

ADMINISTRATIVE PANEL DECISION

Siderval S.P.A. v. JUNGYUNKOOK

Case No. D2024-0889

1. The Parties

The Complainant is Siderval S.P.A., Italy, represented by Nameshield, United States of America.

The Respondent is JUNGYUNKOOK, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <siderval.com> is registered with ConnectWave co.,Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 29, 2024. On February 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 6, 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 March 8, 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 March 11, 2024, the Complainant requested English to be the language of the proceeding. The Respondent objected to the Complainant’s request.

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 March 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 2, 2024. The Respondent sent an email communication to the Center on March 11, 2024, but no further communication from the Respondent was received.

The Center appointed Ik-Hyun Seo as the sole panelist in this matter on April 8, 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 an Italian manufacturer of steel and titanium products for various sectors, including nuclear energy and aerospace. The Complainant was founded in 1972, and its revenues in 2022 was EUR 34.2 billion. The Complainant owns several trademarks for the mark SIDERVAL, including the following:

- International Trademark Registration Number 1376234, registered on July 19, 2017;
- International Trademark Registration Number 1290230, registered on October 21, 2015; and
- International Trademark Registration Number 0000791181, registered on September 27, 1999.

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

The disputed domain name was registered by the Complainant on September 9, 2003 and owned by the Complainant until November 28, 2021, when registration lapsed due to the Complainant's failure to renew. The disputed domain name was registered by the Respondent on November 29, 2021 through DropCatch.com, which is a service that identifies domain names that are available for registration because they were not renewed by their registrants. As of the date of submission of the Complaint, the disputed domain name resolved to a parking page displaying pay-per-click links with terms in French, for example, "Isolation Interieur Maison", "Station de Soudure", and "Isolation Exterieur a 1 Euro" (in English, "Home Interior Insulation", "Welding Station", and "Exterior Insulation for 1 Euro", respectively). The parking page also displayed an offer to sell the disputed domain name, which, when clicked, forwarded to a different website indicating 1,990 USD as the minimum price for purchase of the disputed domain name.

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 names.

Notably, the Complainant contends that the disputed domain name is identical to the SIDERVAL mark in which the Complainant has rights.

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 contends that the disputed domain name resolves to a parking page with commercial links, and that the Respondent did not make use of the disputed domain name, nor have demonstrable plans to use the disputed domain name. The Complainant also contends that the general offer to sell the disputed domain name shows that the Respondent lacks 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. The Complainant contends that given the distinctiveness of the SIDERVAL mark and its reputation, it is inconceivable for the Respondent to have registered the disputed domain name without knowledge of the Complainant. The Complainant also asserts that when the Complainant reached out to the Respondent for purchase of the disputed domain name, the Respondent offered to sell it for 33,000 USD, which is an amount in excess of the Respondent's out-of-pocket costs in connection with the disputed domain name. Lastly, the Complainant asserts that the Respondent has a pattern of bad faith registrations as he was the respondent in other WIPO domain name cases and the panels in these cases ordered the transfer of all the

relevant domain names to the respective complainants. Lastly, the Complainant contends that the Respondent attempted to attract, for commercial gain, users to the disputed domain name where the Respondent uses the disputed domain name for displaying pay-per-click links, which is intended to mislead Internet users and cause confusion between the disputed domain name and the Complainant.

B. Respondent

The Respondent submitted a brief reply requesting the Complaint to be submitted in English, but did not reply to the Complainant's contentions.

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 English is the language most widely used in the international setting and one of the working languages of the Center, the fact that the Complainant does not know the Korean language and in order to proceed in Korean, the Complainant would have to retain translation services which would be a burden on the Complainant, and the fact that the disputed domain name is composed of letters of the Latin alphabet.

The Respondent requested that the language of the proceeding be Korean since English is not his native language.

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). Given the fact that the Complainant is based in Italy and the Respondent is based in the Republic of Korea, English would appear to be the fairest neutral language for rendering this decision. Further, the disputed domain name was allegedly acquired by the Respondent through the DropCatch.com service which appears to be provided only in English. This would suggest the Respondent is familiar with English. The disputed domain name is also composed of letters of the Latin alphabet, and is not a Korean word. Besides, both Parties were permitted to present their cases in the language of their preference. The Panel would have considered a formal Response in Korean, but no Response was submitted.

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.

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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Specifically, panels have found that the use of a domain name to host a parked page comprising pay-per-click links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users. Here, the pay-per-click links displayed on the website connected to the disputed domain name relate broadly to the Complainant’s business and are likely to cause confusion among Internet users as to the association between the Complainant and the disputed domain name.

The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

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

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent registered the disputed domain name through the Dropcatch.com service. While using this service is not in itself evidence of bad faith, the Respondent would surely have conducted an Internet search for the term “siderval” prior to registering the disputed domain name, and found the many links associated almost exclusively with the Complainant. Besides, the Respondent has not provided any explanation for having registered the disputed domain name, and with no response to claim otherwise, the Panel finds that it is more probable that the Respondent registered the disputed domain name primarily for the purpose of selling it to the Complainant for valuable consideration in excess of the Respondent’s out-of-pocket costs directly related to the disputed domain name. This is especially the case given the Respondent’s counteroffer for sale of the disputed domain name of 33,000 USD. Further, the Respondent was the respondent in a number of WIPO domain name cases, in which the panelists all ruled that the Respondent registered and used the disputed domain names in bad faith and ordered that they be transferred to the complainants. Here are some of the cases rendered against the Respondent: *Chambre Franco - Allemande de Commerce et D’industrie v. JUNG YUHKOOK*, WIPO Case No. [D2023-2104](#); *Laboratoires Vivacy v. JUNG YUHKOOK*, WIPO Case No. [D2022-3364](#); *Enel S.p.A v. Jungyuhkook*, WIPO Case No. [D2021-3976](#); *Fundación Universitaria Iberoamericana (Funiber) v.*

JUNGYUHKOOK, WIPO Case No. [D2019-2743](#); *Institut de Recherche Biologique- IRB v. Jungyuhkook*, WIPO Case No. [D2018-2125](#); and *Kasko Ltd v. Jungyuhkook*, WIPO Case No. [D2021-1078](#).
The Panel finds that the Complainant has established the third element 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 <siderval.com> be transferred to the Complainant.

/Ik-Hyun Seo/

Ik-Hyun Seo

Sole Panelist

Date: April 22, 2024