



Asian Domain Name Dispute Resolution Centre

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-1600150

Complainant: Samsung Electronics Co., Ltd.

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

Respondent: HERO ENTERTAINMENT

Disputed Domain Name(s): wcg.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 Complainant is Jeonghyun Kim, Patent Lawyer, Hongseok Jang, Patent Lawyer (Bae, Kim & Lee LLC IP Group) of 343, Gangnam-daero, Seocho-gu, Seoul, Republic of Korea

The Respondent is HERO ENTERTAINMENT of floor 4, Hongyuan Building, Jiuxianqiao RoadChaoyang, District Beijing, China.

The domain name at issue is 'wcg.com, registered by Respondent GoDaddy.com, 14455 N. Hayden Rd., Ste. 226 Scottsdale, AZ 85260 USA

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on November 4, 2016, seeking for a transfer of the domain name in dispute.

On November 10, 2016, the Center sent an email asking for the detailed data of the registrant. On November 17, 2016, the Registrar transmitted by email to the Centre its verification response, advising that is listed as the registrant and providing the details of the underlying registrant.

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 November 18, 2016. In accordance with the Rules, the due date by which the Respondent was required to file its response was December 8, 2016, No Response was filed by the due date.

On December 26, 2016, the Center appointed Prof. Moonchul Chang 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, Samsung Electronics Co., Ltd. currently owns trademarks to the WCG mark registered all around the world. The WCG mark is the name of WCG Competition, a global video event which had been held every year from the year 2000 to 2013. The Complainant has participated as a main sponsor of the WCG Competition and was transferred all rights to the WCG mark in 2014 in the process of liquidation of World Cyber Games Co. According to the evidence the Complainant provided this panel, the disputed domain name <wgc.com> was transferred to the Respondent, HERO ENTERTAINMENT on Ferbruary 17, 2016.

4. Parties’ Contentions

A. Complainant

The Complainant contends that:

(1) The disputed domain name is identical to the WCG mark except for “.com” that is a merely extension. WCG is the name of the global video game competition, to which the Complainant has a lawful right.

(2) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The transfer of the disputed domain name to the Respondent by ICM Plus Co., is invalid and the disputed domain name should belong to the Complainant. World Cyber Games Co., Ltd. previously owned the disputed domain name and in the course of its liquidation all rights to WCG mark including the disputed domain name were transferred to the Complainant. Although ICM is the registrant of the disputed domain name and ICM Plus Co., is not related to ICM, ICM transferred the disputed domain name to the Respondent., by falsely representing to be the registrant of the disputed domain name.

(3) The disputed domain name was registered and is being used by the Respondent in bad faith. It is unlikely that the Respondent registered the disputed domain name without knowledge of the WCG mark while considering the WCG mark was globally well-known as the name of the international video game competition. It may be presumed that the Respondent is the possession of the disputed domain name for the purpose of unjust enrichment by taking advantage of the reputation of the WCG Competition and the WCG mark. In addition the Respondent is not using the disputed domain name and currently uses the non-disclosure service of registrant information. This supports the fact that the Respondent registered and owns the disputed domain name for unlawful purpose of interfering with the registration and use by the Complainant.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

5. Findings

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint on the grounds of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Moreover, under paragraph 14(b) of the Rules, it is established that: “If a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.”

In light of the above, the Panel may draw such inferences from the Respondent’s failure to comply with the Rules as it considers appropriate (see paragraph 14(b) of the Rules).

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to the Complainant’s trademark or service mark; and
- (ii) the 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.

A. Identical or Confusingly Similar

The disputed domain name <wgc.com> incorporates the Complainant’s WCG mark in its entirety. The dominant feature of the disputed domain names is “wgc” which is identical to the WCG trademark. The generic Top-Level Domain (gTLD) suffix “.com” can be generally disregarded under the confusing similarity test (see *DHL Operations B.V. v. zhangyl*, WIPO Case No. D2007-1653).

Accordingly, the Panel finds that the first element under paragraph 4(a) of the Policy has been met by Complainants.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the overall burden of proof is on the Complainant. However, once the Complainant presents a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production shifts to the Respondent see *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. D2004-0110; *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. D2003-0455).

Firstly, the Complainant contends that the transfer of the disputed domain name to the Respondent by ICM Plus Co., is invalid and the disputed domain name should belong to the Complainant. Despite the similar name ICM Plus Co., has nothing to do with International Cyber Marketing Co., (ICM) or World Cyber Games Co. ICM Plus Co, unlawfully transferred the disputed domain name to the Respondent by falsely misrepresenting its registrant information.

Secondly, the Complainant contends that the Respondent is not using the disputed domain names in connection with a *bona fide* offering of goods or services and currently uses privacy and proxy services to protect from registrant information.

In this present case, the Respondent failed to come forward with any appropriate allegations or evidence that might demonstrate its rights or legitimate interests in the disputed domain names to rebut the Complainant's *prima facie* case.

Finally, there is no evidence presented to the Panel that the Respondent has used, or has made demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services or is making a legitimate noncommercial or fair use of the disputed domain name. In addition, there is no evidence to suggest that the Respondent has been commonly known by the disputed domain name.

Accordingly, the Panel concludes that the Complainant has satisfied the second element under paragraph 4(a) of the Policy in the present case.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the disputed domain name “has been registered and is being used in bad faith”. As this requirement is conjunctive, the

Complainant must establish both bad faith registration and bad faith use of the disputed domain name. In addition, the circumstances listed in paragraph 4(b) of the Policy are not exclusive, and other circumstances may likewise lead to a finding of bad faith registration and use.

Firstly, since the Complainant's WCG mark is widely known and the disputed domain name entirely incorporates WCG mark, in this Panel's view, it is highly unlikely that the Respondent failed to notice the presence of the trademark in the disputed domain name at the time of the registration.

Secondly, the Respondent obtained the disputed domain name from an unauthorized entity of "ICM Plus Co.". As earlier mentioned, the Complainant contends that the transfer of the disputed domain name to the Respondent by ICM Plus Co., is invalid and the disputed domain name should belong to the Complainant. In Aug. 2008 International Cyber Marketing Co., (ICM) owned the disputed domain name and ICM changed its company name into World Cyber Games Co., on Jan. 2009. World Cyber Games Co.(WCG), was dissolved in March 2014 and in the process of liquidation all rights to WCG mark including the disputed domain name were transferred to the Complainant. While the Complainant had not yet been renamed as a registrant of the disputed domain name, ICM Plus Co, transferred the disputed domain name to the Respondent., by falsely misrepresenting to be the registrant. Despite the similar name ICM Plus Co., is not related to International Cyber Marketing Co., (ICM) or World Cyber Games Co. Having considered this circumstance of transferring the disputed domain name, it may assume that the Respondent has registered the domain name in bad faith to gain economic benefit by taking advantage of the reputation of the WCG mark.

Thirdly, the Respondent is not using the disputed domain name and currently uses privacy and proxy services to protect from registrant's information. It is presumable that the Respondent owns the disputed domain name in bad faith to interfere with the registration and use by the Complainant.

Based on the foregoing, the Panel is satisfied that bad faith registration and use have been established with respect to the disputed domain name in accordance with paragraph 4(b) of the Policy.

Accordingly, the Panel concludes that the Complainant has satisfied the third element under paragraph 4(a) of the Policy in the present case.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <wcg.com> be transferred to the Complainant.

Moonchul Chang

Sole Panelist

Dated: January 31, 2017