

ADMINISTRATIVE PANEL DECISION

Yper, SAS v. 이재완 (jaewan Lee)

Case No. D2024-4802

1. The Parties

The Complainant is Yper, SAS, France, represented by Quantic Avocats AARPI, France.

The Respondent is 이재완 (jaewan Lee), Republic of Korea, represented by DongsuhYangjae Law Offices, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <yper.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 November 20, 2024. On November 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 25, 2024, the Registrar 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 (Cypack.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 28, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on December 3, 2024.

On November 28, 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 December 3, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that the Complaint together with the amended 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 in English and Korean of the Complaint, and the proceedings commenced on December 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 24, 2024. The Response was filed in Korean with the Center on December 17, 2024.

The Center appointed Kathryn Lee as the sole panelist in this matter on January 8, 2025. 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 French logistics and transportation company, providing solutions for local retailers and mass distribution. The Complainant was founded in 2016 and has around 60 employees. The Complainant owns the French trademark registration for YPER (Trademark Registration Number 4219903 registered on October 23, 2015) and an International registration for the mark (International Trademark Registration Number 1659761 registered on December 17, 2021).

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

The disputed domain name was registered on August 13, 2010 and resolves to a page advertising the disputed domain name for sale.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is identical to the Complainant's YPER mark in which the Complainant has rights and that the Complainant has extensively used the mark since 2016.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant also contends that the disputed domain name has never been used in connection with a bona fide offering of goods or services and that the Respondent also acknowledged that there has been no use of the disputed domain name in communications with the Complainant in September 2024.

Finally, the Complainant contends that the disputed domain name was registered and used in bad faith. The Complainant contends that the disputed domain name was registered primarily for the purpose of sale to the Complainant for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name. Specifically, the Complainant contends that the disputed domain name has never been used but only advertised for sale, and that the Complainant negotiated with the registrant for purchase of the disputed domain name in 2020 and 2024, but the negotiations failed each time because the registrant asked for an unreasonable price for the dispute domain name reaching 120,000 USD. The Complainant also noted several prior UDRP decisions which found that the Respondent had bad faith, and also, that the Respondent holds over 8,250 domain names, and that this suggests recurrent cybersquatting behavior. Finally, the Complainant contends that the disputed domain name was transferred to Cypack.com on September 16, 2024, two days before the deadline that the Complainant gave to the Respondent for initiating a UDRP proceeding which is further evidence of bad faith.

B. Respondent

The Respondent contends that the Complainant has not satisfied one of the elements required under the Policy for a transfer of the disputed domain name: specifically, the third element on bad faith registration and use.

The Respondent contends that the disputed domain name was registered on August 13, 2010, while the Complainant established in 2015, and therefore, the Complainant should be viewed as lacking grounds to file the Complaint. The Respondent also contends that the disputed domain name is not a dictionary term but that it can be understood as “wiper” due to the similar pronunciation in Korea and abroad. Further, the Respondent contends that the Respondent did not know the existence of the Complainant when registering the disputed domain name, so there cannot have been registration of the disputed domain name in bad faith, which is required for establishing the third element. Lastly, the Respondent contends that the change of the registrant’s name to Cypack.com cannot be evidence of bad faith because it is a result of the Respondent simply hiding the registrant details due to the Complainant’s continuous contacts and threats of legal action.

6. Discussion and Findings

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Korean. 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 Complainant negotiated with the Respondent in English for purchase of the disputed domain name and the Respondent shows sufficient English ability. The Complainant also pointed out that the Respondent has been involved in numerous UDRP proceedings previously, and the decisions were rendered in English.

The Respondent did not make any specific submissions with respect to the language of the proceeding but submitted a response in Korean.

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).

Here, both Parties were permitted to and in fact did present their cases in the language of their preference. Further, copies of email correspondence between the Complainant and the Respondent show that the Respondent has sufficient ability in English to understand the decision. In addition, according to [WIPO Overview 3.0](#), section 4.5.1, the Panel can take into consideration prior cases involving the Respondent in a particular language. In this regard, there are a number of prior UDRP decisions involving a respondent in the Republic of Korea by the name of “Jaewan Lee”, and the panels in the relevant cases rendered decisions in English, deciding that the Respondent has sufficient knowledge of English to be able to understand the decision in English, or that it would not be unduly prejudiced by rendering the decision in English.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Neither party has made a compelling case under this element, and given the finding below, it is not necessary to make a finding here.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent did not register the disputed domain name in bad faith targeting of the Complainant or its trademark rights because the Complainant had no trademark rights at the time that the Respondent registered the disputed domain name. [WIPO Overview 3.0](#), section 3.8.1. In fact, the Complainant was only established a couple of years after the Respondent registered the disputed domain name. Therefore, the Respondent could not have targeted the Complainant or its trademark rights at the time of the registration of the disputed domain name.

It appears that the Respondent is the owner of a significant number of domain names and appears to have had a number of UDRP decisions rendered against him, but they do not affect the determination in the subject case. And while the Panel does not fully accept the Respondent's purported explanation, the change in the name of the registrant does not indicate a change in ownership such that the date becomes a new material acquisition for purposes of assessing 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 Rules 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 in 2010 while the Complainant was established and began using the YPER trademark in 2016, and the Complainant also acknowledges these facts in the Complaint. Therefore, without any arguments or evidence of a later acquisition, the Complainant should have known that it could not succeed as to the bad faith element. For this reason, the Panel finds that this Complainant was brought in bad faith and constitutes Reverse Domain Name Hijacking.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: February 5, 2025