



Asian Domain Name Dispute Resolution Centre

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-2000208

Complainants: Samsung Electronics Co., Ltd. (Authorized Representative : Bae, Kim & Lee IP Group Heewon SEO Patent Attorney)

Respondent: Domain Admin

Disputed Domain Name(s): Samsung-firmware.org

1. The Parties and Contested Domain Name

The Complainant is Samsung Electronics Co., Ltd., 129, Samsung-ro, Yeongtong-gu, Suwon-si, Gyeonggi-do, Republic of Korea.

The Authorized Representative of Complainant is Bae, Kim & Lee IP Group Heewon SEO Patent Attorney, 11th Fl., Shindeok Building, 343, Gangnam-daero, Seocho-gu, Seoul, Republic of Korea.

The Respondent is Domain Admin, Ocean Centre, Montagu Foreshore, East Bay Street, New Providence, Nassau.

The domain name at issue is 'samsung-firmware.org', registered by TLD Registrar Solutions Ltd.

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on January 2, 2020, seeking for a cancelled of the domain name in dispute.

On January 2, 2020, the Center sent an email to the Registrar asking for the detailed data of the registrant. On January 6, 2020, TLD Registrar Solutions Ltd. transmitted by email to the Center its verification response, advising that the Respondent is listed as the registrant and providing the contact details.

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 January 7, 2020 and the due date for the Response was January 27, 2020. No Response was filed by the due date.

On January 30, 2020, the Center appointed Mr. Jong-Yoon Kim 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.

We are writing to advise the parties of Panel order.

3. Factual background

The Complainant is one of the major companies of Samsung group which was established on 1938. During last around 70 years, Samsung group has grown into a global group company with many affiliates and subsidiaries. 'SAMSUNG' mark is the most important trademark of Samsung group. As Samsung group has grown into a global company, 'SAMSUNG' mark has also become a world-famous trademark. The Complainant has registered and retained trademark rights on 'SAMSUNG' mark globally, and thus is the lawful right holder to 'SAMSUNG' mark.

The Respondent registered the disputed domain name on May 15, 2015. The Respondent has no relationship with the Complainant or Samsung group. In the website of the disputed domain name, the Respondent has advertised for sale the firmware developed and produced by the Complainant, without any notice that it has no relationship with the Complainant.

4. Parties' Contentions

A. Complainant

The Complainant contends that: (i) the disputed domain name is identical with or confusingly similar to mark 'SAMSUNG' in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interest in respect of the disputed domain name; and (iii) the disputed domain name has been registered and is being used in bad faith.

The Complainant states that Complainant has no relationship with the Respondent and has never authorized the Respondent to use 'SAMSUNG' mark or to register any domain name incorporating said mark.

B. Respondent

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

Under paragraph 5(f) of the Rules, it is provided that if a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based on the Complaint. As no exceptional circumstance has been brought to the Panel's attention, it proceeds to make the findings below on the basis of the materials contained in the Complaint. Under paragraph 14(b), the Panel may also draw inferences from the Respondent's default as it considers appropriate.

5. Findings

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

- i. Respondent's domain name must be identical with or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

The Complainant has rights in 'SAMSUNG' mark. Excluding the extension (.org), the disputed domain name 〈samsung-firmware.org〉 consists of the Complainant's mark in full, and the word 'firmware' hyphenated with the mark. The meaning of the word "firmware" is 'specific class of computer software that provides the low-level control for the device's specific hardware'.

The website of the disputed domain name advertises for sale the firmware which was developed and produced by the Complainant to apply to the Complainant's SAMSUNG smartphones.

As the word 'firmware' is common name of the products advertised in the website, the word 'samsung' is the predominant portion of the disputed domain name. The word 'samsung' is in reality identical with 'SAMSUNG' mark. The addition of the word "firmware" is not sufficient to deny confusingly similarity between the Complainant's 'SAMSUNG' mark and the disputed domain name.

Under the reasons, the Panel finds that the disputed domain name is confusingly similar to the Complainant's mark SAMSUNG. Therefore, the Panel concludes that the Complainant has satisfies the requirement of paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interest in respect of the disputed domain name. The Complainant has met its initial burden of making *prima facie* showing, and thus the burden shifted to the Respondent.

In the present case, the Respondent has defaulted, and accordingly, has provided no evidence to prove its rights or legitimate interest in the disputed domain name. Therefore, the Panel concludes that the Complainant has satisfied the requirement of paragraph 4(a)(ii) of the Policy.

C) Bad Faith

According to paragraph 4(b)(iv) of the Policy, the circumstances indicating that by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship,

affiliation, or endorsement of the respondent's website or location or of the product of service on the respondent's website or location shall be evidence of the registration and use of the domain name in bad faith.

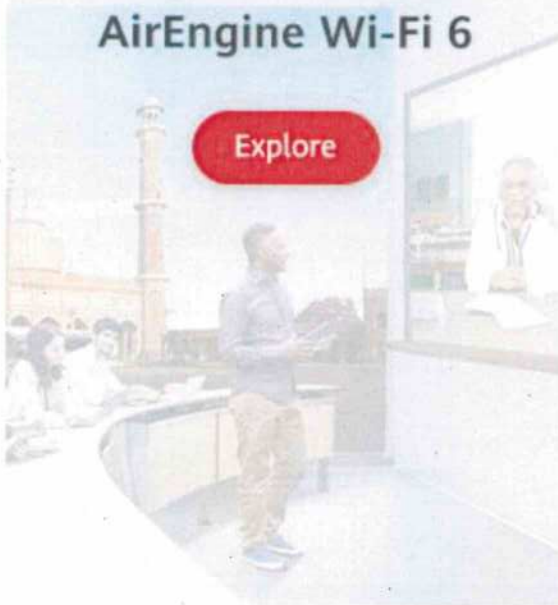
The disputed domain was registered on May 5, 2015, when the Complainant's 'SAMSUNG' mark has already become worldwide-famous mark. Therefore, it is reasonably assumed that the Respondent was well aware of the existence of the Complainant's 'SAMSUNG' mark at the time of registration of the disputed domain name.

The Respondent has advertised for sale the firmware developed and produced by the Complainant in the website of the disputed domain name, without any notice that it has no relationship with the Complainant. Therefore, it is very likely to mislead consumers that the website is operated by the Complainant or a person authorized by the Complainant.

Moreover, the Panel personally visited the website of the disputed domain name on February 18, 2020 to find that besides advertisements for the Complainant's products, an advertisement for HUAWEI, which is one of the competitors of the Complainant, is attached as below.



**A Leading Indian
University Builds
its Digital Campus
with Huawei
AirEngine Wi-Fi 6**



The Panel visited the website again on February 19, 2020 to find that besides advertisements for SAMSUNG products, an advertisement for 'KT M mobile' is attached as below.

모바일 실용주의 ~29일까지
kt M mobile

**데이터/통화/문자
 맘껏 써도
 26,200원**
 제휴카드 이용 시 **9,200원**

**초과 과금
 걱정이라면
 지금이
 타이밍!**

seezn 6개월 무료!
 + 매일 2GB 추가 제공!

From the facts, the Panel finds that the primary purpose of the Respondent in the registering and using the disputed domain name was to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Therefore, the Panel conclude that the Complainant has satisfied the requirement of paragraph 4(a)(iii) of the Policy.

6. Decision

For all the foregoing reasons, in accordance with paragraph 4(1) of the Policy, and 15 of the Rules, the Panel orders that the Domain Name 〈samsung-firmware.org〉 be cancelled.¹



Jong-Yoon KIM

Sole Panelist

Dated: February 20, 2020

¹ As remedies sought, the Complainant requested the Panel to make a decision and order that the Respondent should delete the disputed domain name. Since it is not appropriate to order the Respondent to delete the disputed domain name, the Panel reasonably assumes that the remedies sought by the Complainant was to cancel the disputed domain name.