



Asian Domain Name Dispute Resolution Centre

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-1700158

Complainant: Samsung Electronics Co., Ltd

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

Respondent: Yuan LIU

Disputed Domain Name(s): samsung.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, and Hongseok Jang (Bae, Kim & Lee LLC IP Group) of 343, Gangnam-daero, Seocho-gu, Seoul, Republic of Korea.

The Respondent is Yuan LIU of huanghebeilu No.58, 1 haolou, 3danyuan, 102shi, XUzhou.

The domain name at issue (*hereinafter* 'Disputed Domain Name') is 'samsung.com', registered by the Respondent through 101domain GRS Ltd. of 4th Floor, International House, 3 Harbourmaster Place, IFSC, Dublin 1, Ireland.

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name

Dispute Resolution Center (ADNDRC)[*hereinafter* the ‘Center’] on April 4, 2017, seeking for a transfer of the domain name in dispute.

On April 10, 2017, the Center sent the Registrar an email asking for the detailed data of the registrant. On April 12, 2017, the Registrar transmitted its verification response by an email to the Center, advising that the Respondent is listed as the registrant and providing the details of the registrant.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (*hereinafter* the ‘Policy’), the Rules for Uniform Domain Name Dispute Resolution Policy (*hereinafter* the ‘Rules’), and the Center’s Supplemental Rules for Uniform Domain Name Dispute Resolution Policy.

In accordance with the Rules, the Center formally notified the Respondent of the Complaint. The proceedings commenced on April 17, 2017 and the due date for the Response was May 7, 2017. No Response was filed by the due date.

On May 15, 2017, the Center appointed Mr. Dae-Hee Lee as the Sole Panelist in the administrative proceeding, and, with the consent for the appointment, impartiality and independence were 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. is the owner of the world-famous SAMSUNG mark (*hereinafter* the ‘Disputed Mark’) whose group companies comprise numerous affiliates including the Complainant itself. The Respondent registered the disputed domain name <samsung.cam> on

March 14, 2017. The disputed domain name is currently not being used, not resolving to a particular or any web site.

4. Parties' Contentions

A. Complainant

The Complainant's legal contentions may be summarized as follows. First, the disputed domain name <samsung.cam> is similar to the Complainant's mark such that it may cause confusion. Citing WIPO, the Complainant stresses that the disputed mark is recognized as the name of globally well-known mark, and that it is the lawful rights holder of the disputed mark.

Second, the Respondent has no lawful rights and interests in the registration and the possession of the disputed domain name. The Complainant argues that the Respondent is completely unrelated to itself, that it has not granted any authorization to use its mark to the Respondent, and that the Respondent is not using the disputed domain name in good faith to provide goods or services.

Third, the Respondent registered the disputed domain name for unlawful purposes of unjust enrichment, or interference with the registration of the disputed domain name by the Complainant rather than to engage in lawful business. The Complainant argues that the Respondent had actual knowledge of the Complainant's mark in the registration of the disputed domain name, that the disputed mark is now, and had been, globally well-known as the company name/mark of the Complainant's group company long before the Respondent registered the disputed domain name, the Respondent is not actually using the disputed domain name, and that it had filed an application for the disputed mark in major countries around the world before the Respondent registered the disputed domain name.

Based upon these contentions, the Complainant requests that the disputed domain name be transferred to it.

B. Respondent

The Respondent did not reply to the Complaint.

5. Findings

In order for the Complainant to get a decision that the disputed domain name be transferred to it, it carries the burden of proving that each of the following three elements is present under paragraph 4(a) of the Policy.

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(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 by the Respondent.

A. Identical or Confusingly Similar

The disputed domain name <samsung.cam> is composed of the Complainant's registered mark to which the generic top level domain ".cam" is added. The suffix ".cam" is generic, and suffixes ".gtd" and ".cctld" are not taken into consideration in the comparison of similarity between the complainant's mark and the disputed domain name. The Panel is therefore satisfied that the ".cam" generic top level domain does not serve to distinguish the disputed domain name from the Complainant's mark. 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 or Legitimate Interest

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.

Since the disputed domain name is identical, or confusingly similar, to the Complainant's mark, the Complainant has not authorized the Respondent to use its mark, and Complainant's mark is well-known around the world, the Panel 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. Furthermore, the Respondent is not currently using the disputed domain name. 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. Registered and Used in Bad Faith

The Respondent is not using the disputed domain name composed of the Complainant's mark. It is thus unclear whether the Complainant has proved the third element that the domain name has been registered and is being used in bad faith by the Respondent. However, the lack of active use of the domain name without any active attempt to sell or to contact the trademark holder (passive holding) does not prevent a finding of bad faith.

The Panel notes that the Complainant's mark is, and has been, globally well-known, that the Respondent had actual knowledge of the Complainant's mark in the registration of the disputed domain name, that the Complainant has never authorized the Respondent to use its mark before and after the registration of the disputed domain name, that the disputed domain name is not being used, and that no response has been made to the Complaint. Based on these findings, together with the finding in paragraph 4(a)(ii) discussed previously that the Respondent has no rights or interests in the disputed domain name, 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 <samsung.cam> be transferred to the Complainant.

Dae-hee Lee

Sole Panelist

Dated: June 7, 2017