

ADMINISTRATIVE PANEL DECISION

Hyundai Motor Company, Hyundai Motor America v. Patty Palmer Case No. D2023-5148

1. The Parties

Complainants are Hyundai Motor Company, Republic of Korea, and Hyundai Motor America, United States of America ("United States"), represented by VLP Law Group LLP, United States.

Respondent is Patty Palmer, United States.

2. The Domain Name and Registrar

The disputed domain name <wacohyundai.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 9, 2023. On December 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 11, 2023, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainants on December 13, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on December 18, 2023.

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 Respondent of the Complaint, and the proceedings commenced on December 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on January 12, 2024.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on January 18, 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

Complainants are affiliated companies operating under the umbrella of the Hyundai Motor Group, based in Seoul, Republic of Korea (collectively "Complainant"). For many decades prior to the registration of the disputed domain name, Complainant has manufactured automobiles under the HYUNDAI mark. Complainant owns trademark registrations for the HYUNDAI mark globally. These include, among others, United States Registration No. 1,104,727 (registered October 24, 1978). Complainant further owns registrations for various domain names that include its HYUNDAI mark, such as <hyundai.com> (registered June 24, 1998).

The disputed domain name was registered on July 12, 2023. The disputed domain name is not linked to an active website, Respondent has offered to sell the disputed domain name to an authorized affiliate of Complainant, stating "\$750K is our number." Respondent has no affiliation with Complainant, nor any license to use its marks.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that its HYUNDAI mark is a "distinctive, famous and well-known trademark worldwide," generating revenue of over 220 billion USD, and receiving global awards, including from Motortrend and U.S. News and World Reports.

Complainant contends that Respondent has incorporated Complainant's well-known HYUNDAI mark into the disputed domain name and merely added the geographic term "Waco," which refers to a city in Texas, where an authorized affiliate operates and sells automobiles under the HYUNDAI mark.

Complainant contends that Respondent lacks rights or legitimate interest in the disputed domain name. Rather, Complainant contends that Respondent has acted in bad faith in registering and using the disputed domain name, when Respondent clearly knew of Complainant's rights, and that Respondent has further attempted to profit by contacting Complainant's affiliate for the purpose of offering the disputed domain name for sale in excess of reasonable costs.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the

Policy. The Panel finds that it is. The disputed domain name incorporates in full Complainant's registered HYUNDAI mark and merely adds the geographic term "Waco," the name of a city wherein an affiliate of Complainant operates as an authorized dealer.

Numerous UDRP panels have agreed that supplementing or modifying a trademark with other terms, does not prevent a finding of confusing similarity between the disputed domain name and the mark for purposes of satisfying this first prong of paragraph (4)(a)(i) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.8.

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph (4)(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel next considers whether Complainant has shown that Respondent has no "rights or legitimate interest," as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a bona fide offering of goods or services;" (ii) demonstration that respondent has been "commonly known by the domain name;" or (iii) "legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

No evidence has been presented to the Panel that might support a claim of Respondent's rights or legitimate interests in the disputed domain name, and Respondent has no license from, or other affiliation with, Complainant.

Therefore, the Panel finds that Complainant has provided sufficient evidence for a prima facie case that Respondent lacks "rights or legitimate interests" in accordance with paragraph 4(a)(ii) of the Policy, which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. As noted in Section 4 of this Panel's decision, the disputed domain name is not currently linked to an active website. It is nevertheless well established that having a passive website does not necessarily shield a respondent from a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3, which notes that the "non-use of a domain name" does not necessarily negate a finding of bad faith. Rather, a panel must examine "the totality of the circumstances."

As noted above, Respondent has offered to sell the disputed domain name to an agent of Complainant, stating "\$750K is our number." The Panel finds sufficient evidence that Respondent "registered or acquired the domain name primarily for the purpose of selling for valuable consideration in excess of documented out-of-pocket costs" (absent any evidence from the Respondent to the contrary) in a showing of bad faith as contemplated by paragraph 4(b)(i) of the Policy. See *Ticketmaster Corp. v. Spider Web Design, Inc.*, WIPO Case No. [D2000-1551](#).

Therefore, the Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph (4)(a)(iii) of the Policy.

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 <wacohyundai.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Date: February 1, 2024