



Asian Domain Name Dispute Resolution Centre

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-2000217

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

Respondent: Jane Dew

Disputed Domain Name(s): Samsungcentral.com

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, 5th Floor, KDIC Bldg., 30 Cheonggyecheon-ro, Jung-gu, Seoul, Republic of Korea.

The Respondent is Jane Dew, 233 Markey Street, Camana Bay, Grand Cayman KY1-9006, Cayman Islands.

The domain name at issue is 'samsungcentral.com', registered by NameBright.com.

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on May 15, 2020, seeking for a transferred of the domain name in dispute.

On May 19, 2020, the Center sent an email to the Registrar asking for the detailed data of the registrant. On May 20, 2020, NameBright.com 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 May 21, 2020 and the due date for the Response was June 10, 2020. No Response was filed by the due date.

On June 16, 2020, 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

(i) The Complainant is Samsung Electronics Co., Ltd, a Korean corporation which is one of affiliates of the Samsung Group, a global group company. The affiliates of Samsung Group are using Samsung as their business name. The Complainant also owns trademark registrations for the SAMSUNG mark, in numerous countries including the Republic of Korea and United Kingdom.

According to the publicly available WhoIs information and confirmed by the Registrar, the disputed domain name <samsungcentral.com> was registered on April 4, 2020.

The Complainant filed a domain dispute against the domain name "samsungcentral.com", which is the same domain name as in this complaint, through ADNDRC Seoul Office on January 2, 2020 (case number: KR-2000209) and the Complainant's arguments were accepted and a decision to cancel the domain was made on February 21, 2020 (Exhibit2 – Decision for case KR-2000209). The Complainant tried to register the subject domain name after the implement of the cancellation decision, but the Respondent registered the subject domain name at the same time as the cancellation of the domain. Therefore the Complainant filed this dispute in order to secure the subject domain name.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

(i) The disputed domain name <samsungcentral.com> is confusingly similar to the Complainant's trademark SAMSUNG. It incorporates the Complainant's SAMSUNG mark in entirety with the addition of a generic word 'central' meaning 'middle of a place or area' or 'the most important one. "SAMSUNG" is the dominant feature of the disputed domain name, causing confusing similarity to the Complainant's trademark.

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is an entity unrelated to the Complainant. The Complainant has not authorized the Respondent to use the SAMSUNG mark.. There is no *bona fide* use of the disputed domain name at the Respondent's website. The Respondent has attracted internet users to his website by using the disputed domain name and obtained commercial gain by posting several advertisements on the site. In addition, although it may be considered that the Respondent's website is a free media website, the right to free speech on a media website is not extended to the registration of the disputed domain name similar to the Complainant's trademark.

(iii) The disputed domain name was registered and is being used by the Respondent in bad faith. Firstly, the Respondent registered the disputed domain name which incorporates the Complainant's famous and well-known SAMSUNG mark without the Complainant's permission. It is obvious that the Respondent registered the disputed domain name with knowledge of the Complainant's rights in the SAMSUNG mark and retained it to get commercial gain by using the reputation of the SAMSUNG mark. Secondly, although the Respondent does not have any sponsorship and affiliation with the Complainant, the Respondent's website presents a false statement on the 'About' page, indicating that the Respondent has an affiliation with SAMSUNG and its partners. This supports the fact that the Respondent has registered and used the disputed domain name in bad faith to attract internet users to his website by using the SAMSUNG mark and to gain commercial gain by posting advertisements on the site.

B. Respondent

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

5. Findings

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

- i. Respondent's domain name must be identical 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 disputed domain name <samsungcentral.com> is comprised of two words: "samsung" and "central". The dominant feature of the disputed domain name is "samsung" which is entirely identical to the SAMSUNG trademark and the word "central" is only a generic term and descriptive suffix. Numerous UDRP panels have held that where a domain name substantially incorporates a complainant's trademark, this is sufficient to make the domain name "confusingly similar" within the meaning of the Policy (see *Amazon.com, Inc. v. MCL International Limited*, WIPO Case No. D2000-1678). The generic Top-Level Domain (gTLD) suffix ".com" can be 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 the Complainant.

B) Rights and 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 he has never licensed or authorized the Respondent to use the Complainant's trademark or to register any domain names incorporating the SAMSUNG mark. The Respondent has used the Complainant's

trademark without permission from the Complainant. Here, the Panel finds that Complainant has made out a *prima facie* case

Secondly, the Complainant contends that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services. In this 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 name to rebut the Complainant's *prima facie* case.

Thirdly, there is no evidence presented to the Panel that the disputed domain name 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) 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, regarding the bad faith registration, since the SAMSUNG mark is famous and widely-known in numerous countries, including the Republic of Korea and India, the Respondent is likely to have registered the disputed domain name with notice of the Complainant's trademark. In addition, the Respondent in all likelihood registered the disputed domain name with the expectation of taking advantage of the reputation of the Complainants' trademarks or obtaining commercial gain.

Next, regarding the bad faith use the Respondent's website presents a false statement indicating that the Respondent has an affiliation with SAMSUNG and its partners. This may create a likelihood of confusion and cause consumers to misunderstand that there is a sponsorship between the Complainant and the Respondent. 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.

6. Decision

With due regard to the parameters of the Policy, the Rules and the Supplemental Rules, the Panel finds that the Complainant has met the criteria for a bad-faith filing under Paragraph 4(a)(iii) of the Policy.

Based on the foregoing reasons, the Complaint is allowed and the Domain Name registration is to be transferred to the Complainant.

A red circular stamp containing the Korean characters '이력 재인' (Lee-guk Jae-in) in a stylized font.

Doug-Jay LEE

Sole Panelist

Dated: June 30, 2020