



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

## ADMINISTRATIVE PANEL DECISION

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**Case No.:** KR-2400262

**Complainant:** Hadongkwan

(Authorized Representative for Complaint: Min Seok CHOI, E-Bird  
International IP Law Firm)

**Respondent:** Asep Arif Hamdan

**Disputed Domain Name:** [ hadongkwan.com ]

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### 1. The Parties and Contested Domain Name

The **Complainant** is Hadongkwan of Room J-101, Coex Mall B1 Floor, Yeongdong-daero 513, Gangnam-gu, Seoul, Republic of Korea.

The **Respondent** is Elvis Ortiz of Asep Arif Hamdan, Kp. Wangunsari Sukaresik, Tasikmalaya, West Java, 46418, Indonesia.

The **Disputed Domain Name** is < **hadongkwan.com** >, which is registered with DROPCATCH.COM 516 LLC.

### 2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC; the “Centre”) on August 14, 2024, seeking a transfer of the Disputed Domain Name.

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

On August 20, 2024, the Centre sent an email to the Registrar asking for detailed data on the registrant. On August 21, 2024, the registrar, DROPCATCH.COM 516 LLC, sent the Centre its response, noting that the language of the registration agreement is English, verifying the Respondent is listed as the registrant, and providing the contact details.

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint. The proceedings commenced on August 21, 2024, and the deadline for the Response was set for September 10, 2024. The Centre received no response from the Respondent.

On September 13, 2024, the Centre appointed Mr. Daehee Lee as Sole Panelist in the administrative proceeding, and after Mr. Lee consented to the appointment and declared his impartiality and independence, the Centre, in accordance with Paragraph 7 of the Rules, organized the Panel for this case in a legitimate way.

### **3. Factual background**

The Complainant Hadongkwan is the owner of the HADONGKWAN mark (*hereinafter* the ‘disputed mark’) which was registered in Korea(July 11, 2024), United States(Jan. 17, 2021), China(July 7, 2016), and Japan(Aug. 7, 2015) respectively. HADONGKWAN is an English phonetic transcription of Korean mark, 하동관, which was also registered in 1996, and has been used by the Complainant. The Complainant has been in business (restaurant) as a sole proprietorship since 1939. The Respondent whose address is Tasikmalaya, Indonesia, registered the disputed domain name <hadongkwan.com> on Oct. 4, 2023. The disputed domain name is currently being used for a website which appears to sell cakes and put some

advertisements.

## **4. Parties' Contentions**

### **A. Complainant**

The Complainant's contentions may be summarized as follows:

First, the Complaint argues that the disputed domain name <hadongkwan.com> is identical to the Complainant's mark. The Complainant argues that the disputed mark is an English phonetic transcription of Korean mark, 하동관, which has no meaning in English. The Complainant also argues that the Respondent, who presumably does not understand the Korean language, would have coincidentally chosen this name for the domain name.

Second, the Complaint argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant argues that the respondent has no connection whatsoever with the Complainant, that the Complainant is unaware of the respondent's existence and has neither granted nor permitted the registration or use of the disputed domain name, and that there is no evidence that the respondent has applied for or holds any trademarks related to the Complainant's trademark in Korea or other foreign countries. The Complainant concludes that the Respondent has registered the domain name without legitimate rights or lawful interests in it.

Third, the Complaint argues that (i) the disputed domain name has been registered and is being used in bad faith. The Complainant argues that its trademark was first registered in Korea in 1996 and has been registered in foreign countries, that its restaurant was established in 1939 in Korea and has gained recognition and prestige not only among Koreans but also among international tourists as a prominent brand, that the website operated using the disputed domain name is neither related to the Complainant nor to the Complainant's trademark or goods/services, and that the Respondent has coincidentally adopted the exact same English representation of Korean brand '하동관', i.e. HADONGKWAN as a domain name.

(ii) The Complainant further argues that the Respondent has been aware of the fame

of the Complainant's trademark and has registered the domain name without authorization, thereby obstructing the Complainant from using the domain name, that the Respondent is enticing online users to its website using the disputed domain name, that there is an intention to benefit commercially by exploiting the fame of the complainant's trademark or causing confusion with it, and that the continued inability of the complainant to use the disputed domain name may lead to ongoing losses.

(iii) The Complainant concludes that the act of registering such a domain name itself is considered to be malicious intent.

**B. Respondent**

The Respondent did not reply to the Complaint.

**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 <hadongkwan.com> is composed of the Complainant's registered mark to which the generic top level domain ".com" is added. The suffix ".com" is generic, and such a suffix is not taken into consideration in the comparison of similarity between the Complainant's mark and the disputed domain name. The Panel finds that the disputed domain name is identical, or confusingly similar, to the Complainant's mark in which the Complainant has rights, and concludes that

paragraph 4(a)(i) of the Policy has been satisfied.

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

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant needs to prove that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Since the overall burden of proof rests with the Complainant, it is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the Respondent carries the burden of producing evidence establishing that it has rights or legitimate interests in respect of the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Panel notes that the Complainant has registered the disputed mark in Korea, United States, China, and Japan, that the disputed domain name is identical, or confusingly similar, to the Complainant's mark, and that the Complainant has not authorized the Respondent to use its mark. The Panel, therefore, finds the Complainant has made out an initial *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name.

Because such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in respect of the disputed domain name. However, the Respondent did not reply to the Complaint. In these circumstances, it is clear to the Panel that the Respondent has not rebutted the *prima facie* case. The Panel finds that Respondent has no rights or legitimate interests in respect of the disputed domain name, and accordingly concludes that paragraph 4(a)(ii) of the Policy has been satisfied.

### **C) Bad Faith**

The Panel notes that the Complaint's mark had been registered in several countries well before the disputed domain name was registered, that it has been long used since 1939, that the Respondent had actual knowledge of the Complainant's mark when it registered the disputed domain name, that the Complainant has never authorized the

Respondent to use its mark, and that the Respondent, who presumably is not Korean and thus does not understand the Korean language, would have coincidentally chosen the Complainant's mark which has no meaning in English for the domain name. The Panel further notes that the Complainant's mark has gained recognition and prestige not only among Koreans but also among international tourists as a prominent brand, that the Respondent would have been aware of the fame and the existence of the Complainant's trademark, and that the disputed domain name is currently being used for a website which appears to be used for unclear purposes such as selling cakes and putting some advertisements.

Based on these findings, the Panel finds that the disputed domain name has been registered and used by the Respondent in bad faith, and concludes accordingly that paragraph 4(a)(iii) of the Policy has been satisfied.

## 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 <**hadongkwan.com**> be **transferred** to the Complainant.



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Daehee Lee

Sole Panelist

Dated: October 1, 2024