



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-1600152

Complainant: Samsung Electronics Co., Ltd.

(Authorized Representative: Bae, Kim & Lee LLC IP Group,
Jeonghyun Kim, Patent Lawyer, Hongseok Jang, Patent Lawyer)

Respondent: Nils Carlsburg

Disputed Domain Name(s): worldcybergames.com

1. The Parties and Contested Domain Name

The Complainant is Samsung Electronics Co., Ltd of 129, Samsung-ro, Yeongtong-gu, Suwon-si, Gyeonggi-do, Republic of Korea. The Authorized Representative of Complainant is Jeonghyun Kim, Patent Lawyer, Hongseok Jang, Patent Lawyer (Bae, Kim & Lee LLC IP Group) of 343, Gangnam-daero, Seocho-gu, Seoul, Republic of Korea

The Respondent is Nils Carlsburg of Firm Catalyst GmbH & Co. KG, Klaerwerkstr. 1a, Berlin, Germany.

The domain name at issue is ‘worldcybergames.com’, registered by Respondent Name.com Inc., 414 14th Street #200 Denver, Colorado 80202, U.S.A.

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on November 17, 2016, seeking for a transfer of the domain name in dispute.

On November 23, 2016, the Center sent an email asking for the detailed data of the registrant. On November 24, 2016, the Registrar transmitted by email to the Centre its verification response, advising that is listed as the registrant and providing the details of the underlying registrant.

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 2, 2016. In accordance with the Rules, the due date by which the Respondent was required to file its response was December 22 2016. No Response was filed by the due date.

On September 26, 2016, the Center appointed Prof. Moonchul Chang as a 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, Samsung Electronics Co., Ltd. owns trademarks to the World Cyber Games mark with its abbreviation WCG registered all around the world.



The World Cyber Games mark is the name of World Cyber Games Competition, a global video event which had been held every year from the year 2000 to 2013. The

Complainant has participated as a main sponsor of the WCG Competition. According to the publicly available WhoIs information, the disputed domain name <worldcybergames.com> was registered on September 16, 2013.

4. Parties' Contentions

A. Complainant

The Complainant contends that:

(1) The disputed domain name is identical to the World Cyber Games mark except for “.com” that is a merely extension. The World Cyber Games are the names of the global video game competition, to which the Complainant has a lawful right.

(2) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is an entity unrelated to the Complainant which never authorized the Respondent to use the World Cyber Games mark. In addition, although the Respondent appears to operate the website <worldcybergames.com>, it does not actually use it.

(3) The disputed domain name was registered and is being used by the Respondent in bad faith. Since the World Cyber Games mark has been well-known as the global video games competition, it is highly likely that the Respondent registered the disputed domain name with the knowledge of its reputation and potential values. According the evidence the Complainant provided the Respondent posted the World Cyber Games marks and photos as well as the company name of the Complainant on the website <worldcybergames.com>. This may mislead internet users to consider that the Respondent and its website are related to the Complainant who allows the Respondent to use them. It is presumable that the Respondent registered the disputed domain name for unjust enrichment by taking advantage of the reputation of the World Cyber Games mark. This also supports the fact that the Respondent registered and owns the disputed domain name for an unlawful purpose of interfering with the registration and use by the Complainant.

B. Respondent

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

5. Findings

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint on the grounds of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Moreover, under paragraph 14(b) of the Rules, it is established that: “If a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.”

In light of the above, the Panel may draw such inferences from the Respondent’s failure to comply with the Rules as it considers appropriate (see paragraph 14(b) of the Rules).

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to the Complainant’s trademark or service mark; and
- (ii) the Respondent 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. Identical or Confusingly Similar

The disputed domain name <worldcybergames.com> incorporates the Complainant’s World Cyber Games mark in its entirety. The dominant feature of the disputed domain names is “World Cyber Games” which is identical to the Complainant’s trademark. The generic Top-Level Domain (gTLD) suffix “.com” can be generally 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 Complainants.

B. Rights or 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 the Respondent is an entity unrelated to the Complainant which never authorized the Respondent to use the World Cyber Games mark. Since the Respondent registered the disputed domain name, he is not using the disputed domain name in connection with a *bona fide* offering of goods or services. In this present case, the Respondent has owned the disputed domain name and established the website <worldcybergames.com> but has never actually used it.

Secondly, 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 preparation 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. Registered and Used in 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, since the Complainant's World Cyber Games mark is widely known and the disputed domain name entirely incorporates the Complainant's mark, in this Panel's view it is highly unlikely that the Respondent failed to notice the presence of the trademark in the disputed domain name at the time of the registration.

Secondly, according to the evidence the Complainant provided to this Panel the Respondent posted the World Cyber Games marks and photos as well as the company name of the Complainant on the website <worldcybergames.com>. This could mislead internet users to understand that the Respondent and its website are related to the Complainant who would allow the Respondent to use them. It is highly presumable that the Respondent registered the disputed domain name to gain economic benefit by taking advantage of the reputation of the World Cyber Games mark.

Thirdly, the Respondent is not actually using the disputed domain name and its website although he established the website <worldcybergames.com>. It may be inferred that the Respondent owns the disputed domain name in bad faith to protect the Complainant from registering and using it.

Based on the foregoing, the Panel is satisfied that bad faith registration and use have been 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 <worldcybergames.com> be transferred to the Complainant.

Moonchul Chang

Sole Panelist

Dated: February 2, 2017