

ADMINISTRATIVE PANEL DECISION

42 v. Deung Lee (이 등)

Case No. D2023-1142

1. The Parties

The Complainant is 42, France, represented by Scan Avocats AARPI, France.

The Respondent is Deung Lee (이 등), Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <42school.net> is registered with Gabia, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2023. On March 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 21, 2023, the Registrar transmitted by email to the Center its verification response disclosing additional registrant information, *i.e.* Korean name of the Respondent, for the disputed domain name. The Center sent an email communication to the Complainant on March 21, 2023, providing the additional registrant information disclosed by the Registrar. The Complainant confirmed the name of the registrant disclosed by the Registrar is in line with the name of the Respondent in the Complaint on March 23, 2023.

On March 21, 2023, the Center notified the Parties in both English and Korean that the language of the Registration Agreement for the disputed domain name is Korean. On March 22, 2023, the Complainant confirmed its request for English to be the language of the proceeding. The Respondent did not comment on 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 in English and Korean of the Complaint, and the proceedings commenced on March 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 16, 2023.

On March 30, 2023, the Respondent sent an email to the Center in English suggesting a possible settlement. On April 11, 2023, the Center sent an email to the Parties regarding a possible settlement. On April 13, 2023, the Complainant requested a suspension of the proceeding and the proceeding was suspended accordingly on April 14, 2023 until May 14, 2023. On May 4, 2023, the Complainant requested reinstatement of the proceeding and the proceeding was reinstated accordingly on May 15, 2023. The due date for Response was extended to May 20, 2023. The Respondent did not submit a formal response. On May 22, 2023, the Center informed the Parties of the Commencement of Panel Appointment Process.

The Center appointed Kathryn Lee as the sole panelist in this matter on June 19, 2023. 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, also known as “School 42” is a free and non-profit private computer programming school launched in France in July 2013. The Complainant’s teaching method has been covered in the local and international media and has been visited by notable public figures such as French presidents Francois Hollande and Emmanuel Macron. In 2017, the online platform CodinGame which has 1.3 million programmer members ranked the Complainant the best coding school in the world. The Complainant has opened 42 schools in 26 countries, all using the name “42”, including six in France, three in the Middle East, and four in Asia, including one in the Republic of Korea. The Complainant owns a number of trademark registrations for marks that incorporate 42 including the following:

- SCHOOL 42 (European Union trademark registration number 018342575, registered on March 6, 2021;
- 42 (International trademark registration number 1488612, registered on June 26, 2019, designating among others the Republic of Korea).

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

The disputed domain name was registered on May 1, 2021, and forwards to a website that resolves to an error page and lacks content.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the trademarks in which the Complainant has rights. The Complainant contends that the disputed domain name is identical to the Complainant’s trademark SCHOOL 42 with the terms reversed, and that the inversion of two terms within a domain name is insufficient to avoid confusing similarity. The Complainant also contends that the disputed domain name is confusingly similar to its 42 trademark and that the additional term “school” only increases likelihood of confusion since it directly refers to the Complainant’s core business.

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 further contends that there is no evidence of the Respondent’s use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. The Complainant also contends that passive holding does not demonstrate any legitimate interests upon the Respondent.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant contends that the Complainant and its trademarks have a strong reputation in France and abroad in the field of computer schools, and nearly all search results for “42 School” on Google or any other search engine all relate to the Complainant. The Complainant also contends that given the many press articles on the Complainant’s opening and presence of the 42 school in the Republic of Korea where the Respondent is located, it is highly likely that the Respondent knew of the Complainant at the time the disputed domain name was registered. The Complainant also contends that the Respondent’s passive holding of the disputed domain name does not exclude a finding of use in bad faith, especially in consideration of the fact that there is no reason for the Respondent to have registered a domain name so similar to the Complainant’s trademarks. The Complainant also contends that the Respondent has set up the disputed domain name with MX servers, which suggests a scheme to send phishing emails to the Complainant’s customers and/or staff.

B. Respondent

The Respondent did not formally reply to the Complainant’s contentions, but submitted an informal response, stating “We are a regular school in Korea. A separate domain was purchased for the operation of a special program operated by the school. However, since I am not using it at all, [t]he domain has been deleted. [...] We plan to relinquish all domain rights. [...]”

6. Discussion and Findings

A. Language

Paragraph 11(a) of the Rules provides that the language of the proceeding shall be the language of the registration agreement, unless otherwise agreed to by the parties, subject to the authority of the panel to determine otherwise. In this case, the language of the Registration Agreement is Korean, and both Parties have had an opportunity to argue their position on this point. The Center issued a notice in Korean and English stating that it would accept the Complaint filed in English, and that the Response would be accepted in either Korean or English. The Respondent subsequently chose not to submit a formal Response.

The Panel finds it proper and fair to render this decision in English. Given the fact that the Complainant is based in France and the Respondent is based in the Republic of Korea, English would appear to be a fair and neutral language for rendering this decision. Further, the Respondent’s informal response to the Complaint demonstrates that the Respondent appears to be capable of communicating in English. Besides, both Parties were given the opportunity to submit arguments in the language of their preference, and the language in which to render the decision is reserved for the Panel. The Panel would have considered a formal Response in Korean, but no such Response was submitted. Accordingly, the Panel determines that rendering the decision in English is fair and procedurally efficient given the circumstances of this case.

B. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademarks 42 and SCHOOL 42. Firstly, the disputed domain name contains the Complainant’s mark 42 which is readily recognizable within the disputed domain name. The addition of the term “school” does not prevent a finding of confusing similarity. Not only that, the disputed domain name also incorporates the Complainant’s mark SCHOOL 42 but with the two terms in a reverse order. The Complainant’s mark SCHOOL 42 remains recognizable in the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), sections 1.7 and 1.8. Therefore, the disputed domain name is confusingly similar to the Complainant’s trademarks.

For the reasons mentioned above, the Panel finds that the first element has been established.

C. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate his rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen not to file any formal Response to these assertions by the Complainant.

The disputed domain name does not resolve to any active website. In an email communication to the Center, the Respondent indicated that they are a regular school in the Republic of Korea. However, no evidence has been furnished by the Respondent to support his assertions. Further, the Respondent did not explain why he chose “42” in the disputed domain name. The Respondent simply said that a new domain name had been purchased for their school’s special program, and the Respondent plans to “relinquish all domain rights”. Therefore, there is no relevant evidence in the record that would warrant a finding in favor of the Respondent.

Besides, the disputed domain name incorporates “42” corresponding exactly to the Complainant’s trademark, together with an additional term “school” related to the Complainant’s business, which carries a risk of implied affiliation. Such composition of the disputed domain name is inherently confusing as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

D. Registered and Used in Bad Faith

The Panel finds that there is sufficient evidence to find bad faith in this case.

Section 3.1 of the [WIPO Overview 3.0](#) provides that bad faith under the UDRP is “broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”. Here, evidence suggests that the Respondent likely knew of the Complainant when registering the disputed domain name, particularly noting that the Respondent appears to run a school in the Republic of Korea and the Complainant has its school in the Republic of Korea as well. The Respondent has given no explanation for having registered a domain name consisting of the exact term “42”. Further, information on the Complainant and its trademarks would have been easily discoverable through an Internet search. In fact, the top results of the Panel’s Google searches for “42 school” on the date of registration of the disputed domain name are all in connection with the Complainant.

The disputed domain name does not currently display any content, but from the inception of the UDRP, UDRP panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding (see [WIPO Overview 3.0](#), section 3.3). Considering the reputation of the Complainant’s trademarks, and the implausibility of any good faith use the disputed domain name may be put, the Panel finds that that the Respondent has also used the disputed domain name in bad faith.

Therefore, with no explanation to the contrary from the Respondent, the Panel finds that the Respondent more likely than not registered the disputed domain name with knowledge of the Complainant and its trademarks in order to unfairly profit from the likelihood of association with the Complainant’s trademarks.

For the reasons given above, the Panel finds that the third element has been established.

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, <42school.net>, be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: July 3, 2023