



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-1700162

Complainant: Samsung Electronics Co., Ltd

(Authorized Representative: Jeonghyun Kim, Hongseok Jang of
Bae, Kim & Lee LLC IP Group)

Respondent: INGA ART

Disputed Domain Name(s): samsungrepairservices.com

1. The Parties and Contested Domain Name

The Complainant is Samsung Electronics Co., Ltd of 129, Samsung-ro, Yeongtong-gu, Suwon-si, Gyeonggi-do, Republic of Korea. The Authorized Representative of the Complainant is Jeonghyun Kim, Hongseok Jang (Bae, Kim & Lee LLC IP Group) of 11F, 343, Gangnam-daero, Seocho-gu, Seoul, Republic of Korea.

The Respondent is INGA ART of 12158, Hamlin St, Unit 3, North Hollywood, CA, 91606 US.

The domain name at issue is 'samsungrepairservices.com', ("the Disputed Domain Name" hereinafter) registered by ENOM, Inc. of 5808 Lake, Washington Blvd, Suite 201, Kirkland, WA, 98033.

2. Procedural History

A Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on July 10, 2017, seeking a transfer of the Disputed Domain Name.

On July 17, 2017, the Center sent an email asking for the detailed data of the registrant. On July 18, 2017, eNom transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 2017, inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on July 19, 2017.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the Centre’s Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint. The proceedings commenced on July 25, 2017, and the due date for the Response was August 14, 2017. No Response was filed by the due date.

On August 22, 2017, the Center appointed Mr. Doug Jay Lee as the Sole Panelist in the administrative proceeding, and with the consent for the appointment, impartiality and independence declared and confirmed by the Panelist, the Center, in accordance with paragraph 7 of the Rules, organized the Panel of this case in a legitimate way.

3. Factual background

The Complainant is the flagship company of the Global Samsung Group. Samsung Group, which began under the name Samsung Sanghoe in Daegu in March 1938; it was incorporated and renamed to Samsung Corporation in January 1951.

“SAMSUNG” (“the Subject Mark” hereinafter) constitutes the keyword in the names of each of the subsidiary companies of the group, and through long, worldwide use as a source indicator for the goods and services of the numerous subsidiary companies, it has gained global brand recognition.

The Subject Mark is registered in the name of the Complainant and other subsidiary companies of Samsung Group in countries worldwide (Exhibit No. 4).

The Respondent registered the Disputed Domain Name on May 11, 2013 and launched a website under the Disputed Domain Name where it is offering repair services for the Complainant’s various products. The Respondent is also offering repair services for electronic products of other companies under names not related to the Subject Mark on other websites and stores and uses the same phone number as the one indicated on the website under the Disputed Domain Name.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

The Subject Mark constitutes the keyword in the company names of each of the subsidiary companies of Samsung Group and has come to be globally well known as the result of long and worldwide use as the source indicator for the goods and services of the subsidiary companies of the group.

The Subject Mark is registered in the name of the Complainant and other subsidiary companies of Samsung Group in countries worldwide (Exhibit No. 4).

WIPO has recognized the facts that the Subject Mark is the name of a globally well-known mark and the Complainant is the lawful rights holder of the Subject Mark and has made numerous decisions that ordered the cancellation

or transfer of domain names consisting of the Subject Mark and another word(s), including samsunghelthcare.com, samsungfinance.com, samsungplus.com, samsungschool.com, samsungbp.com, samsungventure.com, samsungds.com, samsunggear.com.

The Respondent registered the Disputed Domain Name on March 11, 2013, and launched a website (“the Disputed Website” hereinafter) where the Respondent is offering repair services for the Complainant’s various products. Several marks that are identical or extremely similar to the Subject Mark, such as “SAMSUNG”, “SAMSUNG”, “Samsung”, “SAMSUNG”, “Samsung” and photos of the Complainant’s goods and product descriptions as well as a link to the official website of the Complainant are posted on the Disputed Website.

The Respondent is also offering repair services for electronic products of other companies under names not related to the Subject Mark on other websites and stores and is using the same phone number as the one indicated on the Disputed Website (Exhibit No. 5).

The portion “samsungrepairservices” in the Disputed Domain Name is confusingly similar to the Subject Mark SAMSUNG.

B. Respondent

The respondent did not file a response.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, in Paragraph 4(a), that each of the three findings must be made in order for a Complainant to prevail:

The respondent's domain name must be identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

The respondent has no rights or legitimate interests in respect of the domain name; and

The respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

The portion "samsungrepairservice" in the Disputed Domain Name—with the mere extension ".com" excluded—consists of SAMSUNG, the Complainant's well-known company name/trademark, and "repairservices", a mere generic term that represents the name of the service.

Accordingly, the Panelist finds that the Complainant has shown that the Disputed Domain Name is identical or confusingly similar to a trademark to which the Complainant has rights.

B) Rights and Legitimate Interest

The Respondent did not file a response to the Complainant's argument that the Respondent is not related to Samsung Group in any way and no other facts in the record support the conclusion that the Respondent has rights or legitimate interests in the Disputed Domain Name.

Accordingly, the Respondent does not have any rights or legitimate interests in regard to the Disputed Domain Name.

C) Bad Faith

Based on the submissions of the Complainant, the Subject Mark is acknowledged as being a well-known mark that has gained global recognition as referring to Samsung Group and business names of subsidiary companies of Samsung Group and also as a trademark of the goods and services from the

subsidiary companies of Samsung Group before the registration of the Disputed Domain Name.

Under the circumstances, it is difficult to conclude that the Respondent who does not have any rights or legitimate interests in regard to the Disputed Domain Name, filed the Disputed Domain Name, which is confusingly similar to the Subject Mark, by mere coincidence and without being aware of the existence of the Subject Mark. Accordingly, the Panelist finds that the Respondent registered and is using the Disputed Domain Name in bad faith, i.e., to gain unjust profits by taking a free ride on the goodwill of the Subject Mark.

It is acknowledged that the Respondent posted photos of the Complainant's goods, product descriptions, and a link to the official website of the Complainant in offering repair services for the Complainant's goods through the Disputed Website. Such acts are liable to mislead internet users into believing that the Respondent is related to the Complainant and amounts to an infringement of the Complainant's rights in the Subject Mark. Accordingly, such facts cannot serve as a basis for the conclusion that the Respondent did not have any bad faith intent in registering and using the Disputed Domain Name.

D) Whether it is reasonable to transfer the Disputed Domain Name to the Complainant

The Complainant is the flagship company of Samsung Group and owns trademark registrations for the Subject Mark in countries worldwide jointly with other subsidiary companies of Samsung Group. Unlike with trademark rights, it is very difficult or impossible to register and use a domain name jointly. On the other hand, it is possible as well as natural for various subsidiary companies of Samsung Group to solely own and use domain names incorporating the Subject Mark. Accordingly, it is reasonable to transfer the Disputed Domain Name to the Complainant irrespective of the joint ownership of the Subject Mark.

6. Decision

For the foregoing reasons, in accordance with paragraphs 4(a) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name <samsungrepariservice.com> be transferred to the Complainant.

Doug-Jay Lee

Sole Panelist

Dated: August 31, 2017