



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

## ADMINISTRATIVE PANEL DECISION

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**Case No.** KR-1800190

**Complainant:** NCSOFT CORPORATION

**Respondent:** DAVID CHAN

**Disputed Domain Name(s):** lineage2m.com

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### 1. The Parties and Contested Domain Name

The Complainant is NCSOFT CORPORATION of 12, Daewangpangyo-ro 644 beon-gil, Bundang-gu, Seongnam-si, Gyeonggi-do, Republic of Korea (13494).

The Respondent is DAVID CHAN of Gret Street 754, Almaty, Kazakhstan (532432).

The domain name at issue is 'lineage2m.com', registered with TurnCommerce, Inc. DBA NameBright.com (the "Registrar").

### 2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC) (the "Center") on September 3, 2018, seeking transfer of the domain name in dispute.

On September 11, 2018, the Center sent the Registrar an email asking for the detailed data of the registrant. On September 11, 2018, the Registrar transmitted by email to the Center its verification response, advising that the Respondent is listed as the registrant and providing the contact details.

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 September 12, 2018 and the due date for the Response was October 2, 2018. No Response was filed by the due date.

On October 5, 2018, the Center appointed Mr. Sung-Joon CHOI as the Sole Panelist in the administrative proceeding and, with the consent for the appointment, impartiality and independence declared and confirmed by the Panelist, 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 corporation established in 1997, which develops, among other things, online and mobile games and offers them in major countries around the world. The Complainant’s most notable game products include PC online games titled ‘Lineage’ and ‘Lineage2’ and a mobile game titled ‘LineageM.’

‘Lineage’ is a massive multiplayer online role playing game (commonly abbreviated as “MMORPG” and where a very large number of multiple users are simultaneously connected to play their respective roles and interact with each other) set in fantasy medieval times. It was released on September 3, 1998 and is a popular online game distributed in major countries around the world, which recorded as many as 220,000

concurrent connected users as of May 2018 and have accumulated over KRW 3 trillion in sales.

'Lineage2' was a sequel to 'Lineage' and was a 3-dimensional online game in contrast to the 2-dimensional 'Lineage.' After its release in October 1, 2003, 'Lineage2' had a success tantamount to that of 'Lineage' and opened the era of 3D MMORPG.

Subsequently, due to, among other reasons, the popularization of fourth generation (4G) mobile communication and the improvement of Wi-Fi technology, as well as the advancement of mobile devices, the gaming industry went on to pursuing mobilization of PC online games. Following this trend, on December 14, 2016, Netmarble released mobile-based 'Lineage2 : Revolution' embodying the features of 'Lineage2' and had a tremendous success leading to nearly KRW 1 trillion in sales over the period of one year following the release.

Also, the Complainant brought core elements, operational mode and system of 'Lineage' into mobile environment and developed 'LineageM' to enable users to enjoy 'Lineage' on mobile exactly as it was played in PC online version. It was released on June 21, 2017 and, on the same day, recorded 2,010,000 users and KRW 10.7 billion in sales. Over the span of one year following its release, 'LineageM' generated over KRW 1.4 trillion in sales.

In or around August 2017, the Complainant began developing 'Lineage2M,' a new mobile game based on 'Lineage2.' As was the case in 'LineageM,' 'Lineage2M' is likely to be a remake of turning the exact PC-based 'Lineage2' into mobile version. It is said that 'Lineage2M' is expected to be released in late 2018 or early 2019. These have been also reported in the media. See, e.g., the newspaper article titled "NC to start developing 'Lineage2M'" from *ENewsToday* dated August 6, 2017.

Subsequently, the Complainant applied for registration of “Lineage2 M” mark on September 21, 2017, which was later registered as Trademark Reg. No. 1354509 on April 26, 2018. See Exhibit No. 1.

The Respondent registered the disputed domain name on September 25, 2017, but has not created any website with the disputed domain name to this date (see Exhibit No. 2) and is not otherwise using the disputed domain name in any manner.

#### **4. Parties’ Contentions**

##### **A. Complainant**

The Complainant’s contentions may be summarized as follows:

- i. The disputed domain name is identical to the Complainant’s registered trademark;
- ii. The Respondent holds no interest in ‘Lineage2,’ one of the Complainant’s flagship products, or ‘Lineage2M,’ a mobile version of ‘Lineage2’ under development by the Complainant, nor have the Complainant entered into any contract with the Respondent in connection with the Complainant’s registered trademark “Lineage2 M,” and therefore, the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- iii. Considering that the Respondent does not operate the disputed domain name (which is identical to the registered trademark “Lineage2 M”), and that the disputed domain name has been registered by the Respondent in time when the fact that Complainant filed a trademark application for “Lineage2 M” mark was disclosed to the public, the

Respondent's registration of the disputed domain name must have been intended for obtaining unjust benefits; and

- iv. The Complainant requests that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

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

## **5. Findings**

Pursuant to paragraph 4(a) of the Policy, each of the following must be established in order for the Complainant to prevail:

- i. The disputed domain name must be identical or confusingly similar to a trademark or service mark in which the Complainant has rights; 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.

The Panel hereby finds as follows in connection with the above.

### **A. Identical / Confusingly Similar**

It is safe to say that the disputed domain name (i.e., 'lineage2m.com'), without its generic top-level domain (i.e., '.com'), is identical to the "Lineage2 M" trademark applied for by the Complainant on September 21, 2017 and registered by the Complainant on April 26, 2018, because the only difference

is that the registered mark uses the capitalized letters “L” and “M.” The fact that the Complainant only had filed the trademark application and had not yet obtained the trademark registration as of September 25, 2017 when the Respondent registered the disputed domain name does not affect the finding that the disputed domain name and the Complainant’s registered trademark are identical to each other.

## **B. Rights and Legitimate Interests**

The Respondent has not created any website with the disputed domain name and is not otherwise in use of the disputed domain name in any other manner. Further, the disputed domain name (without giving consideration to ‘.com,’ which is a generic top-level domain) has no relevance to the Respondent’s name or the like. Hence, it can be reasonably presumed that the Respondent has no rights or legitimate interests in respect of the registration of the disputed domain name. So far as such presumption is established, the burden is now on the Respondent to prove that it holds rights or legitimate interests in respect of the registration of the disputed domain name. However, no such proof has been presented.

Therefore, the Respondent has no rights or legitimate interests in respect of the registration of the disputed domain name.

## **C. Bad Faith**

As discussed above, ‘Lineage,’ ‘Lineage2’ and ‘LineageM’ are all popular online or mobile games played in major countries around the world, it is presumed that the Respondent was aware of these games.

Further, the mobilization of online games has been actively ongoing since around 2016, as the breakthroughs in network environments led to the increased transmission speeds and the dramatic expansion of data use

capacities, and as the functions of mobile devices became much more advanced. Accordingly, the Complainant started mobilizing Lineage online games and, as a result, released 'LineageM' on June 21, 2017, which gained sensational popularity. Subsequently, the Complainant began the development of 'Lineage2M,' a new mobile game based on the 'Lineage2,' from around August 2017, which fact was also reported in the media. Given that the mobilization of online games was rapidly progressing as such and mobilized games had proved great successes, anyone could have easily anticipated, at the time around September 25, 2017 when the disputed domain name was registered, that the 'Lineage2' online game would be soon mobilized and released as 'Lineage2M.'

Although "lineage" is a word meaning descent or pedigree, none of the terms "Lineage2," "LineageM" and "Lineage2M" is used anywhere other than on online or mobile games developed and released by the Complainant.

Meanwhile, the Respondent registered the disputed domain name four days after the Complainant applied for registration of the "Lineage2 M" mark.

In totality of these circumstances, considering the possibility that the Respondent registered the disputed domain name with the knowledge of the fact that the Complainant applied for registration of the "Lineage2 M" mark, and also considering that even if the Respondent registered the disputed domain name without such knowledge, the Respondent has not created any website with the disputed domain name for over one year after registering the same, the Panel adequately finds that the Respondent registered the disputed domain name (a) with the understanding that the Complainant would (i) develop and release the 'Lineage2M' mobile game based on the 'Lineage2' online game and (ii) also register the "Lineage2 M" mark, and (b) with a view to (i) obtaining unjust benefits through selling or renting the disputed domain name already occupied by the Respondent to the Complainant at a high price

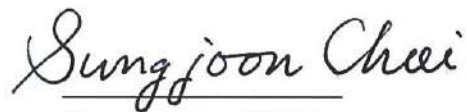
or (ii) preventing the Complainant from registering and using a domain name that combines 'lineage2m' and '.com' (which is a generic top-level domain).

Therefore, the Panel finds that the disputed domain name was registered, and is being used, in bad faith.

Accordingly, the Panel concludes that the Complainant has met all three requirements under paragraph 4(a) of the Policy in connection with the disputed domain name.

## **6. Decision**

For the reasons set forth above, in accordance with paragraph 4(a) of the Policy and paragraph 15 of the Rules, it is hereby ordered that the Respondent transfer the disputed domain name, 'lineage2m.com,' to the Complainant as requested by the Complainant in the Complaint.



Sung-Joon CHOI

Sole Panelist

Dated: October 26, 2018