



ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

— A charitable institution limited by guarantee registered in Hong Kong

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-1300087
Complainant: Naturerepublic. Co., LTD
Respondent: Adreas, Schneider

1. The Parties and the Domain Name disputed

The Complainant:

946-1 Daechi-dong, Kangnam-gu, Seoul, Korea

The Respondent:

Zeughausgasse 9a, Na, Zug

The disputed domain name is <naturerepublic.com>, which is currently registered by the Respondent to “Tucows Inc., 96 Mowat Avenue, Toronto, ON M6K 3M1, Canada”

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center ("ADNDRC")["Center"] on May 21 2013, seeking for a transfer of the domain name in dispute.

On May 30 2013, the Center sent an email asking for the detailed data of the registrant or the Respondent to the registration organization, and the registration organization, on June 4 2013, responded with the detailed data checked, including checking over the registrant.

On June 4, the Center examined whether the Complaint meets formal requirements set out in the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the ADNDRC Supplemental Rules(the "Supplemental Rules").

On June 5, the Center sent to the Respondent the "Complaint Transmission Cover“ along with the Complaint via email as well as via registered mail. When, the Center informed the Respondent of a

due date, June 25 2013, for the submission of its Response.

On June 25 2013, the Respondent didn't submit the Response.

On June 28 2013, the Center appointed Professor Moonchul Chang as the Sole Panelist of this case, and with the consent for the appointment, impartiality and independence declared and confirmed by the panelist, the Center, in accordance with paragraph 7 of the Rules, organized the Panel of this case in a legitimate way.

3. Factual Background

The Complainant owns the registered trademark "NATUREREPUBLIC" which is also used as the company name and as the mark of its products such as cosmetics. The Complainant has sold its products not only domestically in Korea but also internationally around the world. In addition the Complainant also operates branch stores in foreign countries such as USA, Japan, China, Taiwan, Thailand, the Philippines, Cambodia, Malaysia, Vietnam, Macao and Indonesia.

The disputed domain name was created on September 4, 2007 that the Respondent currently owns according to the WhoIs information of the concerned registrar. The Respondent uses the disputed domain name by operating the website which shows the text "This domain is for sale"

4. Parties' Contentions

A. Complainant

The Complainant alleges that:

- (1) The disputed domain name is <naturerepublic.com> which is identical to the Complainant's trademark "NATUREREPUBLIC", only adding the word ".com" .
- (2) The Respondent has no rights or legitimate interests in respect of the disputed domain name.
- (3) As the Respondent is using the disputed domain name to operate the website on which the only text appears is "This domain is for sale", he is using the disputed domain name only for the purpose of selling the domain name and not for any other purpose. It shows that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the Complainant shall prove the following three elements:

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

A. Similarity between the Trade Mark and the Domain Name disputed

The disputed domain name <naturerepublic.com> entirely incorporates the Complainant's trademark NATURE REPUBLIC and is likely to be associated with the Complainant which has no apparent connection with the Respondent. Further, the generic top-level suffix ".com" can be disregarded under the similarity test.

Accordingly, the Panel finds the first element under paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests of the Respondent

Under paragraph 4(a)(ii) of the Policy, the overall burden of proof is on the Complainant. However, once the Complainant presents a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of rebuttal is transferred to the Respondent. In this case the Respondent did not reply to the Complaint.

Firstly, the Panel considers that in the absence of any license or permission from the Complainant to use the Complainant's trademark, no actual or contemplated *bona fide* or legitimate use of the domain name could reasonably be claimed.

Secondly, there is no evidence presented to the Panel that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services at present. In addition there is no evidence to suggest that the Respondent has been commonly known by the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied the second element under paragraph 4(a) of the Policy in the present case.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the domain name “has been registered and is being used in bad faith.” As this requirement is conjunctive, the Complainant must establish both bad faith registration and bad faith use. In addition the circumstances listed in paragraph 4(b) of the Policy are not exclusive, and other circumstances may likewise lead to a finding of bad faith registration and use.

Firstly, since the disputed domain name <naturerepublic.com> is identical to the Complainant’s trademark, the Respondent is likely to have registered the disputed domain name with notice of the Complainant’s trademark. The Panel considers that the Respondent in all likelihood registered the disputed domain name to take advantage of the similarity between the disputed domain name and the Complainant’s trademark.

Secondly, although the Respondent has no rights or legitimate interests in the domain name, he has used the disputed domain name which entirely incorporates the Complainant’s trademark. The Panel considers that the Respondent, by using the disputed domain name, is intentionally confusing the consumers so as to benefit from its confusing similarity with the trademark. Such finding indicates the Respondent’s bad faith in the registration and use of the disputed domain name

Finally, the website associated with the disputed domain name displays that the domain name may be for sale. In the Panel’s view, it shows that the disputed domain name was registered for the purpose of selling it to others in excess of the Respondent’s out-of- pocket costs.

Based on the foregoing, the Panel is satisfied that the Respondent’s bad faith registration and use have been sufficiently established with respect to the disputed domain name in accordance with paragraph 4(b) of the Policy.

6. Decision

For all the foregoing reasons, in accordance with paragraph 4(i) of the Policy and paragraph 15 of the Rules, the Panel orders that the domain name <naturerepublic.com> be transferred to the Complainant.

Moonchul Chang,
Sole Panelist

Date: July 25, 2013