

## ADMINISTRATIVE PANEL DECISION

Medecision, Inc. v. 창섭 김  
Case No. D2024-2973

### 1. The Parties

The Complainant is Medecision, Inc., United States of America (“United States”), represented by Troutman Sanders, LLP, United States.

The Respondent is 창섭 김, Republic of Korea.

### 2. The Domain Name and Registrar

The disputed domain name <aveus.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 July 22, 2024. On July 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 23, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 24, 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 the same day.

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 July 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 19, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on August 22, 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 provider of population health management solutions. One of its divisions is Aveus, which provides strategic consulting services aimed at solving complex business problems.

The Complainant is the owner of the United States trademark AVEUS with registration No. 4164210, registered on June 26, 2012, for services in International Classes 35 and 41 (the "AVEUS trademark").

The disputed domain name was first registered on November 17, 1999. It was used by the Complainant as the official website of its Aveus division until some point in time in 2024, when the Complainant lost control over it. The disputed domain name currently resolves to a website containing articles on diverse unrelated topics.

#### **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.

The Complainant states that the disputed domain name is confusingly similar to its AVEUS trademark, because the AVEUS trademark is its only element.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it registered the disputed domain name after the Complainant, through predecessors in interest, began using the AVEUS trademark and registered it in the United States. The Complainant points out that the AVEUS trademark is a coined, fanciful term which has no meaning outside its use as a means to identify the Complainant as the source of certain services. The Complainant adds that the Respondent has not been authorized to use the AVEUS trademark for any purpose, does not own any trademarks for "AVEUS", and is not commonly known under the disputed domain name. The Complainant points out that the Respondent does not use the disputed domain name in connection with a bona fide offering of goods or services and does not make a legitimate noncommercial or fair use of it.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It submits that it was the prior registrant of the disputed domain name, and that an unidentified person notified the Registrar that the Complainant was relinquishing its rights in the disputed domain name, following which the Registrar transferred the disputed domain name to the Respondent. The Complainant maintains that it has never made such statement to the Registrar and that the transfer of the disputed domain name was made without its authorization.

The Complainant submits that the AVEUS trademark is a unique and arbitrary coined term, and points out that the website at the disputed domain name claims that it is providing services that overlap with the Complainant's own offerings under the AVEUS trademark. According to the Complainant, this shows that the Respondent has not independently chosen the disputed domain name, but has knowingly registered it to target the AVEUS trademark.

The Complainant adds that the website at the disputed domain name contains false contact information, because one of the listed phone numbers represents the straight sequence of digits 1234567890, while the other listed phone number is the reverse sequence of digits 9876543210, and the mailing address is not legitimate.

The Complainant adds that the Respondent's immediate adoption of the disputed domain name and use for overlapping services in connection with false information raises serious questions about the Respondent's interference with the Complainant and the Registrar.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 the AVEUS trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

The Panel therefore finds that 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.

The disputed domain name is identical to the AVEUS trademark and has been used for many years by the Complainant for its Aveus business. This creates a high risk of implied affiliation with the Complainant. Section 2.5.1 of the [WIPO Overview 3.0](#). The Respondent's website contains articles on various topics, but the article with the earliest date on it (June 7, 2024) has the title "Understanding Organizational Change: A Survey of 200 Healthcare Leaders", and its "About us" section states: "Aveus.com is your go-to source for all things related to health and wellness. From the latest information on medical breakthroughs to tips for living a healthy lifestyle, we strive to provide you with accurate and up-to-date content to help you make informed decisions about your health. [...]" The defined scope of the Respondent's website is thus similar to the Complainant's business offerings under the AVEUS trademark, and the Respondent has not provided an explanation why it has chosen to register the disputed domain name and how it intends to use it. Also, the contact details provided on the Respondent's website do not appear as genuine. Considering these circumstances, it appears as more likely than not that the Respondent has registered and used the disputed domain name not for some reason unrelated to the Complainant, but rather to exploit the goodwill of the AVEUS trademark in an attempt to attract traffic to the website at the disputed domain name. Such conduct cannot give rise to rights or legitimate interests in the disputed domain name.

The Panel therefore finds that 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.

As discussed above in this decision, the disputed domain name is identical to the Complainant's AVEUS trademark, and the associated website describes its purpose as "your go-to source for all things related to health and wellness", which is similar to what the Complainant offers under the AVEUS trademark. This combination creates a high risk of implied affiliation with the Complainant, and the Respondent has not provided any plausible explanation for its choice of a domain name and its plans how to use it. The Respondent has however provided what appear to be false contact details on the website at the disputed domain name. In this situation, it appears as more likely that by registering and using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the associated website by creating a likelihood of confusion with the Complainant's AVEUS trademark as to the source or affiliation of the disputed domain name and of the associated website. This supports a finding of bad faith registration and use of the disputed domain name under paragraph 4(b)(iv) of the Policy.

The Panel therefore 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 <aveus.com> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: August 29, 2024