



ఆంధ్రప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH

Sl.No.

2402 Date 21/01/21

Sold to

Dr. Vedula Gopinath, S/o. V. R. Chavala. U

For whom

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BOLAGANA RAMA RA  
LICENCED STAMP VENDOR  
L.No. 03/11/001.1999 RL.No. 03/11/03  
# 51-d-3/1, Seethammadhara  
Vishakhapatnam, Cell: 9849243.

**I. THE PARTIES :**

- a. **The Complainant: viz., DELL Inc. Authorized representative in these Administrative proceedings is:**

Mr. Akhilesh Kumar Rai,  
AZB & Partners  
Plot No. A8, Sector 04  
Noida - 201301, U.P. India  
Phone: +91 120 4179999  
e-mail: [akhileshkumar.raai@azbpartners.com](mailto:akhileshkumar.raai@azbpartners.com)

A copy of Power of Attorney has been furnished by the Complainant.

- b. **Respondent No. 1 :**

Name : James Jeni,  
Address : Laptap Shoppe,  
Opp : CSI Mission Hospital Main Road,  
Marthandam, Kanyakumari,  
Tamil Nadu - 629165, India,







ఆంధ్రప్రదేశ్ ఆంధ్ర ప్రదేశ్ ANDHRA PRADESH

Sl.No. 2401 Date 21/01/21

Sold to

For whom

Dr. Vedula Gopinath, S/o. V. K. Chavala

BEFORE THE NATIONAL INTERNET EXCHANGE OF INDIA (NIXI)

.IN DOMAIN NAME DISPUTE POLICY (INDRP)

Dr. Vedula Gopinath, Sole Arbitrator

Arbitration Award No. INDRP/1332 Dated March 12, 2021

In the matter of Arbitration Between :

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

... Complainant

AND

James Jeni,  
Laptop Shoppe,  
Opp : CSI Mission Hospital Main Road,  
Marthandam, Kanyakumari,  
Tamil Nadu - 629165, India

... Respondent-1

AND

Synergy Systems and Perpheranls  
No. 165, Vallur - Kottam High Road,  
Near : Sotc, Nungambakkam, Chennai - 600037, India.

Respondent-2





**c. Respondent No. 2 :**

Name : Synergy Systems and Peripherals,  
Address : No. 165, Vallur – Kottam High Road  
Near : Sotc., Nuingambakkam,  
Chennai, Tamil Nadu – 600037, India,

**II. DISPUTED DOMAIN NAME & REGISTRY:**

- a) The following Domain name is the subject of this Complaint is dellservicecenterintelangana.in
- b) The Registry is the National Internet Exchange of India (henceforth referred to as NIXI).
- c) The Sponsoring Registrar with whom the domain name is Registered is indicated as: Good Domain Registry Private Limited, 34-A, Main Road, Kennedy Square, Perambur, Chennai 600011 Tamil Nadu, India

**III. PROCEDURAL HISTORY / BACK GROUND :**

08.02.2021	The .1N REGISTRY appointed Dr. Vedula Gopinath as Sole Arbitrator from its panel as per paragraph 5 of INDRP Rules of Procedure.
09.02.2021	Consent of the Sole Arbitrator along with declaration was given to the .1N REGISTRY according to the INDRP Rules of Procedure.
17-02-2021	.1N REGISTRY sent an email to all the concerned intimating the appointment of arbitrator. On the same day, the complete set of the soft copy of the Complaint with Annexure was sent to Respondent.
19.02.2021	Notice of Arbitration was sent to all concern by the Sole Arbitrator.
20.02.2021	Notice was sent by Arbitrator to the Respondent by-mail directing him to file his response within 10 days, marking a copy of the same to the Complainant's representative and .1N Registry.
27.02.2021	The Reminder Notice to Respondents.



### III. COMPLAINANT'S DETAILS

- a) The Complainant in this administrative proceeding is Dell Inc., established in the year 1984. Dell Inc. is a company incorporated and existing under the laws of Delaware, United States of America.
- b) The Complainant is the world's largest direct seller of computer systems. Since its establishment in 1984, the Complainant has diversified and expanded its activities which presently include, but are not limited to, computer hardware, software, computer peripherals, computer-oriented products and storage / security and technical support services.
- c) Currently, the Complainant is one of the leading providers of computer systems to large enterprises around the world and claim business with 98 percent of Fortune 500 corporations and having customers around the world with manpower of 100,000. .
- d) The Complainant has been in global news, owing primarily to Michael Dell taking the Complainant private, for \$ 24.4 billion, in the biggest leveraged buyout since the financial crisis. The other reason for the Complainant to be in news has been the acquisition of EMC Corporation for around \$ 67 billion.
- e) The Complainant has been using the mark 'DELL' for several decades now and is also the registered proprietor of the said trademark in various countries, including India. The details of some of the registrations for 'DELL' and 'DELL' formative marks in India, are as follows:





Trade Mark	Registration	Registration Date	Class	Status
DELL	575115	June 5, 1992	9	Registered
www.dell.com	826095	November 5, 1998	9	Registered
<b>DELL</b>	923915	May 10, 2000	9	Registered
DELL	1190375	April 7, 2003	2	Registered
DELL	1190376	April 7, 2003	9	Registered
DELL	1239350	September 24,	37	Registered
DELL	1239349	September 24,	42	Registered
DELL	1335057	January 28, 2005	36	Registered
DELL	3597740	October 06, 2016	41	Registered

Copies of the certificates/status are attached as per **Annexure - 2 of the Complaint.**

- f) 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.
- g) The products of the Complainant are widely available in India since 1993. The said products are marketed in India by the Indian subsidiaries of the Complainant. The Complainant's subsidiaries have tied up with 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 and around 200 cities in India. By virtue of this use, the relevant section of the public associates the trademark 'DELL' with the Complainant alone.



- h) The Complainant, its subsidiaries and licensee in India and the subsidiary's authorized distributors and resellers alone have limited rights to use the trademark and trade name/corporate name 'DELL' in India. No one other than those permitted by the Complainant can use 'DELL' as a trademark or part of corporate name or in any manner whatsoever.
- i) The Complainant has a very strong internet presence with the website [www.dell.com](http://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 in India. Additionally, the Complainant also has country specific domain names such as [www.dell.co.in](http://www.dell.co.in) for India. Upon clicking on [www.dell.co.in](http://www.dell.co.in), the user gets redirected to [www.dell.com](http://www.dell.com).
- j) In view of the above, it is evident that the Complainant has been using the trademark 'DELL' since more than 30 years and has built an enviable reputation in respect of the said mark. By virtue of such use, the mark 'DELL' is well recognized amongst the consuming public and can be termed as a well-known trademark. List of cases, wherein awards have been passed in favour of Complainant.

#### **IV. PARTIES' CONTENTIONS :**

##### **A. COMPLAINANT**

a/ (i) The Complainant has alleged that domain name of the Respondents are identical and confusingly similar to their trademark DEL in which it has rights.





(ii)The complainant has alleged that respondents does not have rights or legitimate interest in respect of domain name and also the respondents have no registered trademark rights of the said domain name. The complainant has alleged that respondents clearly intend to mislead potential customers of the complainant to its website.

(iii)The complainant has further alleged that the domain name is registered by the respondents and is used by them in bad faith.

(iv)The complainant has submitted that its trade marks are well known in India. The complainant has further alleged that the respondent's intention is not to act in good faith but has got registered the disputed Domain name in bad faith.

- b) The Complainant (DELL) doesn't have any business relationship with Respondent-1 (Laptop Shoppe) and Respondent- 2 (Synergy Systems and Peripherals).
- c) The Complainant, Dell Inc. has filed various Petitions against different domain names register3ed by Synergy Systemsand Peripherals. Previously, the domain name petitions were filed against delllaptoschennai.com, dellaptopserviceinchennai.com, dellaptopservicehyderabad.com, dellshowroomhyderabad.com, dellshowroominchennai.com, dellshowroominhyderabad.com and dellservices.in. The details of Petitions, as filed, are given as **Annexure -3 of the complaint.**
- d) It was alleged by Complainant that one address has been commonly used by Respondent No. 2 in all its domain name registrations, i.e., No. M165, Vallur, Kottam High Road, Near Sotc., Nungambakkam, Chennai - 600037. This address is present on the websites of Respondent No. 2 (i.e., [www.synergysystem.in](http://www.synergysystem.in) and [www.synergysystem.co.in](http://www.synergysystem.co.in)) and subject domain name [www.dellservicecenterintelangana.in](http://www.dellservicecenterintelangana.in).



**B, RESPONDENT :**

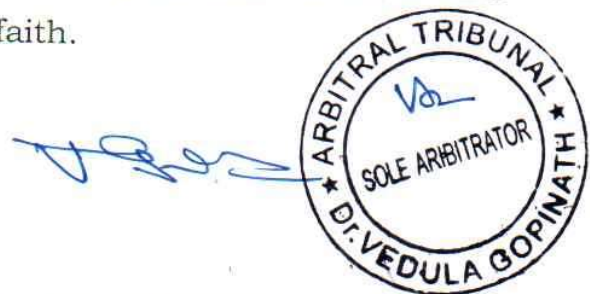
- a) The Respondent inspite of Notices Dated 20<sup>th</sup> February 2021 and 27<sup>th</sup> February 2021 did not submit any response. The Complainant made effective service of Complaint to the Respondents.
- c) Regarding Inquiry as to the connection between Respondents 1 & Complaint explained that same address was mentioned in various Petitions against different Domain Name Registered by Respondent No. 2.

**V. DISCUSSION AND FINDINGS/REASONING :**

- (I) .IN Domain Name Dispute Resolution Policy (INDRP).

The Arbitral Tribunal after examination of the matter in details arrived the following conclusion of Complainant's Compliance of INDRP Policy. In order to obtain the transfer of the Disputed Domain Name, Complainant should, according, prove all the following three elements to paragraph 4 of the Policy

- (i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) The Disputed Domain Name has been registered and is being used in bad faith. (iv) Further pursuant to paragraph 6 and 7 of INDRP policy, the Respondents have no legitimate interests and the same have been used in bad faith.





(II) It has been contended that Respondents are only using the Disputed Domain Name in a way to create a likelihood of confusion in the minds of the public as to the source of the products and services offered on its website, and thus to misleadingly attract users to its website at Complainant's detriment and to benefit from the DELL trademark's goodwill.

(III) The Complainant made a valid service of complaint to the Respondents. In case of failure or default of Respondent in sending response or reply to the complaint, the arbitrator is empowered to announce the judgement as thinks proper and appropriate as per applicable laws.

**VI.** In view of the foregoing discussion, the Arbitral Tribunal arrives at a Logical conclusion of accepting the Prayer of the Complainant.

**VII. DECISION :**


For all the foregoing reasons, in accordance with Paragraph 10 of the .INDRP, the Arbitral Tribunal Orders that, the Respondents shall cease to use the mark "DELL" and also the disputed Domain Name i.e., www.dellservicecenterintelangana.in be transferred to the Complainant.

National Internet Exchange of India (NIXI) are advised to take incidental or ancillary action involved in the transfer of the Domain Name as directed.

Visakhapatnam

Dated March 12, 2021

**Dr. Vedula Gopinath**  
B.L., F.C.S., F.I.C.A., Ph.D  
Advocate(High Court) & Corporate Advisor  
HIG-15, D.No. 58-14-91,  
Vuda Layout, N.A.D. Post,  
Visakhapatnam - 530 009, A.P. India  
+91 93550 13121, 93462 27926

  
**Dr. Vedula Gopinath**

**Sole Arbitrator**

ARBITRAL TRIBUNAL  
**Dr. VEDULA GOPINATH**  
SOLE ARIBITRATOR