justice the Respondents were being granted an additional but final and non-extendable period of **seven (7) days** within which to submit a response (if any) in the matter.

As no response to the Complaint was preferred by the Respondents in the matter even after expiration of the aforementioned final time period of **seven (7) days**, the Arbitrator, vide email dated March 31, 2021, reserved the award to be passed on the basis of facts and documents available on the record.

#### **4. Factual Background**

The Complainant has submitted that it was established in 1984 and that it is the world's largest direct seller of computer systems. Complainant submits that since its establishment, it 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, data computing, cloud computing, information security, etc.

Complainant has submitted that it does business with 98 percent of Fortune 500 corporations and that it sells more than 100,000 systems daily in 180 countries, including in India.



Complainant further submits that it has a team of 100,000 members globally which caters to more than 5.4 million customers every day.

Complainant has submitted that it has been in the global news, owing primarily to Michael Dell taking the Complainant private, for USD 24.4 billion, and also for its acquisition of EMC Corporation for around USD 67 billion. In this regard, the Complainant has attached an excerpt from a news article about the aforesaid acquisition, as Annexure 1.

Complainant has further submitted that it has been using the mark DELL for several decades and is also the registered proprietor of the said mark in various countries, including in India. In this regard, the Complainant has provided details of its Indian trade mark registrations. The complainant has also annexed copies of some certified copies of its Indian trade marks as Annexure 2.

Complainant has submitted that its first use of the mark 'DELL' can be traced back to 1988 and that since then it has expanded its business into various countries and has extensive use of the said mark around the world. Complainant has further submitted that it also uses various DELL formative marks such as DELLPRECISION, DELL CHAMPS, DELL PROSUPPORT, etc.

Complainant has submitted that its products have been available in India since 1993 and that the same are marketed in the country by its subsidiaries, who have tied up with various channel partners such as authorized distributors and resellers all over India. Complainant submits that its products are sold vide a network of 'DELL' exclusive stores and at other stores in around 200 cities in India, and that in addition to its exclusive Dell Stores, the Complainant operates an interactive website at WWW.DELL.COM, wherein orders for laptops can be placed. Complainant contends that in view of the same, the relevant general public exclusively associate the trademark 'DELL' with the Complainant alone.

Complainant has submitted that it has a strong internet presence through its globally accessible website at <Dell.com> as well as other country specific websites, such as at <Dell.in> and <Dell.co.in> for India, both of which redirect to Complainant's official global website at <Dell.com>.

In view of the above, the Complainant has submitted that it has been using the trademark DELL since 30 years and by virtue of such use, the mark DELL is well recognized amongst the consuming public and can be termed as a well-known mark. Complainant has further submitted that it has in the past initiated several actions against domain name squatters. In this regard, the Complainant has submitted a list of such actions Annexure 3.

Complainant submits that as per the WHOIS records for the domain in question <DELLSHOWROOMCHENNAI.CO.IN>, the below are its relevant registration details:

**Registrant Name:** James Jeni

**Registrant Organization:** Laptop Shoppe

**Address:** Opp CSI Mission Hospital Main Road, Marthandam, Kanyakumari, Tamil Nadu - 629165, India





The Complainant has also mentioned the Respondent's email address and phone number in the Complaint, and has annexed the WHOIS records of the disputed domain name as Annexure 4.

### **5. Complainant's Contentions**

The Complainant has claimed that currently the disputed domain does not host any website at the time of filing the domain Complaint. In this regard, the Complainant has annexed copy of a screen shot evidencing the same as Annexure 5.

Complainant has contended that while conducting a search for cyber squatters, it became aware of the disputed domain name, registered in the name of Respondent No. 1, and that the domain name earlier used to host a website wherein the Respondent No. 1 was representing itself as Dell's authorised showroom offering different models of DELL Laptops, desktops, monitors, servers, etc., as well as DELL accessories such as mouse, keyboard, etc. In this regard, the Complainant has annexed copy of a screen shot which shows the aforesaid website, as Annexure 6.

Complainant has claimed that as soon as it became aware of the disputed domain name, they investigated the same and checked the Facebook link mentioned on the website, which led to a Facebook page of '**Dell show room in Chennai**', and on the said Facebook page, they came across another domain name <DELLAPTOPSHOWROOMINCHENNAI.IN> (hereinafter referred to as the '**Second Disputed Domain**'), against which they have filed an INDRP domain Complaint (**Complaint No. 1313** - hereinafter referred to as '**Second Domain Complaint**'), which is still pending adjudication. In this regard, the Complainant has annexed the WHOIS records for the Second Domain Name as Annexure 7, in respect of which the Complainant has further submitted that the registrant address for the Second Domain Name is the same as the registrant address for the Disputed Domain Name which is the subject matter of the current proceedings.

As regards the aforementioned Second Domain Name, the Complainant has submitted that the website hosted therein provided other social media links to websites such as Facebook, LinkedIn, etc., and upon perusal of the LinkedIn profile, the Complainant noted that the same redirects to the profile of one **Mr. Naveen Kumar** working as a web-designer with an entity named '**Synergy Systems & Peripherals**' (a copy of a screen shot of the said profile has been annexed by the Complainant as Annexure 8). Complainant then conducted a Google search for the said entity and came across two websites of the same (synergysystem.in and synergysystem.co.in). Complainant has also submitted that in addition to the above, the impugned website also displayed a contact number which was also displayed on the websites of Synergy. In this regard, the Complaint has annexed copies of the relevant pages of the website as Annexure 9. In view of this apparent nexus, the Complaint has impleaded **Synergy Systems & Peripherals** as Respondent No. 2.

Complainant has claimed that the impugned website of the Respondent displayed the trade mark DELL at several places, and to show this the Complainant has annexed copies of screen

*Murant Sana*

shots of the website as Annexure 10. Complainant has also drawn attention to a few write-ups on the website, which show an association with the Complainant, and to illustrate the same, has provided relevant screenshots of the website as Annexure 11.

In view of the above contentions, the Complainant has submitted that the Respondent has registered the disputed domain name which incorporates the Complainant's trade mark, hosted a website on the same and misrepresented to the public vide the said website that it is associated with the Complainant, when in reality no such connection exists. Complainant has further claimed that the Respondent has only temporarily deactivated the impugned website and may re-activate the same at some time in the future.

Complainant has claimed that the Respondent has no legitimate reason for adoption of the mark DELL in the disputed domain name and the said mark connotes and denotes goods and services of the Complainant. In furtherance thereto, the Complainant has claimed that the adoption of the said mark by the Respondent in the disputed domain name appears to be dishonest.

#### **6. Legal Grounds Submitted by the Complainant**

The Complainant has submitted the following legal grounds in support of its Complaint:

##### **A. The Disputed Domain Name's Similarity to the Complainant's Rights**

The Complainant has contended that it offers various DELL branded products such as laptops and tablets and is also the registered proprietor of the DELL mark in India. In this regard, the Complainant has annexed trade mark registration certificates for the DELL mark, including in Class 37 in India, as Annexure 13. Complainant has further contended that the Respondent has adopted the identical mark of the Complainant and is using the said mark with respect to identical goods and services and is duping customers by giving them an impression that the Respondent is associated with the Complainant, and that the usage of the mark DELL by the Respondent is without consent.

Complainant has also contended that the Respondent's adoption of the mark DELL as a part of the disputed domain name is a violation of the Complainant's rights and that as long as the impugned website (on the disputed domain name) was active, the same was accessed owing to the use of the mark DELL by the Complainant.

##### **B. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name**

The Complainant has contended that the Respondent has no right to use or register the mark DELL in any manner, and that usage and adoption thereof by the Respondent is not licensed or permitted, and thus the same amounts trade mark infringement and passing-off of the Complainant's trade mark DELL, and hence the Respondent cannot claim to have any legitimate rights in the trade mark DELL.

*Mr. Sant Sane*



The Complainant has further claimed that the Respondent may/was taking advantage of innocent customers, who may or may not enquire about the authenticity of the Respondent or its relation with the Complainant. Further, even if the Respondent informs the purchasing customer that it is not related to the Complainant, the same does not bestow any right to the Respondent to use the DELL trade mark.

Complainant has further contended that the Respondent developed the disputed domain name comprising of the DELL trade mark with the sole aim to make illegal benefits from the goodwill and reputation of the mark DELL built by the Complainant.

C. The Registrant's Domain Name has been registered or is being used in bad faith

The Complainant has contended that the Respondent's bad faith is evident from the mere usage of the mark DELL in the disputed domain name, and that the domain name is worded in such a manner that it appears to be with respect to the showroom of Dell in Chennai.

Complainant has further contended that use of the mark DELL by the Respondent is without due cause and has been done to gain illegal benefit from the goodwill of the same. Complainant has contended that the registration of the disputed domain name has been done in bad faith and with dishonest intention to mislead the public. The adoption and use of the disputed domain name is contrary to honest commercial practices of trade.

The Complainant has contended that such unauthorised and unlicensed adoption is evidence of bad faith itself and that the Respondent has no reason to adopt the trade mark of the Complainant. The use of the domain name is not for non-commercial purposes and would not fall under the ambit of 'fair use', and that the only reason for adoption is to make illegal profit.

Complainant has further contended that bad faith is also reflective in the write-ups present in the impugned website, wherein the Respondent was portraying itself to be the Complainant's authorised showroom. Further, bad faith is also evident from the deactivation of the impugned website, as the Complainant had filed a domain name Complaint against the Respondent's Second Domain Name.

In view of the above, the Complainant has submitted that since the Respondent is eroding the distinctive character of the Complainant's mark and is also diluting the same, the balance of convenience rests in favour of the Complainant.

**Other Legal Proceedings**

The Complainant has submitted that there are no other legal proceedings that have been commenced against the Respondent in relation to the domain name <DELLSHOWROOMCHENNAI.CO.IN>.

**Reliefs claimed by the Complainant**



The Complainant has claimed for the disputed domain name, i.e. <DELLSHOWROOMCHENNAI.CO.IN>, to be transferred to the Complainant.

#### 7. Respondent's Contentions

As mentioned in the Factual Background of the matter, despite being duly served with a copy of the Domain Complaint as filed and thereafter granted adequate time to respond to the same, the Respondent had not submitted any response thereto, or in fact any communication of any kind to either the Complainant, NIXI or the Arbitrator in respect of the matter.

#### 8. Discussion and Findings

In a domain Complaint, the Complainant is required to satisfy three conditions as outlined in Paragraph 4 of the .IN Domain Name Dispute Resolution Policy, i.e.:-

- (a) the Registrant's domain name is identical and/or confusingly similar to a name, trademark or service mark in which the Complainant has rights; and
- (b) the Registrant has no rights or legitimate interests in respect of the domain name; and
- (c) the Registrant's domain name has been registered or is being used in bad faith.

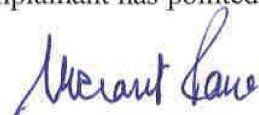
i. **The Registrant's domain name is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights**  
(Paragraph 4(a) of the .IN Domain Name Dispute Resolution Policy)

The Complainant has established its rights in the mark **DELL** in India, specifically with respect to services falling under class 37 of the NICE classification. Based on the evidence placed on record, Complainant's trade mark rights in India are shown to significantly predate the registration of the disputed domain name <DELLSHOWROOMCHENNAI.CO.IN> by the Respondent.

Further, it is well established that trade mark registration is recognized as prima facie evidence of rights in a mark. The Complainant, by submitting registration certificates of its registered trademarks has established that it has prior statutory rights in the trademark **DELL** in India. Complainant has further submitted that it also uses various DELL formative marks such as DELLPRECISION, DELL CHAMPS, DELL PROSUPPORT, etc.

The Complainant has also submitted that it has its own website at **Dell.com** (and **Dell.in** and **Dell.co.in**, both of which redirect to **Dell.com**), wherein it advertises its various goods and services under the **DELL** marks.

The disputed domain name <DELLSHOWROOMCHENNAI.CO.IN> incorporates Complainant's registered trade mark **DELL** in toto and Complainant has pointed out that the





nature of the domain name is such that it gives an impression that it is the website of DELL showroom in the city of Chennai. In the present dispute, the use of the descriptive words "Showroom", and "Chennai" along with the mark **DELL** does not decrease the similarity between the Complainant's mark and the Respondent's domain name. The same in fact appears to give the impression that the domain for an official DELL showroom in the city of Chennai.

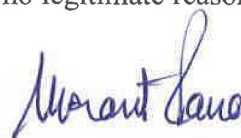
The Complainant has further submitted that the domain <**DELLSHOWROOMCHENNAI.CO.IN**> used to host a website wherein the Respondent misrepresented itself to be associated with the Complainant, and that the mark **DELL** was prominently used therein, exacerbated by the presence of certain write-ups which increased the chances of the public falsely associating the website with the Complainant. The Complainant has also submitted that it has not licensed or authorized the Respondent to use the trade mark **DELL**.

It may be stated that the disputed domain name <**DELLSHOWROOMCHENNAI.CO.IN**> is confusingly identical/similar to the Complainant's trade mark **DELL** and completely incorporates the said trademark of the Complainant. It has been held by prior panels deciding under the INDRP that there exists confusing similarity where the disputed name incorporates the Complainant's trade mark, such as *Kenneth Cole Productions v. Viswas Infomedia INDRP/093*, *Indian Hotel Companies Limited v. Mr. Sanjay Jha, INDRP/148* <*Gingerhotels.co.in*>, *Carrier Corporation, USA v. Prakash K.R. INDRP/238* <*Carrier.net.in*>, *M/s Merck KGaA v. Zeng Wei INDRP/323* <*Merckchemicals.in*>, *Colgate-Palmolive Company & Anr. v. Zhaxia INDRP/887* <*Colgate.in*> and *The Singer Company Limited v. Novation In Limited INDRP/905* <*singer.co.in*>.

In view of the aforesaid, the Arbitrator finds that the Complainant has successfully established the requirements as under Paragraph 4(a) of the .IN Domain Name Dispute Resolution Policy, that the Complainant has statutory and common law rights over the mark **DELL** and that the Respondent's domain <**DELLSHOWROOMCHENNAI.CO.IN**> is confusingly identical/similar to the Complainant's trade mark.

ii. **The Registrant has no rights and legitimate interest in respect of the domain name (Paragraph 4(b) and Paragraph 6 of the .IN Domain Name Dispute Resolution Policy)**

The Complainant has contended that the disputed domain name earlier used to host a website wherein the Respondent was representing itself as Dell's authorised showroom offering different models of DELL Laptops, desktops, monitors, servers, etc., as well as DELL accessories such as mouse, keyboard, etc., and that the same was taken-down after the Complainant filed a domain name Complaint against the Second Domain Name. Complainant has contended that the Respondent has registered the disputed domain name which incorporates the Complainant's trade mark, hosted a website on the same and misrepresented to the public that it is associated with the Complainant, when in reality no such connection exists. Complainant has also contended that the Respondent has no legitimate reason for adoption of



the mark DELL in the disputed domain name and the said mark connotes and denotes goods and services of the Complainant.

The Complainant, with respect to this element of the Policy, has also contended that even if the Respondent informs the purchasing customer that it is not related to the Complainant, the same does not bestow any right to the Respondent to use the DELL trade mark.

Complainant has also contended that the mark 'DELL' is its exclusive property and that Respondent has no right to use the said mark, especially since the said use is not licensed and thus amounts to infringement of the trademark DELL, and that the Respondent has developed the domain <DELLSHOWROOMCHENNAI.CO.IN> only to illegally benefit from the goodwill and reputation of the Complainant's registered trademark DELL.

In the present dispute, Complainant has established that it has rights over the mark DELL and that the domain <DELLSHOWROOMCHENNAI.CO.IN> is confusingly identical/similar to the Complainant's trade mark.

The element under Paragraph 4(b) and Paragraph 6 of the .IN Domain Name Dispute Resolution Policy necessitates that Complainant has to establish a prima facie case that Respondent has no rights or legitimate interests in the disputed domain in question. The burden thereafter lies on the Respondent to rebut the showing by providing evidence of its rights or legitimate interests in the domain name. It has been held in numerous cases, including in *Huolala Global Investment Limited v Li Chenggong* (INDRP Case No. 1027) that the onus of proving rights or legitimate interest in the disputed domain name lies on the Respondent. If the Respondent fails to come forward with relevant evidence to prove rights and legitimate interest in the disputed domain name, and if the Complainant is found to have put forward a prima facie case, then the Complainant prevails.

Under paragraph 6 of the INDRP , it is stated that Respondent can demonstrate rights or legitimate interests in a disputed domain by showing - (a) before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; (b) the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or (c) the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In this case, the Respondent has not submitted any response and/or any evidence of its rights and interests. The Respondent has not been able to establish any of the conditions pre-requisite for considering a registrant's rights and legitimate interests in a domain name as set out under Paragraph 6 of the INDRP.





The Complainant has established a prima facie case of its rights in the mark **DELL**, and has also referred to several similar decisions by adjudicating Panels under the INDRP in its favor (Annexure 3).

Therefore, in view of the facts and circumstances and evidence on record, the Arbitrator finds that Respondent has not established any rights or legitimate interests in the disputed domain name. Further, use of such a confusingly and deceptively similar domain name by the Respondent is likely to mislead and misrepresent to the general public and members of the trade as to the source, sponsorship, affiliation or association of the activity being carried on through the website.

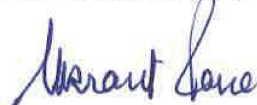
Further, based on the evidence on record, including Respondent's registration of the Second Domain Name <**DELLLAPTOPSHOWROOMINCHENNAI.IN**>, it is evident that the Respondent is misrepresenting and/or passing-off itself as an authorized dealer or showroom of the Complainant in the city of Chennai, which evidences that it does not have any rights or legitimate interests in the disputed domain name.

In view of the aforesaid, the Arbitrator finds that the Complainant has successfully established the requirements as under Paragraph 4(b) of the .IN Domain Name Dispute Resolution Policy.

**iii. The Registrant's domain name has been registered or is being used in bad faith (Paragraph 4(c) and Paragraph 7 of the INDRP)**

Paragraph 7 of the INDRP stipulates the below circumstances which show registration and use of a domain name in bad faith - (a) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name; or (b) the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or (c) by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.

Based on the evidence on record, it appears that by registering and using the domain <**DELLSHOWROOMCHENNAI.CO.IN**>, the Respondent has engaged in conduct as enumerated in paragraph 7 (c) of the INDRP, that *by using the domain name, the Registrant has intentionally attempted to attract Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the*



*source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.*

The mere nature of the domain is such that it gives the impression of being the Complainant's official website for a Dell showroom in the city of Chennai. Moreover, the write-ups referred to in the impugned website which was earlier hosted on the disputed domain name (as shown by the Complainant in Annexure 11) exacerbates the aforesaid impression.

In any case, the Respondent's use of the disputed domain name has not been defended as having been bona fide and the Respondent has not submitted any reply nor rebuttal to the Complainant's contentions, or evidence in support of its bona fide use of the disputed domain name.

In view of the aforesaid, the Arbitrator concludes that the Complainant has satisfactorily proved the requirements of Paragraph 4(c) and Paragraph 6 of the INDRP.


#### **8. Decision**

Based upon the facts and circumstances and further relying on the materials as available on the record, the Arbitrator is of the view that the Complainant has statutory and proprietary rights over the trade mark **DELL** and variations thereof. The Complainant has herein been able to prove conclusively that:

- i. The Registrant's domain name is identical and confusingly similar to a name, trade mark or service mark in which the Complainant has rights; and
- ii. The Registrant has no rights and legitimate interest in respect of the domain name; and
- iii. The Registrant's domain name has been registered or is being used in bad faith.

The Arbitrator therefore allows the prayer of the Complainant and directs the .IN Registry to transfer the domain <**DELLSHOWROOMCHENNAI.CO.IN**> to the Complainant.

The Award is accordingly passed and the parties are directed to bear their own costs.

  
**Vikrant Rana, Sole Arbitrator**

**Date: April 14, 2021**

**Place: New Delhi, India**