

ADMINISTRATIVE PANEL DECISION

Hyundai Motor Company v. Alireza Hoseinnezhad, Tehran
Case No. D2024-4525

1. The Parties

The Complainant is Hyundai Motor Company, Republic of Korea (the), represented by Saba & Co. Intellectual Property s.a.l., Lebanon.

The Respondent is Alireza Hoseinnezhad, Tehran, Iran (Islamic Republic of) ("Iran").

2. The Domain Name and Registrar

The disputed domain name <hyundaikia-seoul.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 November 5, 2024. On November 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 6, 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's identity was hidden; Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 6, 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 November 7, 2024.

The Center verified that the Complaint together with 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 November 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 29, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on December 6, 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 Following facts are undisputed.

The Complainant, founded in 1967, is a South Korean multinational automotive manufacturer, headquartered in Seoul. The Complainant operates one of the largest automobile manufacturing plants in the world. The Complainant is party of the larger Hyundai Motor Group, which also included Kia Corporation and Genesis Motor. The Complainant offers a wide range of vehicles, from sedans and SUVs to hybrid and electric models.

The Complainant is the owner of numerous trademarks worldwide, such as but not limited to the following registrations for the HYUNDAI mark.

- The International trademark registration HYUNDAI (combined word / device mark), with registration number 1703200 designating inter alia Iran and with a registration date of October 6, 2022, for goods and services in class 7;
- The International trademark registration HYUNDAI (combined word / device mark) with registration number 1705395 designating inter alia Iran and with a registration date of November 9, 2022, for goods and services in class 39;
- The International trademark registration HYUNDAI (combined word / device mark) with registration number 1691772 designating inter alia Iran and with a registration date of September 22, 2022, for goods and services in class 25.

The abovementioned trademark registrations will hereinafter be referred to in singular and as the HYUNDAI mark.

The Complainant is also the owner of the following domain names, including and not limited to: <hyundai.com>, <hyundai.news>, <hyundainews.com>, and <hyundaiusa.com>. These domain names resolve to the e-commerce websites of the Complainant (the "official websites").

The disputed domain name was registered on December 6, 2023. At the time of filing the Complaint the disputed domain name resolved to an active website where the Respondent is offering repair services. At the time of rendering this decision, the disputed domain name does not resolve to an active website, but to a parked page indicating that the visitor does not have permission to access this resource.

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 the following:

The Complainant is becoming one of the world's leading automakers. The Complainant is recognized in the field of technology and innovation and is consistently ranked among top car manufacturers globally in terms of vehicle production and sales volume.

The Complainant has continuously used the HYUNDAI mark and consumers have come to recognize the mark. The HYUNDAI mark is famous. The Complainant regularly monitors its trademark and other intellectual property rights worldwide and exercises all the actions at its disposal to protect and enforce its rights.

The disputed domain name is confusingly similar to the HYUNDAI mark. The disputed domain name incorporates the HYUNDAI mark in its entirety with the mere addition of "kia" and "seoul" and the generic Top-Level Domain ("gTLD") ".com". The addition of "Kia" which car brand is also part of the company of the Complainant and the descriptive term "Seoul" does not make the disputed domain name any less confusingly similar to the HYUNDAI mark. Moreover, the public is very likely to be misled since it might believe the Respondent is somehow affiliated with the Complainant. Especially since it is using the HYUNDAI mark throughout the website and is offering maintenance and repairing services.

The Respondent has no rights or legitimate interests in the disputed domain name. Notably, there is no evidence that the Respondent is commonly known by the disputed domain name. Also, the Complainant has not authorized, by license or otherwise, the Respondent to register and/or use the disputed domain name. Further, the Respondent's use of the disputed domain name cannot be considered a bona fide offering of goods or services, nor a legitimate noncommercial or fair use.

The Respondent has engaged in bad faith. The Respondent acquired, with knowledge of the existence of the Complainant and the Complainant's trademark, the confusingly similar disputed domain name to intentionally attract for commercial gain, the Internet's users to the Website to which the disputed domain name resolves. The Respondent is offering on the website to which the disputed domain names resolves services that the Complainant already provides, targeting to mislead the public into believing that the Respondent's business is affiliated with the Complainant.

Finally, a warning letter was sent on June 18, 2024. There was no response and this can be considered as evidence of bad faith, among other evidence.

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 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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, “kia” and “seoul”, 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.

The nature of the disputed domain name, also in combination with the contents of the website to which the disputed domain name resolved, suggest that the website is either operated or endorsed by the Complainant. While UDRP panels have recognized limited rights for resellers or distributors to nominally use a trademark for its source-identifying function, such fair use is qualified under the so-called “Ok! Data” test enshrined in section 2.8.1 of the [WIPO Overview 3.0](#). Here, noting the lack of disclaimer on the website to which the disputed domain name resolved to, the impersonating nature of the disputed domain name is reinforced and as such, the disputed domain name cannot qualify as fair use. Moreover, UDRP panels have largely held that, even where a domain name consists of a trademark plus an additional term (at the second- or top-level), that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for illegitimate activity here, claimed impersonation/passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

C. Registered and Used in Bad Faith

The Panel refers to its considerations under 6.B.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The disputed domain name was used to host a website to offer and sell services that the Complainant already provides without authorization or permission from the Complainant. The Panel finds that the Respondent's registration and use of the disputed domain name in such a manner demonstrates registration and use in bad faith, because the Respondent has intentionally attempted to associate itself with the Complainant in order to increase traffic on the website to which the disputed domain name resolved and commercially benefit from the HYUNDAI mark.

The Panel also notes that it is beyond reasonable doubt that the Complainant and its activities are clearly known to the Respondent and the Respondent sought to benefit himself with the Complainant's success. The Panel finds that, certainly lacking any reply, any bona fide use of the disputed domain name is implausible under the circumstances of this proceeding.

Panels have held that the use of a domain name for illegitimate activity here, claimed impersonation, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: December 18, 2024