

## **ADMINISTRATIVE PANEL DECISION**

Kia Corporation v. mohammad valiollahi  
Case No. D2024-1633

### **1. The Parties**

The Complainant is Kia Corporation, Republic of Korea, represented by Saba & Co. Intellectual Property s.a.l. (Offshore) Head Office, Lebanon.

The Respondent is mohammad valiollahi, Iran (Islamic Republic of).

### **2. The Domain Name and Registrar**

The disputed domain name <emdad-hyundaikia.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 18, 2024. On April 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 19, 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 ("Respondent contact details are hidden", REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 19, 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 on April 19, 2024.

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 of the Complaint, and the proceedings commenced on April 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 17, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on May 28, 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 multinational automotive manufacturer headquartered in Seoul, Republic of Korea, a subsidiary of the Hyundai Motor Group, one of the world's largest automakers. The Group produces a range of gasoline and electric vehicles that are sold worldwide under the KIA and HYUNDAI marks, with manufacturing facilities in several countries, prominently Republic of Korea, the United States of America, China, and Slovakia.

The record includes ample evidence of media recognition and industry awards for vehicles bearing KIA-derived marks. The Complainant operates KIA websites, including a principal website at "www.kia.com" with pages for various national markets and product lines. The record includes ample evidence of global consumer and industry recognition of the KIA marks. The Panel notes that the Complainant's website includes a page for consumers in Iran (Islamic Republic of), where the Respondent is located; consumers there are directed to dealers based in the United Arab Emirates.

As the disputed domain name incorporates both the HYUNDAI and KIA trademarks, the Complaint appropriately includes a consent letter from an officer of Hyundai Motor Company authorizing the Complainant to pursue this UDRP proceeding, which focuses on the KIA mark, and to accept transfer of the disputed domain name to the Complainant in the event that the Complaint is granted.

The Complaint attaches a list of trademark registrations of KIA-derived marks in numerous jurisdictions. These include, for example:

Iran (Islamic Republic of) Trademark Registration Number 194960, registered on November 18, 2002, for a figurative mark consisting of the names KIA and UVO in stylized letters, with KIA in an ellipse, for vehicles in International Class 12;

European Union Trademark Registration Number 13188859, registered on December 31, 2014, for a figurative mark consisting of the name KIA in stylized letters in an ellipse, for a variety of vehicles, parts, and accessories and for transportation services, in International Classes 12 and 39; and

Republic of Korea Trademark Number 4012438280000, registered on April 3, 2017, for a figurative mark consisting of the name KIA in stylized letters in an ellipse, for chemical products, lubricants and fuel products, machines and machine tools, research apparatus, lighting and heating appliances, and vehicles, in International Classes 1, 4, 7, 9, 11, and 12.

The Registrar reports that the disputed domain name was created on October 8, 2023, and was registered to the Respondent mohammad valiollahi. The registration details show a postal address in Iran (Islamic Republic of) with a Gmail contact email address. No organization is listed. The Respondent has not replied to communications from the Complainant or the Center.

The disputed domain name resolves to the Farsi-language website of Emdad Khodro Tehran (امداد خودرو تهران) (the "Respondent's website"), an automotive towing and emergency services company based in Tehran, Iran (Islamic Republic of). The company advertises its towing and mobile mechanical services for cars and trucks generally, mentioning "Hyundai Automotive Relief" and "Chinese Automotive Relief" specifically, using "standard parts". The Panel found no reference to KIA or HYUNDAI branded parts or manufacturer's warranties on the Respondent's website. Two identical contact telephone numbers are given, one (as translated into English) for "Hyundai Car Rescue" and one for "Kia Relief".

The Complainant sent the Respondent a warning letter (in Farsi) on February 7, 2024, claiming trademark infringement but received no response. This proceeding followed.

## **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 or confusingly similar to the Complainant's KIA marks, as it misappropriates the KIA textual element of those marks. The Complainant asserts that there is no evidence that the Respondent is commonly known by a corresponding name and denies authorizing the Respondent to use the KIA mark in the disputed domain name. The Complainant argues that the Respondent was "definitely aware of" the Complainant's well-established marks and pre-existing website and registered and used the disputed domain name in bad faith to attract Internet users to the Respondent's website, "misleads them about the business relationship with The Complainant". The Complainant alleges that the Respondent offers services that the Complainant already offers (presumably referring to replacement parts) and falsely suggests a relationship with the Complainant. The Complainant suggests that the Respondent's failure to reply should be considered further evidence of bad faith.

### **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) and the respondent has no rights or legitimate interests in respect of the domain name;
- (iii) and the domain name has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

### **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 (here, the prominent "KIA" textual element of the numerous registered KIA figurative trademarks) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the textual element of these marks is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, the mark HYUNDAI and the Persian name “Emdad”) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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. 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. Even if the Respondent were to assert a legitimate interest as a repair service making nominative fair use of a manufacturer’s mark, in this instance it would not satisfy key conditions of the well-accepted *Oki Data* test for such fair use, as the Respondent’s website is not limited to dealing with the Complainant’s goods and does not accurately and prominently disclose the Respondent’s relationship with the Complainant. See [WIPO Overview 3.0](#), section 2.8.1; *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

Accordingly, 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 was clearly aware of the Complainant and its marks, as the Respondent’s website highlights the Respondent’s emergency repair services for the Complainant’s vehicles, among others. The Respondent created the disputed domain name from a Persian male name and two related marks – those of the Complainant and its parent company – giving a false impression of a local company associated in some way with the Complainant’s group. This fits one of the examples of bad faith given in the Policy, paragraph 4(b)(iv), an attempt to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant’s mark. The Respondent’s website enhances this confusion by referring to both the Complainant and to Hyundai, and to offering “standard parts”, although there is no evidence that the Respondent has a relationship with either company or avails itself of their parts or warranty services. The failure of the Respondent to reply either to a cease-and-desist letter or to the Complaint in this proceeding may be taken as a further indication of bad faith.

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 <emdad-hyundaikia.com> be transferred to the Complainant.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: June 7, 2024