



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. : KR-2300249

Complainant: Hanwha Solution Corporation

(Authorized Representative for Complaint : Seung Yong LEE)

Respondent: PrivacyGuardian.org LLC

Disputed Domain Name(s): [qcellspv.com]

1. The Parties and Contested Domain Name

The Complainant is Hanwha Solution Corporation, of 86 Cheonggyecheon-ro, Jung-gu, Seoul, Republic of Korea

The Respondent is PrivacyGuardian.org LLC, of 1928 E. Highland Ave. Ste F104 PMB#255, Pheonix, AZ 85016, USA.

The domain name at issue is 'qcellspv.com', registered with NameSilo, LLC.

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on Novemver 17, 2023, seeking for a transfer of the domain name in dispute.

On December 5, 2023, the Center sent an email to the Registrar asking for the detailed data of the registrant. On December 6, 2023, NameSilo, LLC. 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 December 7, 2023 and the due date for the Response was December 27, 2023. No Response was filed by the due date.

On January 2, 2024, the Center appointed Mr. Chinsu Lee as 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

As the Respondent has not contested the evidence and materials submitted by the Complainant, it is hereby recognized, based on the statements, evidence, and information submitted by the Complainant, as follows:

The Complainant was established in 1965 in Seoul, South Korea. As part of its primary business in the solar energy sector, it acquired the solar cell manufacturer Qcell, thereby forming the Qcells Division. The Qcells Division of the Complainant has its headquarters in Seoul, South Korea, and Thalheim, Germany. It offers a total energy solution ranging from solar modules and systems to the development and construction of renewable energy plants and energy retail. With R&D centers in Germany, South Korea, Malaysia, and China, the Complainant has established a

distribution network of over 60 subsidiaries or partners worldwide, including a local entity in the United States. In particular, under the name Qcells Division, the Complainant has developed a solar manufacturing complex in the United States and completed an integrated value chain in North America with 25 local subsidiaries.

The Complainant has applied for or registered the trademark <QCELLS> in various classes, including 9, 11, 18, 25, 28, 35, 37, 39, 40, and 42, in several countries such as the United States, China, and South Korea. These classes cover, among other things, solar cells, energy generation, solar power generation, solar module manufacturing, and solar module retail and wholesale.

On September 26, 2023, the Respondent registered the domain name <qcellspv.com> and has been using it as a website address. This website displayed the Complainant's <QCELLS> trademark and photographs of the Complainant's offices and factory buildings. At the time of the conclusion of these proceedings, the website was inactive and displayed the message "Sorry, you have been blocked".

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

i. The Disputed Domain Name is confusingly similar to the Complainants' <QCELLS> trademark.

The Disputed Domain Name <qcellspv.co> merely uses the Complainant's <QCELLS> trademark as a whole with a generic top-level domain (gTLD) such as ".com". It directly incorporates the <QCELLS> trademark. The only difference between the Disputed Domain Name and the Complainants' trademark is the addition of the suffix <pv>. The abbreviation <pv> stands for "photovoltaic", a term directly related to the Complainant's primary business sector. The mere addition of <pv> as a suffix is not sufficient to prevent confusion with the Complainant's <QCELLS> trademark.

ii. The Respondent has no rights or legitimate interests in the Disputed Domain Name.

The Respondent is not affiliated with the Complainant. Further, the Complainant did not authorize or consent to the registration of the Disputed Domain Name, and there is no agreement or contract between the Respondent and the Complainant's Qcells Division. These facts demonstrate that the Respondent has no rights or legitimate interests in the Disputed Domain Names.

iii. Both the Respondent's registration and use of the Disputed Domain Name establish the Respondent's bad faith.

The Respondent registered the Disputed Domain Name <qcellspv.com>, which is confusingly similar to the Complainant's <QCELLS> trademark, and used it as a website address, without the Complainant's permission; in addition, the Respondent also used photographs on the website showing the Complainant's office and factory buildings with the <QCELL> mark. More seriously, the Respondent engaged in fraudulent activities by impersonating the Complainant by using the Disputed Domain Name and then disappearing.

iv. Thus, the Complainant requests that the Disputed Domain Name be transferred to the Complainant.

B. Respondent

The Respondent did not respond to the Complainant's contentions. According to Paragraph 5(f) of the Rules, if a Respondent does not submit a response, the Panel shall decide the dispute based upon the complaint.

5. Findings

In this administrative proceeding involving the Respondent's disputed domain name, the Panel finds that the Complainant has established each of these three elements of the Policy Paragraph 4(a)(i), (ii), and (iii).

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

i) U.S. Federal primary registration of a mark is prima facie evidence of the Complainant's rights in the mark, and foreign registrations of marks may also establish the Complainant's rights in a mark (citing WIPO/D2002-1039; WIPO/D2002-0087; WIPO/D2001-0632; WIPO/D2001-1015). In addition, pending trademark or service mark applications may be used to establish rights in a mark (citing WIPO/D2000-0040; WIPO/D2000-0131).

According to the evidence submitted by the Complainant and the examination history of various PTOs, the <QCELLS> trademark has been legally filed, decided for registration, or registered before PTOs in countries such as Korea, the United States, and China. Therefore, the Complainant's rights in the <QCELLS> mark are presumptively established, and it is recognized that the Complainant secured such rights before to the registration of the Disputed Domain Name on September 26, 2023, by the Respondent.

ii) In the disputed domain names, "com" and "co" may be disregarded in the similarity analysis because they are non-distinctive identifiers of generic and country code top-level domain names (citing WIPO/D2006-0762; ADNDRC/HK-1600849; WIPO/D2000-0493). In addition, the mere addition of letters to a mark does not avoid the likelihood of confusion (citing WIPO/2002-0835; WIPO/D2002-0928; WIPO/D2000-1230; WIPO/D2000-0227), especially if the added word is related to the complainant's

business, which significantly increases the likelihood of confusion (citing WIPO/D2002-0367; NAF/FA129123; NAF/FA113283; NAF/FA109576; NAF/FA93670).

In this case, the remaining second level domain of the Disputed Domain Names <qcellspv>, excluding <.com>, combined <Qcells> with <pv> as a suffix, which is an abbreviation for "photovoltaic", a term directly related to the Complainant's business. The addition of <pv> does not significantly affect the attractiveness of <Qcells> mark, and the fact that the Respondent used the Disputed Domain Name to display the Complainant's office buildings and factories as its own on the website further supports the Complainant's argument that the Disputed Domain Name is confusingly similar to the <QCELLS> trademark.

Accordingly, the Panel finds that the Complainant has established the elements of Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

i) The complainant will not satisfy Paragraph 4(a)(ii) merely by alleging that the Respondent has no rights or legitimate interests in the domain name, and it must make at least a prima facie showing that the respondent has no rights or legitimate interests in the domain name to satisfy Paragraph 4(a)(ii) of the POLICY. This requirement is based on the difficulty of proving a negative, particularly where the rights or interests are typically within the respondent's knowledge. Therefore the complainant's initial burden on this element is considered light (citing WIPO/DTV2002-0005; WIPO/D2000-0648; WIPO/D2002-0503).

In this case, the Complainant alleges that the Respondent is not affiliated with the Complainant, has not received permission or consent to register the Disputed Domain Name, and has not entered into any agreement or contract related to the Complainant's QCELLS business. The Complainant has demonstrated that the Respondent uses the Complainant's trademarks and photographs of its office and factory buildings on its website and that the Respondent uses the Complainant's <QCELLS> color design trademark as a website icon in the source code of its webpage. This suggests that the Respondent is aware of and uses the Complainant's <QCELLS> trademark. In addition, the Complainant provided evidence of the Respondent's use of the Disputed Domain Name in fraudulent activities.

Panels may decide that a respondent cannot claim rights or legitimate interests in a domain name where it knows that its domain is confusingly similar to the complainant's mark, or where it has registered or used the domain name in bad faith (citing WIPO/D2000/0090; WIPO/D2000-0387).

Therefore, the Panel acknowledges that the Complainant has successfully made at least a prima facie showing that the respondent has no rights or legitimate interests in the domain name.

ii) Once the complainant has established a prima facie case, the burden shifts to the respondent on the rights or legitimate interests in the disputed domain name, as described in Paragraph 4(c) of the POLICY. Therefore, under Paragraph 4(c) of the POLICY, the burden is on the respondent to prove legitimate rights or interests in the disputed domain name.

In this case, however, the Respondent has not responded. and the Panel conducted a final review of the website and a Google search for information about the Respondent but found no evidence of the Respondent's rights or legitimate interests in the Disputed Domain Name.

iii) If, after the complainant has met its initial burden of proof regarding the respondent's lack of rights or legitimate interests in the mark, the respondent defaults or fails to present any evidence under Paragraph 4(c) or other evidence of rights or legitimate interests in the mark, the complainant will be deemed to have satisfied Paragraph 4(a)(ii).

Accordingly, the Panel finds that the Complainant has established the elements of Paragraph 4(a)(ii) of the Policy.

C) Bad Faith

i) Paragraph 4(a)(iii) of the Policy requires the Complainant to establish that the Respondent's domain name is registered and used in bad faith. In addition, Paragraph 4(b) of the Policy provides examples of circumstances that may be considered evidence of bad faith registration and use under Paragraph 4(a)(iii). Therefore, the Complainant may rely

on one or more of these circumstances to satisfy the bad faith requirement of Paragraph 4(a)(iii).

ii) The Panel recognizes that the Disputed Domain Name, which consists of the Complainant's <QCELLS> trademark combined with the abbreviation <pv> for photovoltaic, suggests that the Respondent was aware of and intentionally registered a name that is confusingly similar to the Complainant's trademark. This action is considered to be in bad faith (citing WIPO/D2000-0139; WIPO/D2000-0283; NAF/FA94266). Moreover, the worldwide reputation of the <QCELLS> trademark and the Respondent's unauthorized registration of the Disputed Domain Name further support this bad faith claim (citing WIPO/D2000-0808; WIPO/D2000-0516; WIPO/D2000-0037).

iii) In addition, the Respondent's use of the Disputed Domain Name, as evidenced by the Complainant and the Panel's research, includes unauthorized use of the <QCELLS> trademark in metatags and images that misleadingly suggest an association with the Complainant. This conduct is consistent with the circumstances described in Paragraph 4(b)(iv) of the Policy regarding attempts to gain commercial advantage by creating confusion. The combination of the mark <QCELLS> with the descriptive abbreviation <pv> also falls within the circumstances of disrupting a competitor's business and attempting to lure it for commercial gain (citing WIPO/D2000-0777; WIPO/D2000-0878; WIPO/D2000-0927; NAF/FA95033; NAF/FA95402).

iv) In addition, the Respondent's use of the Disputed Domain Name in fraudulent activities potentially damages the Complainant's reputation and could harm bona fide consumers and investors, constitutes an attempt to solicit for commercial gain and creates confusion under Paragraph 4(b)(iv) of the Policy.

v) These facts constitute evidence of bad faith registration and use of a domain name under Paragraph 4(a)(iii) of the Policy. Accordingly, the Panel finds that the Complainant has established the elements of Paragraph 4(a)(iii).

6. Decision

For the foregoing reasons, in accordance with Paragraph 4(i) of the POLICY and Paragraph 15 of the Rules, the Panel orders that the Disputed Domain Name <qcellspv.com> be transferred to the Complainant.



Chinsu Lee

Sole Panelist

Dated: January 11, 2024