



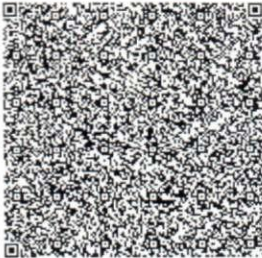
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No. : IN-DL83714298765296M
Certificate Issued Date : 23-Jul-2014 02:44 PM
Account Reference : SHCIL (FI)/ dl-shcil/ HIGH COURT/ DL-DLH
Unique Doc. Reference : SUBIN-DL DL-SHCIL64499232047310M
Purchased by : AMARJIT SINGH ADVOCATE
Description of Document : Article 12 Award
Property Description : NA
Consideration Price (Rs.) : 0
(Zero)
First Party : AMARJIT SINGH ADVOCATE
Second Party : NA
Stamp Duty Paid By : AMARJIT SINGH ADVOCATE
Stamp Duty Amount(Rs.) : 100
(One Hundred only)



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Amarsi A

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

VERSUS

World Trade Key In ...Respondent
L-2 B/11C Phase-I,
Mohan Garden
Uttam Nagar,
New Delhi-110059

Disputed Domain Name: **<www.dellsupport.in>**

1. **THE PARTIES:**

The Complainant in this arbitration proceeding is Dell Inc. One Dell Way Round Rock, Texas 78682-2244 United States of America represented through its attorneys, Mr. Pravin Anand, Anand and Anand First Channel, Plot No. 17A, Sector-16A, Film City, Noida.

The Respondent in this arbitration proceedings is World Trade Key In L-2 B/11C Phase-I, Mohan Garden, Uttam Nagar, New Delhi-110059.

2. **THE DOMAIN NAME AND REGISTRAR**

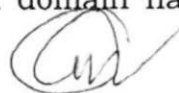
The disputed domain name <dellsupport.in> has been registered by the Respondent. The Registrar with whom the disputed domain is registered is Aust Domains International Pty Ltd.

3. **PROCEDURAL HISTORY**

The Complaint was filed with the .In Registry, National Internet Exchange of India (NIXI), against World Trade Key In L-2B/11C Phase-1, Mohan Garden, Uttam Nagar, New Delhi-110059. The NIXI verified that the Complaint and the annexures to the Complaint and was satisfied that the formal requirements of the .in Domain Name Dispute Resolution Policy ("The Policy") and the Rules of Procedure ("The Rules") were complied with.

3.1 The Panel submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by NIXI to ensure compliance with the Rules (paragraph-6).

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 **11th March, 2014**. By e-mail dated 14th March, 2014. The Centre intimated the panel that the document (s) pertaining to the disputed domain name have



not been delivered to the Respondent and submitted the non-delivery report for the same.

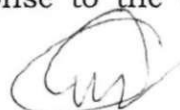
The Complainant was notified about the non-delivery of documents by my email dated 18th March, 2014 with the directions to the complainant to forward the complaint along with all Annexures to the Respondent in Electronic Form on the registered email ID as mentioned in WHOIS's record of the disputed domain name.

The complainant forwarded the complaint along with Annexures to the respondent electronically on 18th March, 2014.

The panel notified the parties about the appointment of the panel and delivery of complaint along with all the annexures. The Respondent was given an opportunity to file its response, if any, within 10 days of the communication dated 20th March, 2014.

3.3 In accordance with the rules, paragraph 5(c), the Respondent was notified by me about the commencement of arbitration proceedings on 20th March, 2014 and the due date for filing his response. The Respondent did not file any response to the Complaint. The Panel, once again, granted yet another opportunity to the respondent to file its response along with evidence by email dated 24.04.2014.

3.4 The Respondent failed and/or neglected and/or omitted to file any response to the Complaint



within time as was granted to him by notice dated **20th March, 2014 & 24th April, 2014.**

Therefore, the Panel had no other option but to proceed with the matter on the basis of the pleadings, documents and material on record.

4. **FACTUAL BACKGROUND**

4.1 The Complainant in these administrative proceedings is Dell Inc. One Dell Way Round Rock, Texas 78682-2244, USA.

4.2 The Complaint is based on the trademark/service mark "DELL". The trade mark DELL and DELL formative marks have been registered by the Complainant in over 184 countries across the world including United States of America and India.

4.3 The Complainant was founded in 1984 by Mr. Michael Dell, and is one of the world's largest direct sellers 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.



4.4 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 computer related goods and services, including offering its goods and services online through numerous DELL domain names.

4.5 The complainant objects to the registration of disputed domain name <dellsupport.in> in the name of the respondent and seek the relief of transfer thereof.

4.6 The present dispute fall within the scope of INDRP and the Constituted Panel appointed by INDRP has the jurisdiction to decide the same. The Registrar of the disputed Domain Name has adopted the INDRP Rules, as per its Registrar Accreditation Agreement.

5. PARTIES CONTENTIONS

5A COMPLAINANT

5A(1) The Complainant submits that he is the registered proprietor of the trademark DELL in over 184 countries across the world including United States and India.

5A(2) The Complainant submit the following details of United States and Indian trademark registration in respect of the mark DELL.

U.S. Registered Marks

Trade Mark: DELL (Stylized)



Trade Mark No. 1616571

Goods & Service details: [Class: 9] Computers and computer peripherals, namely monitors, key boards, printers, mice, co-processors, modems, hard and floppy disk drives, tape drives, cards and memory add-ons, memory boards and chips, cables.

Trade Mark: DELL (Stylized)

Trade Mark No. 1860272

Goods & Service details: [Class: 9] Computers and parts thereof

Trade Mark: DELL

Trade Mark No. 2,236,785

Goods & Service details: [Class: 40] Custom Manufacture of Computers for others

India Registered Marks

Trade Mark: DELL

Trade Mark No. 575,115

Goods & Service details: [Class: 9] Scientific, natural, surveying and electrical apparatus and instruments (including wireless), photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life saving and teaching apparatus and instruments, air or counter feed apparatus, talking machines, cash registers, calculating machines including computer and computer peripherals, namely monitors, keyboards, printers, mouses, co-processors, modems, hard and floppy disk drives, cards and memory add-ons, memory boards and chips cables and connectors, operating software sold together.

Trade Mark: www.dell.com

Trade Mark No. 826,095

Goods & Service details: [Class; 9] Computers and computer peripheral devices and parts and fitting therefore, monitors, keyboards printers, mouse, co-processors, modems, hard and floppy disk drives, tape drives, cd-rom drives, data storage devices and electronic or magnetic cards and memory add-ons, memory boards and chips, cables and connectors, operating software and instruction manuals all sold together.

Trade Mark: DELL (with the stylized E)

Trade Mark No. 923,915

Goods & Service details: [Class: 9] Computers and computer peripherals, namely monitors, keyboards, printers, mouses, co-processors, modems, hard and floppy disk drivers, tape driver cd-rom drivers, cards and memory add-ons, memory boards and chips, cables and connectors, operating software sold together as a unit.

Trade Mark: DELL

Trade Mark No.: 1,190,375: [Class: 2] Toner cartridge, ink jet cartridges for printers.

Trade Mark: DELL

Trade Mark No.: 1,190,376

Goods & Service Details: [Class: 9] Printers, personal and handheld computers, computer hardware and computer peripherals, namely modems, computer cables, computer styli, handheld computers, including handheld

computers with wireless email and wireless access to electronic communications networks, projectors, and instruction manuals sold therewith as a unit for the aforesaid goods falling in class 9.

Trade Mark: DELL

Trade Mark No.: 1,239,350

Goods & Service Details: [Class: 37]
Maintenance and repair of computer hardware, installation of computer networks and installation of computer systems.

Trade Mark: DELL

Trade Mark No.: 1,239,349

Goods & Service Details: (Class: 42] Technical support service namely, troubleshooting of computer hardware and software problems, consulting services in the field of design, selection implementation and use of computer hardware and software systems for others.

Trade Mark: DELL

Trade Mark No.: 1,335,057

Goods & Service Details: [Class: 36] Financial services relating to the purchase, re-purchase, sale and leasing of computer/information technology apparatus and equipment, financing services, credit card services.

- 5A(3) The Complainant submits that he has spent substantial time, effort and money advertising and promoting the "DELL" trade mark 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.

5A(4) The Complainant submits that he is the number one provider of computer systems to large enterprises around the world, and does business with 98 percent of Fortune 500 corporations. Complainant itself is in the top 50 of the Fortune 500. The Complainant sells more than 120,000 systems every day to customers in 180 countries and has, more than 43,000 services team members in approximately 90 countries, 60 technical support centers, and seven global command centers dedicated to helping customers to design, buy and/or construct, operate and maintain personal computers, workstations, computer networks and Internet infrastructure.

5A(5) The Complainant submits that he has begun 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 the 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 November 2003.



- 5A(6) The Complainant submits that the opening of the complainant's subsidiary in India which undertakes the task of specialized after sales service, marketing and distribution of customized, high technology computer systems and storage devices, computer consultancy and solutions, and software promotion has expanded the complainant's presence even more, by allowing it to offer these services directly to customers from its location in India. As a part of its retail initiative to increase its presence in India, the Complainant tied up with several channel partners such as authorized distributors and resellers including 600 systems integrators and launched DELL exclusive stores all over the country.
- 5A(7) The Complainant further submits that he has adopted and commenced use of the trade mark DELL in the year 1987 and has been using it continuously and extensively, not only as a trademark but also as its corporate name. The trade mark DELL also forms an integral part of various other trademarks owned by the Complainant including DELLWARE, DELLZONE, DELLNET, DELLHOST, DELL FINANCIAL SERVICES to name a few. The trademark "DELL" is a well known trademark in the world and is exclusively identified and recognized by the public as relating to the goods and services of the Complainant and no one else.
- 5A(8) The complainant further submits that he is also the registered proprietor, in India of the



trademark

“DELL”. The registration of the trademark “DELL” has been duly renewed from time to time and is valid and subsisting under the Trademarks Act, 1999.

- 5A(9) The Complainant further submits that the trademark DELL has become a distinctive and famous trade mark throughout the world as a symbol of the high quality standards that the Complainant maintains for its products and related services.
- 5A(10) The Complainant further submits that the complainant has a huge Internet presence and numerous websites that provide information on their business activities, products and services and are accessed by shareholders, customers and other Internet users. The complainant generates almost half of its revenue from sales over the internet.
- 5A(11) The Complainant further submits that the complainant at present owns over 5000 domain names several of which contain the trade mark “DELL” including dell.co.in, dell.in, dellsupport.com, dellsupportcenter.com, dellsupportcentre.com, delltechnicalsupport.com, dellonlinesupport.com, dellsoftwaresupport.com, disllpcsupport.com, support.dell.com, dellservices.co.in, dellcenter.in, dellcomputer.co.in, dellcomputer.in, dellcomputers.co.in, dellcomputers.in,

dellcustomerstories.co.in, delldatasafe.co.in,
delldirect.in, dellinspiron.in, delllaptops.co.in,
delllaptops.in, dellmobile.co.in, dellmobile.in,
dellpc.in, dellperotsystems.in,
dellphones.co.in, dellphones.in, dellprinters.in,
dellsmartphone.co.in, dellsmartphone.in,
dellsmartphones.co.in, dellsmartphones.in,
dellstage.in, dellstore.in, dellstores.in,
dellstreak.co.in, dellstreak.in, dellstudio.in,
dellstudioone.in, dellsuppliers.co.in,
delltablet.co.in, delltablet.in, delltablets.co.in
and delltablets.in.

5A(12) The Complainant submits that the respondent in the present dispute has registered the domain name <dellsupport.in>, thereby misappropriating illegally and without authority, the trademark "DELL" which is the exclusive property of the Complainant.

5A(13) The Complainant submits that the Respondent is using the domain <dellsupport.in> to intentionally attract, for commercial gain, internet users seeking the Complainant's (Dell's) services and products to its website at <dellsupport.in>, where it offers the same or similar services and products as those offered by the Complainant including computer hardware and software, computer-related consulting, installation and technical support services etc. in flagrant defiance of the Complainant's stated trademark rights.

B. RESPONDENT



5B(1) The Respondent was given an opportunity to file his/her response to the Complaint by the panel by its notices dated 20th March, 2014 & 24th April, 2014. However, the respondent failed to file any response within the prescribed time or to seek any extension of time. The case of the complainant, therefore, remained unrebutted.

6. **DISCUSSIONS AND FINDINGS**

6.1 The Complainant, while filing the Complaint, submitted to arbitration proceedings in accordance with the .In Dispute Resolution Policy and the Rules framed there under in terms of paragraph (3b) of the Rules and Procedure. The Respondent also submitted to the mandatory arbitration proceedings in terms of paragraph 4 of the Policy, while seeking registration of the disputed domain name.

6.2 Paragraph 12 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted and that there shall be no in-person hearing (including hearing by teleconference video conference, and web conference) unless, the Arbitrator, in his sole discretion and as an exceptional circumstance, otherwise determines that such a hearing is necessary for deciding the Complaint. I do not think that the present case is of exceptional nature where the determination cannot be made on the basis of material on record and without in-person hearing. Sub-Section 3 of Section 19 of The Arbitration & Conciliation Act also empowers the Arbitral



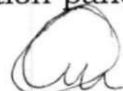
Tribunal to conduct the proceedings in the manner it considers appropriate including the power to determine the admissibility, relevance, materiality and weight of any evidence.

- 6.3 It is therefore, appropriate to examine the issues in the light of statements and documents submitted as evidence as per Policy, Rules and the provisions of the Act.
- 6.4 In accordance with the principles laid down under Order 8 Rule 10 of the Code of Civil Procedure, the arbitrator is empowered to pronounce judgment against the Respondent or to make such order in relation to the Complaint as it think fit in the event, the Respondent fails to file its reply to the Complaint in the prescribed period of time as fixed by the panel.
- 6.5 The award can be pronounced on account of default of Respondent without considering statements or averments made by the Complainant on merit. However, in view of the fact that preliminary onus is on the Complainant to satisfy the existence of all conditions under the policy to obtain the relief's claimed, the panel feels it appropriate to deal with the averments made by the Complainant in its Complaint in detail and to satisfy itself if the conditions under the policy stand satisfied.
- 6.6 The Respondent has not filed its reply or any documentary evidence in response to the averments made in the complaint. The averments made in the complaint remain unrebutted and unchallenged.



There is no dispute raised to the authenticity of the documents filed by the Complainant.

- 6.7 The onus of proof is on the Complainant. As the proceedings are of a civil nature, the standard of proof is on the balance of probabilities. The material facts pleaded in the Complaint concerning the Complainant's legitimate right, interest and title in the trade mark, trade name and domain name <**dellsupport.in**> and the reputation accrued thereto have neither been dealt with nor disputed or specifically denied by the Respondent. The Respondent has not also denied the correctness and genuineness of any of the Annexures/Exhibits filed by the Complainant along with the Complaint.
- 6.8 Under the provisions of Order 8 Rule 5 of the Code of Civil Procedure, 1908 the material facts as are not specifically denied are deemed to be admitted.
- 6.9 The decision of Hon'ble Supreme Court of India in the matter of **JahuriSah Vs. Dwarika Prasad** – AIR 1967 SC 109, be referred to. The facts as are admitted expressly or by legal fiction require no formal proof. (See Section 58 of the Indian Evidence Act, 1872).
- 6.10 The Panel therefore accepts the case set up and the evidence filed by the Complainant and concludes that the same stand deemed admitted and proved in accordance with law.
- 6.11 Paragraph 10 of the Policy provides that the remedies available to the Complainant pursuant to any proceedings before an arbitration panel shall be



limited to the cancellation or transfer of domain name registration to the Complainant.

6.12 Paragraph 4 of the Policy lists three elements that the Complainant must prove to merit a finding that the domain name of the Respondent to be transferred to the Complainant or cancelled:

A. IDENTICAL OR CONFUSINGLY SIMILAR

6A.1 The Complainant contends that the Registrant's Domain Name is identical or confusingly similar to a trade mark in which the Complainant has rights.

6A.2 The Respondent registered the Disputed Domain Name on 06th January, 2014.

6A.3 The Disputed Domain Name is identical to the Complainant's trademarks, trade name and domain name. The dominated and distinctive feature of the Disputed Domain Name is the incorporation of the Complainant's trademark, trade name and domain name as it is.

6A.4 On the date the Respondent registered the Disputed Domain Name <dellsupport.in>, the Complainant had already been using DELL as a trademark and placed on record as filed as Annexure-D (Colly). The disputed domain name <dellsupport.in> registered by the Respondent predominantly comprises of the Complainant's registered trademarks DELL and the generic term SUPPORT which has an obvious connection to the Complainant's



business and its services and only solidifies confusion among Internet users.

6A.5 The disputed domain name <dellsupport.in> is confusingly similar to the Complainant's trademark DELL as well as the complainant's domain name <dellsupport.com> and <support.dell.com>. Clearly the Respondent has sought to take advantage of a Dell customer's typing error searching for the Complainant's (Dell's) website. It is well settled that the mere addition or deletion of a letter or term to a Complainant's trademark is not sufficient to obviate confusion.

6A.6 In the matter of *Dell Inc. vs. SKZ.com* FA0509000555545 (NAF October 21, 2005) it was held that the Respondent's domain names <dellcustomersupport.com> and <wwwdellcomputer.com> are confusingly similar to the Complainant's trade mark DELL in its entirety, and addition of the generic terms "customer support" and "computer" which have an obvious connection to the Complainant's business is inconsequential. *Space Imaging LLC v. Brownell*, AF-0298 (eResolution Sept. 22, 2000) emphasizes on finding confusing similarity in an instance where the Respondent's domain name combines the Complainant's mark with a generic term which is obviously affiliated to the Complainant's business.

In the matter of *Dell Inc. vs. George Dell and Dell Net Solutions*, Case No. D2004-0512



(WIPO Aug 24, 2004), wherein it was held that “It is well established that the addition of a generic term to a trademark does not necessarily eliminate a likelihood of confusion.”

In the matter of *Dell Inc. vs George Dell and Dell Net Solutions*, Case No. D2004-0512 (WIPO Aug 24, 2004), wherein the domain name “altavistas.com” was held to be confusingly similar to the ALTAVISTA trademark.

In the matter of *Blue Sky Software Corp. v. Digital Sierra, Inc.* D2000-0165 (WIPO Apr. 27, 2000) which held that the domain name <robohelp.com> is identical to the Complainant’s registered ROBOHELP trade mark, and that the “addition of .com is not a distinguishing difference.”

In the matter of *Busy Body, Inc. v. Fitness Outlet Inc.* D2000-0127 (WIPO Apr. 22, 2000) it was held that “the addition of the generic top-level domain (gTLD) name “.com” is likewise without legal significance since use of a gTLD is required of domain name registrants, “.com” is only one of several such gTLDs, and “.com” does not serve to identify a specific service provider as a source of goods and services”.

6A.7 The Respondent has not disputed any contentions raised by the Complainant in the Complaint. The Panel also finds and holds that the disputed Domain Name



<dellsupport.in> is identical and/or deceptively similar to the earlier registered trademarks and Domain names of the Complainant. The whole of Complainant's trade mark /domain name has been incorporated in the disputed domain name and there is bound to be confusion and deception in the course of trade by the use of disputed domain name. Therefore, the Complainant has been successful in proving that the domain name <dellsupport.in> is identical and/or confusingly similar to the Trademark of the Complainant.

6A.8 For all the above cited reasons, it is established that the Complainant has trademark rights in the DELL trademark and that the disputed domain name is identical or confusingly similar to this trademark. Therefore, the condition of Paragraph 4(a)(i) of the IN Policy is fulfilled.

B. RESPONDENT HAS NO RIGHT OR LEGITIMATE INTEREST IN RESPECT OF THE DOMAIN NAME

6B.1 The Respondents could not demonstrate any legitimate interest in the Disputed Domain Name. The Respondent registered the Disputed Domain Name after the Complainant's rights in the DELL mark were already established through use and registrations.

In a case where the Complainant's trademarks are in existence prior in time and are well known and recognized, there can be no



legitimate interest of the Respondent in identical or deceptively similar mark.

- 6B.2. The domain name <dellsupport.in> comprises of the well-known and famous trademark "DELL" in conjunction with the generic term SUPPORT which is commonly used in relation to the Complainant's business and services, it is evident that the Respondent can have no right or legitimate interest in the said domain name.

Further, it is apparent from Annexure H (Colly), that the Respondent has registered the disputed domain name with a view to attracting internet users to its website where it offers that the same or similar services and products as those offered by the Complainant, and to unfairly benefit from the goodwill attached to the Complainant's famous trademark/name "DELL".

- 6B.3 There exists no relationship between the Complainant and the Respondent. The Complainant has not authorized or licensed the Respondent to register or use the domain name <dellsupport.in> incorporating the trade mark DELL nor has it ever authorized the Respondent to deal in products and/or services under the Complainant's registered and well-known trade mark/name DELL.

- 6B.4 The Respondent has no obvious connection with the Domain Name and where the



Respondent is using the disputed domain name to promote the services and products unrelated to the Complainant, the mere assertion by the Complainant that the Respondent has no right or legitimate interest is sufficient to shift the burden of proof to the Respondent to demonstrate that such a right or legitimate interest does exist.

The Respondent has no obvious connection with the domain name <dellsupport.in>, as the Respondent is neither an authorized agent/distributor/reseller of the Complainant nor trades under the DELL name. Moreover, the www.dellsupport.in website misleadingly diverts internet users seeking the Complainant's products and services to its website where it promotes and offers the same services and products as those offered by the Complainant.

- 6B.5 The Respondent's adoption of the Complainant's well-known trademark DELL in conjunction with the generic term "SUPPORT" as its domain name is totally unwarranted and the sole purpose of carrying on business through the use of the aforesaid domain name incorporating the Complainant's trademark DELL in conjunction with the generic term "SUPPORT" is to cause confusion as to the source, sponsorship, affiliation, or endorsement of the activity being carried on through the website.



- 6B.6 The Respondent's website is not *bona fide* since the Respondent is trading on the fame and recognition of the Complainant's well-known trademark in order to cause initial interest, confusion and bait internet users into accessing its websites and compel the Complainant to buy out the Respondent in order to avoid said confusion as is typically the strategy of such cyber squatters.
- 6B.7 The Respondent's website is not *bona fide* since the Respondent is using the disputed domain name <dellsupport.in> to divert/redirect internet users and consumers seeking the Complainant's services and goods with the an interest in Dell services and products to its website for its own commercial gain. It is submitted that Respondent has no bona fide intention to use the impugned domain name and the same has been registered only for the purpose of trafficking. In fact, the Respondent is using the disputed domain name to redirect consumers to its own website that features goods and services that compete with the Complainant.
- 6B.8 In the matter of *Dell Inc. v. SZK.com*, FA050900055545 (NAF October 21, 2005), wherein it was held that respondent's use of domain name that are confusingly similar to the Complainant's mark to divert internet users to respondent's website for respondent's own commercial gain does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use.



In the matter of *MSNBC Cable, LLC v. Tsys.com*, Case No. D2000-1204 (WIPO Dec. 8, 2000), wherein the WIPO held there are no rights or legitimate interests in the famous MSNBC mark where the respondent attempted to making profit using the complainant's right or legitimate interest in the disputed domain name. The Respondent has laid bare his intent to commercially exploit the Complainant's trademark and/or service mark and for the sole purpose of causing irreparable damage and injury to the Complainant's goodwill and reputation; resulting in dilution of the Complainant's trademark and/or service mark.

6B.9 The respondent has not rebutted the claims of the complainant.

6B.10 Therefore, this panel is satisfied that the respondent has no rights or legitimate interest in respect of the disputed domain name.

C Registered and used in Bad Faith

6C.1 For a Complainant to succeed, the Panel must be satisfied that a domain name has been registered and is being used in bad faith.

6C.2 Paragraph 6 of the Policy states circumstances which, if found shall be evidence of the registration and use of a domain name in bad faith:



- 6C.3 The domain name <dellsupport.in> acquired by the Respondent comprises of the Complainant's registered trade mark DELL in its entirety, in which the Complainant has a substantial interest and rights. The Respondent registered the domain name <dellsupport.in> in order to piggy-back off the commercial value and significance of the Complainant's registered and well-known trade mar/name DELL.
- 6C.4 The domain name <dellsupport.in> was acquired by the Respondent on 7th November, 2013. It is pertinent to note that the Respondent acquired the confusingly similar name, in which the Complainant has a substantial interest, as the disputed domain name wholly contains the Complainant's registered trademark and/or service mark. The Complainant alleges that the Respondent registered the domain name <dellsupport.in> in order to piggy-back off the commercial value and significance of the Complainant's domain names <dell.co.in>, <dell.in>, <dell.com>, dellsupport.com and <support.dell.com>.
- 6C.5 The Complainant's trade mark "DELL" is a well-known and famous mark, as established by the documents filed as Annexure B,C, D (Colly), E (Colly) and G and the Respondent is presumed to have had knowledge of the Complainant's trade marks at the time he registered the confusingly similar domain name by virtue of the Complainant's prior use and registration of the same. Even otherwise,



the Respondent obviously had knowledge of the Complainant's trademarks at the time he registered the domain name <dellsupport.in> which is evidenced by the sheer volume of domain names comprising of the Complainant's registered trade mark/ name DELL which have been registered by the Respondent herein.

- 6C.6 Bad faith lies in the Respondent's intentional use of the domain name <dellsupport.in> to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's trade mark DELL as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. The Complainant alleges that the Indian consumers searching for the Complainant's (DELL) websites are bound to search for websites with domain names comprising of the trade mark DELL alongwith the generic term SUPPORT. The Respondent's primary intent in registering and using the domain name <dellsupport.in> which incorporate the DELL trade mark in its entirety along with the generic term SUPPORT which are obviously affiliated with the Complainant's DELL business/services/products is to trade on the Complainant's goodwill and reputation by creating a likelihood of confusion with the Complainant's trade marks/name and the Respondent's website.

- 6C.7 In the matter of *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group*



Co. (WIPO Case No. D2000-0163), it was held by the Administrative Panel that <veuvecliquot.org> was so obviously connected with such a well-known product that its very use by someone with no connection with the product suggests opportunistic bad faith.

In the matter of *Album v. Marie-Claire Apparel, Inc.* (Case No. D2003 0767), *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.* (Case No. D 2000 0776), and *Adidas-Salomon AG v. Domain Locations* (Case No D 2003 0489), wherein it has been held that registration of a well-known trade mark of which the Respondent must reasonably have been aware is in itself sufficient to amount to bad faith.

- 6C.8 The Respondents do not dispute any of the contentions raised by the Complainant. The facts and circumstances explained in the complaint coupled with the material on record clearly demonstrate that the domain name <**dellsupport.in**> was registered by the respondents in bad faith and to attract the internet users, through disputed domain, to the website of the competitor.
- 6C.9 The Panel accepts the contentions of the Complainant as have been raised by them and holds that the registration of the domain name on part of the Respondent is in bad faith.

7. **DECISION**



In view of the fact that all the elements of Paragraphs 6 and 7 of the policy have been satisfied and in the facts and circumstances of the case, the panel directs the Transfer of the domain name **<www.dellsupport.in>** to the Complainant.



AMARJIT SINGH
Sole Arbitrator

Dated: July 22, 2014