



Asian Domain Name Dispute Resolution Centre

scoul

(Seoul Office)

## ADMINISTRATIVE PANEL DECISION

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**Case No.** KR-1900195

**Complainants:** Samsung Electronics Co., Ltd.

**Respondent:** Domain Director Construction Publications, Inc.

**Organization :** NameStore.com

**Disputed Domain Name(s):** samsungstore.com

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### 1. The Parties and Contested Domain Name

The Complainant is Samsung Electronics Co., Ltd., 129, Samsung-ro, Yeongtong-gu, Suwon-si, Gyeonggi-do, Republic of Korea.

The Authorized Representative of Complainant is Bae, Kim & Lee LLC IP Group, 11<sup>th</sup> Fl., Shindeok Building, 343, Gangnam-daero, Seocho-gu, Seoul, Republic of Korea

The Respondent is Domain Director Construction Publications, Inc. (Organization : NameStore.com).

Address 1 of the Respondent : 3030 Rocky Point Drive #150

Address 2 of the Respondent : CPi Sites, Inc.

City of the Respondent : Tampa

StateProvince : FL, USA

Postal Code: 33607

The domain name at issue is 'samsungstore.com', registered by enom.com.

## **2. Procedural History**

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC) ["Center"] on January 10, 2019, seeking for a transfer of the domain name in dispute.

On January 14, 2019, the Center sent an email to the Registrar asking for the detailed data of the registrant. On January 15, 2019, enom.com transmitted by email to the Center its verification response, advising that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the Centre's Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint. The proceedings commenced on January 13, 2019 and the due date for the Response was February 13, 2019. No Response was filed by the due date.

On February 14 2019, the Center appointed Professor Moonchul Chang as the Sole Panelist in the administrative proceeding 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 is Samsung Electronics Co., Ltd, a Korean corporation which is one of affiliates of the Samsung Group, a global group company. The affiliates of

Samsung Group are using Samsung as their business name. The Complainant owns trademark registrations for the SAMSUNG mark, in numerous countries including the Republic of Korea and the United States of America.

According to the publicly available WhoIs information and confirmed by the Registrar, the disputed domain name <samsungstore.com> was registered on September 15, 2003.

#### **4. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that:

(i) The disputed domain name <samsungstore.com> is confusingly similar to the Complainant's trademark SAMSUNG. It incorporates the Complainant's SAMSUNG mark in entirety with the addition of a term "store" "SAMSUNG" is the dominant feature of the disputed domain name, causing confusing similarity to the Complainant's trademark. 'Store' is simply a common English term.

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is an entity unrelated to the Complainant. The Complainant has not authorized the Respondent to use the SAMSUNG mark. The Respondent does not hold any lawful rights or interests in the registration and possession of the disputed domain name.

(iii) The disputed domain name was registered and is being used by the Respondent in bad faith. The Respondent registered the disputed domain name which entirely incorporates the Complainant's famous and well-known SAMSUNG mark without the Complainant's permission. It is presumable that the Respondent registered the disputed domain name with knowledge of the Complainant's rights in the SAMSUNG mark. Secondly, The website linked to the disputed domain name included the phrase "domain samsungstore.com is for sale" on the top of its front webpage. This indicates that the Respondent's intention of cybersquatting to

register and sell a domain name which is similar to the famous and widely-known trademark to profit from it. Finally, the Respondent conceals its personal information on the Whois database by using the registrant's privacy protection service. This supports the fact that the Respondent registered and owns the disputed domain name for the unlawful purpose because this is done with an intention to transfer it in secret by hiding its personal information.

B. Respondent

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

## 5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name must be identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

### A) Identical / Confusingly Similar

The disputed domain name <samsungstore.com> is comprised of two words: "samsung" and "store". The dominant feature of the disputed domain name is "samsung" which is entirely identical to the SAMSUNG trademark and the word "store" is only a generic term and descriptive suffix. Numerous UDRP panels have held that where a domain name substantially incorporates a complainant's trademark, this is sufficient to make the domain name "confusingly similar" within the meaning of the Policy (see *Amazon.com, Inc. v. MCL International Limited*, WIPO Case No. D2000-1678). The generic Top-Level Domain (gTLD) suffix

".com" can be disregarded under the confusing similarity test (see *DHL Operations B.V. v. zhangyl*, WIPO Case No. D2007-1653).

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

## **B) Rights and Legitimate Interests**

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 production shifts to the Respondent (see *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. D2004-0110; *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. D2003-0455).

Firstly, the Complainant contends that he has never licensed or authorized the Respondent to use the Complainant's trademark or to register any domain names incorporating the SAMSUNG mark. The Respondent has used the Complainant's trademark without permission from the Complainant. Here, the Panel finds that Complainant has made out a *prima facie* case

Secondly, the Complainant contends that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services. In this case the Respondent failed to come forward with any appropriate allegations or evidence that might demonstrate its rights or legitimate interests in the disputed domain name to rebut the Complainant's *prima facie* case.

Thirdly, there is no evidence presented to the Panel that the Respondent has used, or has made demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services or is making a legitimate noncommercial or fair use of the disputed domain name. In addition there is no

evidence to suggest that the Respondent has been commonly known by the disputed domain name.

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

### **C) Bad Faith**

Paragraph 4(a)(iii) of the Policy requires that the disputed 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 of the disputed domain name. 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, regarding the bad faith registration, since the SAMSUNG mark is famous and widely-known in many countries, including the Republic of Korea and the United States of America, the Respondent is likely to have registered the disputed domain name with notice of the Complainant's trademark.

Secondly, the Panel considers that the Respondent in all likelihood registered the disputed domain name with the expectation of taking advantage of the reputation of the Complainants' trademarks or selling it to the Complainants or other. This is supported by the fact that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services and posted the advertisement of selling the domain name on his front webpage.

Finally, regarding bad faith use, the Panel does not consider that the Respondent's use of a privacy protection service in itself always constitutes bad faith under the Policy. However, in the circumstances of this case the Respondent's use of the privacy protection service gives rise to the suspicion that the privacy protection was manipulated to hide both the identity of the true registrant and the Respondent's


actual date of registration in an attempt to conduct cybersquatting. On the hands the Respondent failed to come forward with any response or evidence to rebut the Complainant's content.

Based on the foregoing, the Panel is satisfied that 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.

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

## 6. 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 <samsungstore.com> be transferred to the Complainant.



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Moonchul Chang

Sole Panelist

Dated: March 8, 2019