



**ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE**

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**(Seoul Office)**

## **ADMINISTRATIVE PANEL DECISION**

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**Case No. KR-0600007**

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

**Respondent : Seung Nam Kim**

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### **1. The Parties & The Domain Name in dispute**

The Complainant:

Samsung Electronics Co., Ltd, 416 Maetan-Dong, Yeongtong-Gu, Suwon City,  
Gyeonggi-dong, Republic of Korea

Authorized Representative: David Hunjoon Kim, YOU ME Patent & Law Firm,  
Seolim Bldg., 649-10, Yoksam-Dong, Kangnam-Ku, Seoul, Republic of Korea

The Respondent:

Seung Nam Kim, 215 Samsung Apartment, Gikok-dong, Nam-ku, Ph-hang,  
Kyungbuk, Republic of Korea

The disputed domain name <samsungsecurity.com> is registered with “eNom,  
Inc.(15801 NE 24th Street. Bellevue, WA 98009 USA).”

## **2. Procedural History**

The Complaint was filed with the Seoul Office of the ADNDRC (Asian Domain Name Dispute Resolution Center) (the 'Center') on 31 August 2006.

The Center transmitted by email to the Registrar a request for Registrar verification in connection with the domain name at issue on 7 September 2006. The Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the details for the administrative, etc, on 8 September 2006.

On 8 September 2006, 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 ADNDRC Supplemental Rules (the "Supplemental Rules").

On 8 September 2006, the Center formally notified by a registered mail the Respondent of the Complaint, and it reached the Respondent on 13 September 2006. On 15 September 2006, the Center notified the Respondent of the commencement of the proceedings. Although the Respondent was notified that the due date for Response was 3 October 2006, the Response was not filed with the Center by the due date. So the Center, on 10 October 2006, notified the Respondent that the Response was not filed with the Center.

The Center appointed Mr. Ho-Hyun Nahm as the sole panelist in this matter on 24 October 2006. The panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

### **3. Factual Background**

#### The Complainant

The complainant owns trademark and service mark registrations for the marks 'SAMSUNG' and/or SAMSUNG logo in Korea and abroad covering such goods and services as color cameras, cellular phones, electrical and scientific apparatus, etc.

According to the Exhibits submitted the Complainant, the Complainant has 337 offices and facilities in 58 countries and remains one of the world's top ten in US patents for four consecutive years with 13,000 researchers representing US\$ 1.7 billion investment in research and development. The SAMSUNG Group's total revenue was recorded at US\$101.7 billion in 2003 with figures increasing to US\$121.7 billion in 2004.

#### The Respondent

According to the Exhibits submitted by the Complainant, on the website under the disputed domain name appear many of different links, comprised of the name "Samsung." The Exhibits also show that the Internet users are accessible to security items such as cameras and security monitors.

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

#### **A. Complainant**

Complainant alleges that:

- (1) The trade mark or service mark to which the Complainant has rights is identical or confusingly similar to the domain name in this matter; The trademark/service mark on which the Complaint is based is "SAMSUNG"

registered in over 100 countries worldwide including Korea in respect of goods and services such as telecommunication products, color cameras, cellular phones, electrical and scientific apparatus, furniture and house-ware, fabrics, advertising and business services, transportation and storage, education and entertainment as well as many other categories. In light of the worldwide reputation of the mark 'SAMSUNG' and the use manner of the mark 'SAMSUNGSECURITY' at the Respondent's website, consumers are likely to be confused as if the website under the disputed domain name were associated with the Complainant.

- (2) The Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) The disputed domain name has been registered and is being used in bad faith. Respondent has registered and is using the disputed domain name in bad faith, by trying to attract customers and profiting from the mark belonging to the Complainant.

## **B. Respondent**

The Respondent has not provided any response on the assertion above.

## 5. Discussion and Findings

In accordance with paragraph 11 of the Rules, the language used in the proceedings is the same as the one laid out in the registration provision, except for the parties agreed to different ones or put modification in the provision.

Although the Respondent was notified of the Complaint in accordance with paragraph 14 of the Rules, the Respondent has not responded to the facts asserted nor the ways of proofing yet; the Panel shall decide on the basis of the assertion and ways of proofing submitted by the Complainant. However, the Panel should not be in favor of the Complainant in decision establishment in this matter based on the fact that the Respondent did not respond. Considering this, the panel is going to produce its decision in an appropriate and legitimate way.

The Complainant must prove each element of paragraph 4(a) of the Policy, namely:

(1) The trade mark or service mark in which the Complainant has rights is identical or confusingly similar to the domain name in this matter; and

(2) The Respondent has no rights or legitimate interests in respect of the domain name; and

(3) The disputed domain name has been registered and is being used in bad faith.

Considering all stated above, the assertion by the Complainant could be simplified as following:

**A) Similarity between the Service Mark and the Domain Name disputed**

In comparing with the disputed domain name and the Complainant's cited mark 'SAMSUNG,' the Panel thinks that the part 'SECURITY' is not a dominant one in that it is a non-distinctive element in relation to the security related goods or services. The portions 'www.' and '. com' are also not considered as being distinctive elements since they are widely and publicly used in domain names. In this respect, the portion 'SAMSUNG' should be considered as being a dominant portion in both the disputed domain name and the cited mark. Since the dominant portions of the two are identical with each other, they are considered as being confusingly similar to each other.

**B) Rights or Legitimate Interests of the Respondent**

As the Respondent has not submitted any Response to the contention of the Complainant, the Panel finds no rights or legitimate interests of the Respondent.

**C) Registered and Used in Bad Faith**

The Panel recognizes the well known status of the cited mark in light of the number of offices and facilities around the world, the substantially high level of annual revenue and the monetary amount of investment in research and development of SAMSUNG Group the holding company of which being the Complainant are respectively established by the Exhibits which the Complainant has submitted.

It is also noted that the Respondent has offered security and electronic products using the name SAMSUNG for sale at this website. Such an act is considered as diverting Internet users looking for SAMSUNG security products by using the disputed domain name to the Respondent's website under the disputed domain name. Even if all of the products as offered at the website under the disputed domain name of the Respondent were genuine ones of the Complainant, at least the Internet users are likely to misbelieve that the Respondent is one of the official agent or distributor.



The Panel finds Respondent has allowed the domain name in dispute for being used for diverting Internet traffic that was initially intended for Complainant and to profit from such traffic to well known mark of the Complainant (on this kind of bad faith behavior, see WIPO Case No. D2001-0193 Microsoft Corporation v. Mindkind; WIPO Case No. D2000-0049 Tata Sons Ltd. v. The Advanced Information Technology Association; WIPO Case No. D2001-0673 America Online, Inc. v. Exit New York Magazine Corp., a.k/a Exit Magazine Corp.; WIPO Case No. D2000-1206 Buy As You View Limited v. Kevin Green; WIPO Case No. D2002-1098 FINAXA Societe Anoyne v. James Lee; *Deloitte Touche Tohmatsu v. Chan*, WIPO case No. D2003-0584).

As such, the Panel concludes that Respondent registered and used the domain name in dispute in bad faith.

## **6. Decision**

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be GRANTED.

Accordingly, it is Ordered that the disputed domain name be TRANSFERRED  
from Respondent to Complainant.

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Ho-Hyun, Nahm

Sole Panelist

Date: November 16 2006