



Asian Domain Name Dispute Resolution Centre

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-1700156

Complainant: Arbor Networks, Inc.

(Authorized Representative: YOU ME PATENT & LAW FIRM)

Respondent: Heeseung Kang

Disputed Domain Name(s): arbornetworks.asia; arbor.asia

1. The Parties and Contested Domain Names

The Complainant is Arbor Networks, Inc. of 76 Blanchard Road, Burlington, MA, 01803, United States of America. The Authorized Representative of the Complainant is Kyounghee Lee, Patent & Trademark Attorney (YOU ME PATENT & LAW FIRM) of Seolin Building, 115 Teheran-ro, Gangnam-gu, Seoul, 06134, Korea.

The Respondent is Heeseung Kang of Yeoksam-dong, Gangnam-gu, Seoul, Korea.

The domain names at issue are 'arbornetworks.asia' and 'arbor.asia', registered by PDR Ltd. a/b/a PublicDomainRegistry.com of Direccitiplex, Next To Andheri Subway, Nagardas Road, Andheri (East), Mumbai, Maharashtra, 400069, India.

2. Procedural History

A Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on February 8, 2017, seeking transfers of the Disputed Domain Names.

On February 15, 2017, the Center sent an email asking for detailed data of the registrant. On February 25, 2017, the Registrar transmitted by email to the Centre its verification response, advising that it is listed as the registrant and providing details of the underlying registrant.

The Center verified that the Complaint had 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 March 9, 2017, and the due date by which the Respondent was required to file its response was March 9, 2017. No Response was filed by the due date.

On April 17, 2017, the Center appointed Mr. Doug-Jay Lee as the Sole Panelist in the administrative proceeding and with the consent for the appointment, and 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 is a US-based software developer founded in 2000, and its core business includes provision of network security solutions. The Complainant operates under the business name "ARBOR NETWORKS" and registered the same as a trademark for "network security/monitoring computer software" and the likes in Class 9 in Canada in 2005; the US, EU, Singapore and Australia in 2011; Argentina in 2014; and South Korea in 2015 under Korean Reg. No. 1203975.

According to the WHOIS information of DotAsia, the Disputed Domain Names are owned by Heeseung Kang, a Korean individual who is using daniel@webtizen.co.kr

as his e-mail address. Further, WHOIS provides “DotName Korea” as his organization.

The aforesaid “DotName Korea” is a domain name registrar and a provider of webhosting and security network solutions. The Respondent registered the Disputed Domain Names on May 23, 2016 and owns them to this day.

Upon entering the Disputed Domain Names in the internet address bar, users are forwarded to www.nowtrust.co.kr, operated by DotName Korea, on which the Respondent’s DDoS protection software—the same kind of goods as the Complainant’s network security software—is advertised.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

The Complainant claims that (1) the Disputed Domain Names are confusingly similar to the Complainant’s trademark “Arbor Networks” (“The Subject Mark” hereinafter) and that (2) the Respondent does not have legitimate interest in the Disputed Domain Names yet registered and is using them in bad faith.

B. Respondent

The Respondent did not submit any response.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of the 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 Panel finds that the Disputed Domain Names are substantially similar to the Complainant's registered mark "Arbor Networks" or identical to the same in their major part "Arbor" and accordingly, there is a high likelihood of source confusion between the Complainant's registered mark and the Disputed Domain Names.

B) Rights and Legitimate Interests

According to the WHOIS information of DotAsia, the Disputed Domain Names are owned by Heeseung Kang, a Korean individual who is using daniel@webtizen.co.kr as his e-mail address. Further, WHOIS provides "DotName Korea" as his organization.

The Disputed Domain Names are directly forwarded to the website www.nowtrust.co.kr, which is managed by Nowtrust. DotName Korea is the registrant of "arbor.co.kr", "arbornetworks.kr", and "arbornetworks.co.kr", and its recorded e-mail address is daniel@webtizen.co.kr. According to DotName Korea's website (www.dotname.co.kr), DotName Korea has several business departments, one of which is Nowtrust, which provides IT security services.

Furthermore, Heeseung Kang is identified as CEO at the bottom of the website for DotName Korea (ANNEX E). Hence, it may be determined that Heeseung Kang is a CEO of DotName Korea, and Nowtrust is offering their DDoS protection software by having users that visit the Disputed Domain Names websites forwarded to their www.nowtrust.co.kr site. Considering the foregoing, the Panel finds that the Respondent and DotName Korea have no right or legitimate interest in respect of the Disputed Domain Names and there is not evidence that demonstrates the Respondent has such right or legitimate interest in respect of the same.

C) Bad Faith

(1) Based on the submissions to the Center, the following facts are recognized in respect of the Complainant:

① The Complainant is a US-based software developer founded in 2000, and its core business includes provision of network security solutions. The Complainant is using the Subject Mark as its business name and trademark.

② The Complainant filed the Subject Mark for “network security/monitoring computer software” and the like in Class 9 in Korea on December 29, 2015, and the Subject Mark was registered under TM Reg. No. 1203975 on September 28, 2016. The Subject Mark was registered in Canada in 2005; the US, EU, Singapore and Australia in 2011; and Argentina in 2014. The date of first use of the Subject Mark in the US is recorded as May 2, 2001.

③ The Complainant’s “ARBOR NETWORKS” software for the internet has been available in the market for over 15 years. It has been elected as 1 of 10 brilliant inventions by DARPA (Defense Advanced Research Projects Agency, an agency of the U.S. Department of Defense) and as the Best Example of DDoS Protection by the U.S. Department of Homeland Security, a government organization. The Complainant was also one of two companies to testify before the European Union on the subject of “Protecting Europe Against Large-Scale Cyber-Attacks.”

④ The Complainant was the winner of the 2014 Global DDoS Mitigation Market Leadership, the Global Winner for Best Overall IT Company for both 2014 and 2015, and also the 2015 grand winner of the Global Excellence Award.

(2) Based on the submissions to the Center, the following facts are recognized in respect of the Respondent.

DotName Korea, which appears to employ the Respondent and have ownership of the Disputed Domain Names, is a domain name registrar and a provider of webhosting and security network solutions.

Upon clicking “NOWTRUST” featured at the top of the index page of DotName Korea’s website, users are led to the website for NOWTRUST, a provider of

security network solutions. At the bottom of the NOWTRUST website, DotName Korea is indicated as the operator of the website.

Upon entering the Disputed Domain Names in the internet address bar, users are forwarded to the site www.nowtrust.co.kr operated by DotName Korea. The goods offered on the website are a DDoS protection software that is the same in kind to the Complainant's network security software.

(3) Since the scope of business encompassed by DotName Korea includes domain name registration, DotName Korea is expected to have been well-aware that an unauthorized registration of another person's trademark is illegal. So, there is ample reason for the Panel to conclude that the registration and use of the Disputed Domain Names by the Respondent was motivated by the intention to interfere with the registration or use of the Disputed Domain Names by the Complainant who has legitimate claim to them or to gain unjust economic profits by causing confusion with the Complainant's well-known trademark "Arbor Networks."

6. Decision

Pursuant to paragraph 4(i) of the Policy and Article 15 of the Rules, the Panelist orders that the Domain Names in dispute be transferred to the Complainant.

Doug-Jay Lee
Sole Panelist

Dated: May 18, 2017