

ADMINISTRATIVE PANEL DECISION

GigPig Ltd v. Gigpig Inc
Case No. D2024-2003

1. The Parties

The Complainant is GigPig Ltd, United Kingdom, represented by GigPig Ltd, United Kingdom.

The Respondent is Gigpig Inc, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <gigpig.com> is registered with Inames Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 14, 2024. On May 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 16, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On May 16, 2024, the Center informed the parties in Korean and English, that the language of the registration agreement for the disputed domain name is Korean. On May 16, 2024, the Complainant requested English to be the language of the proceeding. The Respondent objected to the Complainant’s request and requested Korean to be the language of the proceeding.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2024. The Response was filed with the Center on June 11, 2024.

The Center appointed Kathryn Lee as the sole panelist in this matter on June 19, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a company registered in the United Kingdom that was incorporated in March 2022. The Complainant operates a live music marketplace and platform at “www.gigpig.uk” that gives bookers and venue managers access to verified local artists to book and manage live music. The Complainant has a pending trademark application for the GIGPIG mark filed in the United Kingdom on February 14, 2024 (Application Number UK00004014123), and two pending trademark applications for GIGPIG and Design, filed in the United Kingdom on February 14, 2024 (Application Numbers UK00004014348 and UK00004014340).

The Respondent appears to be an entity with an address in the Republic of Korea.

The disputed domain name was registered on September 19, 2001, and as of the submission of the Complaint, resolved to a website displaying pay-per-click (“PPC”) links to terms such as “becken,” “birdy grey bridesmaid dresses,” and “drum kits.”

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to the GIGPIG marks in which the Complainant has unregistered rights as well as pending trademark applications.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain names and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant contends that the ownership of the disputed domain name changed from “Jinsoo Yoon” to “Gig Pig Inc.” in 2017 (while the email address remained the same) and that it has found no evidence of a business by this name. Further, the Complainant contends that the disputed domain name is currently used as a parking page for PPC ads related to the Complainant’s services, which does not represent the Respondent’s rights or legitimate interests in the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and used in bad faith. With respect to registration, the Complainant contends that the Respondent registered the disputed domain name in order to unfairly capitalize on the Complainant’s up and coming trademark rights for GIGPIG, as the Complainant made preparations to launch the GigPig brand from 2012 to when the company was actually established in 2021. The Complainant also contends that the disputed domain name was registered for sale for valuable consideration in excess of the Respondent’s documented out-of-pocket costs directly related to the disputed domain name, as an ad for sale has been displayed on the website linked to the disputed domain name from 2015 to date. In addition, the Complainant contends that it contacted the Respondent, the Respondent requested USD 48,500 for purchase of the disputed domain name, which further shows the Respondent’s intent is to sell the disputed domain name for an amount in excess of the Respondent’s documented out-of-pocket costs directly related to the disputed domain name. With respect to use, the Complainant contends that the website at the disputed domain name displays PPC links to terms such as “Corporate Business Credit Card,” “Conga Signature,” and “Drum Kits” which are related to business and music, and therefore, associated with the Complainant’s business in the music industry and create a likelihood of confusion with the Complainant’s trademark. Finally, the Complainant contends that the

individual “Jinsoo Lee” who is or is associated with the Respondent has engaged in a pattern of conduct of preventing trademark owners from reflecting their marks in a corresponding domain name, evidenced by the 25 or so UDRP decisions rendered against him involving domain names incorporating well-known marks.

B. Respondent

The Respondent did not respond to the Complainant’s arguments that the disputed domain name is confusingly similar or identical to the marks in which the Complainant has rights. However, the Respondent seems to contend that the Complainant has not satisfied two of the elements required under the Policy for transfer of the disputed domain name. Specifically, the Respondent contends that it is a company named “Gigpig” which was established around 20 years ago, and that as the disputed domain name was registered in 2001, well before the Complainant was established in 2021, the Respondent did not have any bad faith intention in the registration or use of the disputed domain name.

6. Discussion and Findings

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is English. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the website connected to the disputed domain name displays words in English, and that when the Complainant reached out to the Respondent for purchase of the disputed domain name, the Respondent sent a response in English, which suggests that the Respondent has sufficient English skills to understand the Complaint.

The Respondent requested that the language of the proceeding be Korean claiming that it does not understand English and therefore not obtaining a copy of the Complaint and relevant materials in Korean would unfairly disadvantage the Respondent.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Here, the Complainant does not have a trademark registration for a mark confusingly similar or identical to the disputed domain name. However, the Panel finds that the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3. Specifically, through the Complainant’s platform, 18,000 gigs have been booked in more than 600 venues in 22 cities across the UK for more than 5,000 artists.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

The Panel finds that it is unnecessary to consider this element in view of its conclusion under the third element below.

C. Registered and Used in Bad Faith

The evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark. In fact, the record shows that the disputed domain name was registered in 2001, while the Complainant was established in and commenced use of GIGPIG only in 2022. Therefore, the Respondent could not have registered the disputed domain name with bad faith. The Complainant asserts that it started making preparations to launch the GigPig brand in 2012, and that there was a change of ownership of the disputed domain name in 2017, suggesting that the Respondent registered the disputed domain name in order to trade on the forthcoming fame and goodwill associated with the mark since it was aware of the Complainant's plans to launch a business using GIGPIG. But the Complainant has not provided sufficient evidence to show the reputation of its predecessor/founder by the alleged time the Respondent would have registered the disputed domain name, or how the Respondent would have been aware of the Complainant's business plans. Rather, given that the email address for the domain name registrant remained the same before and after this supposed transfer, it would seem that there was no actual transfer of the disputed domain name.

There is also no evidence of use of the disputed domain name in bad faith. The price that the Respondent demands for the disputed domain name may be viewed as excessive, but an offer to sell a disputed domain name without additional supporting factors showing an intent to take advantage of a trademark does not necessarily indicate bad faith. See Section 3.1.1 of the [WIPO Overview 3.0](#).

Finally, for the sake of completeness, while the Complainant argues a pattern of cybersquatting, every decision shall be based on its own merits, and here, the facts do not support a finding of registration and use in bad faith.

The Panel finds the third element of the Policy has not been established.

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Policy provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

Here, the disputed domain name was registered well before the Complainant even came into existence, so it would have been impossible for the Respondent to have registered the disputed domain name to target the Complainant and its "nascent" mark. The Complainant should surely have known that the Complaint could not succeed based on these facts, and proceeding with this Complaint can only be viewed as an attempt to deprive a registered domain-name holder of a domain name.

Therefore, the Panel finds that the Complaint was brought in bad faith, in an attempt at Reverse Domain Name Hijacking, and constitutes an abuse of the administrative proceeding.

7. Decision

For the foregoing reasons, the Complaint is denied. Moreover, the Panel finds that the Complaint has been brought in bad faith and constitutes an attempt at Reverse Domain Name Hijacking.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: July 8, 2024