



Asian Domain Name Dispute Resolution Centre

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-1900198

Complainants: Celltrion, Inc.

Respondent: Henny Richard

Disputed Domain Name(s): celltrion-1.com

1. The Parties and Contested Domain Name

The Complainant is Celltrion, Inc., 23, Academy-ro, Yeonsu-gu, Incheon, Republic of Korea.

The Authorized Representative of Complainant is SHIN&KIM(Attorney:Mr. Jeongsik KIM; Ms. Hyeri KOH), 23F, D-Tower(D2), 17 Jongno 3-gil, Jongno-gu, Seoul 03155, Republic of Korea.

The Respondent is Henny Richard, Jl.kemanggisan utama 2 no.51, Jakarta barat, Jakarta, Indonesia.

Postal Code: 10123

The domain name at issue is 'celltrion-1.com', registered by Namecheap.com.

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on May 22, 2019, seeking for a transfer of the domain name in dispute.

On MAY 22, 2019, the Center sent an email to the Registrar asking for the detailed data of the registrant. On June 3, 2019, Namecheap.com 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 June 4, 2019 and the due date for the Response was June 24, 2019. No Response was filed by the due date.

On July 3 2019, the Center appointed Mr. Jong-Yoon KIM as the 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.

We are writing to advise the parties of Panel order.

3. Factual background

3.1 The Complainant filed this Complaint on behalf of Celltrion Group which comprises Celltrion Holdings, Celltrion Healthcare, Celltrion Skincare, Celltrion Pharm, Celltrion Entertainment, Celltrion Chemical Research Institute, TSENC, TSENM, Celltrion Don, Celltrion Yevrisia. As of Dec. 31 2017, annual sales amount of Celltrion Group was about KTW 2 trillion, its total equity was KRW 8.5 trillion, and the number of its employees was about 2,500.

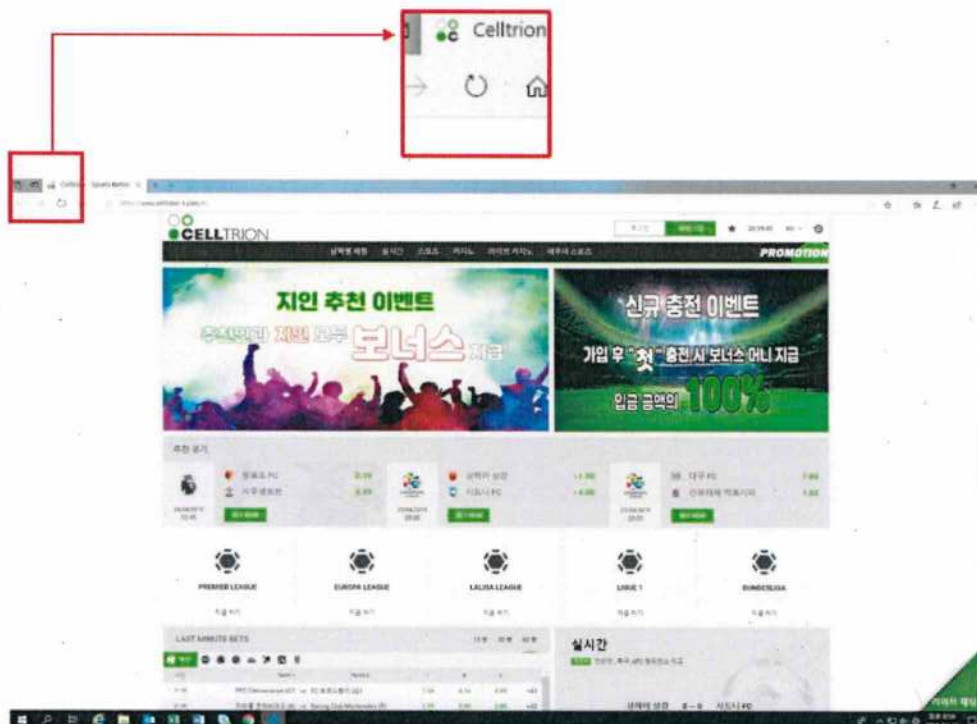
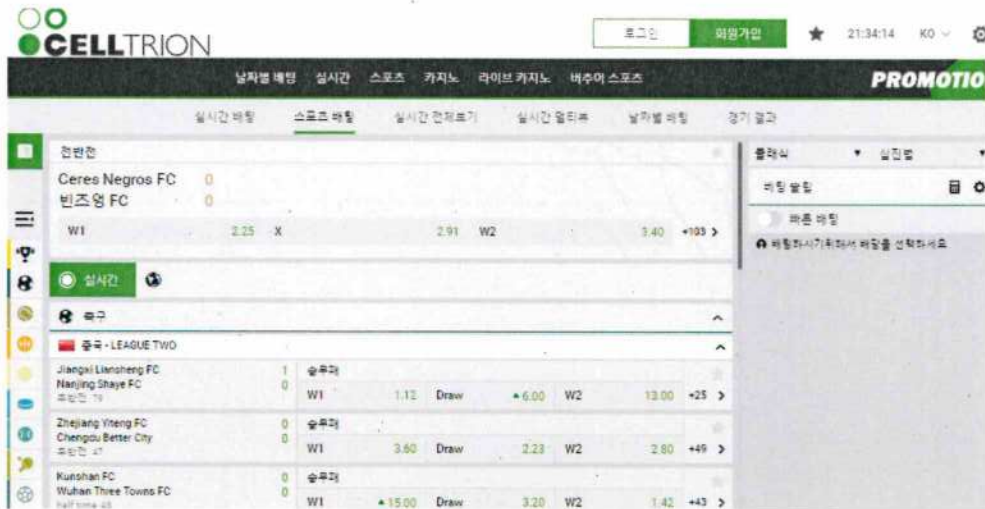
3.2 The Complainant was founded as a bioengineering company in 2002 and engages in researching, developing and producing biosimilars, biomedicines and medications. The market value of the Complainant is about KRW 26.4724 trillion as of Mar. 6 2019 which ranks 5th in KOSPI. "FORTUNE", the internationally renowned U.S. economic magazine, recently listed the Complainant as 17th most promising global business.

3.3 On behalf of Celltrion Group, the Complainant has registered trademarks "CELLTRION" and its Korean equivalents "셀트리온" in its name in connection with various kinds of goods and services. The trademarks have been used by the companies of Celltrion Group including the complainant since 2002.

3.4 The disputed domain name <celltrion-1.com> consists of Celltrion Group's trademark "celltrion" and a figure "1" connected by a hyphen(-). Because "1" is a simple and common figure having no distinctiveness, "celltrion-1" is very likely to be recognized only by "celltrion" itself.

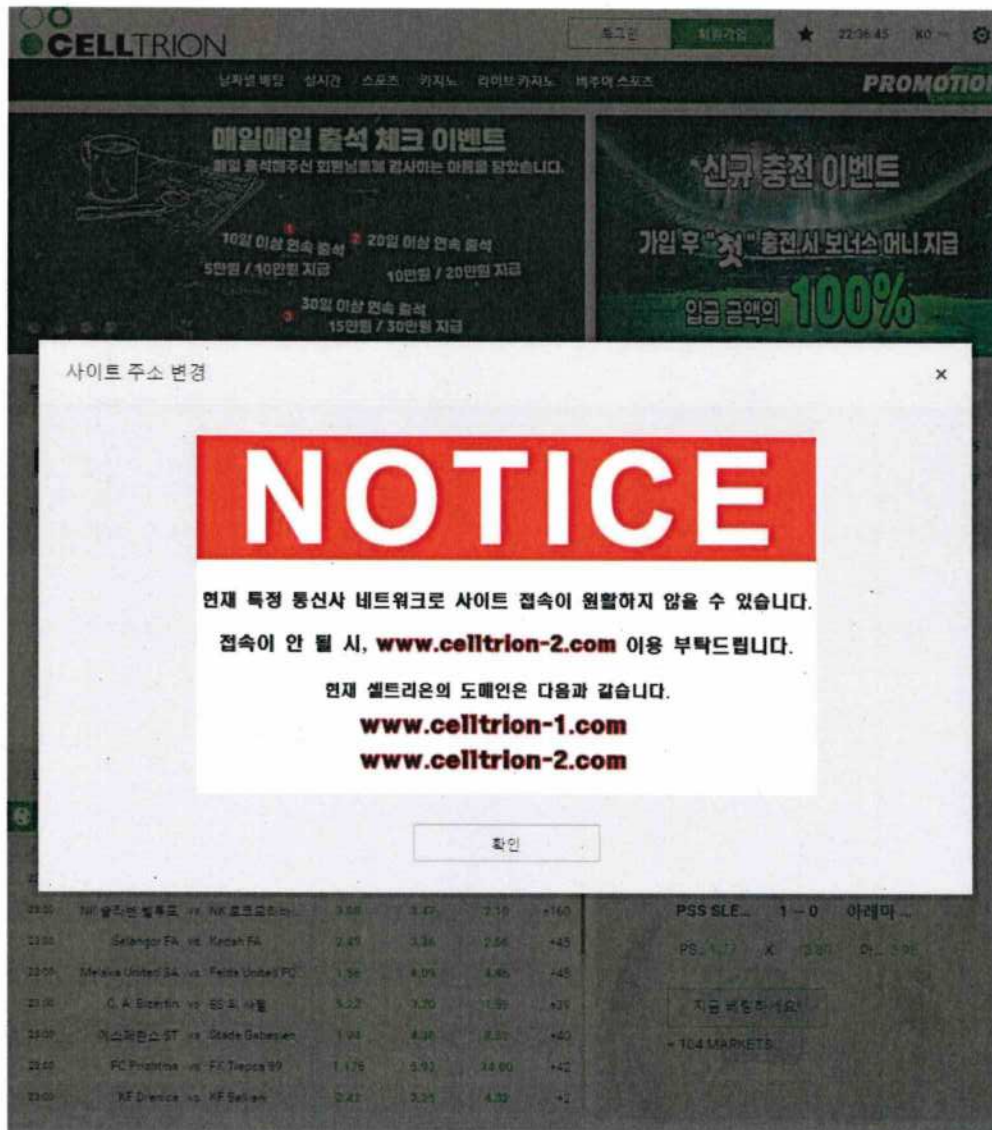
3.5 The website operated with the disputed domain name was a sports betting site providing online system involving sports games like football, baseball and basketball which allowed users to make a bet based on the game result they predict and to be paid dividends according to actual game result. In the website, the Respondent used Complainant's trademark "CELLTRION" and its Korean equivalents together with

the Complainant's logo “**CELLTRION**” and CI “**CELLTRION**”. The concerned pages the website are as shown below.



3.6 The Complainant filed a complaint with Korea Communications Standards Commission and Korea Sports Promotion Foundation, requesting to ban the website of the disputed domain name under the ground that the website was “illegal gambling site.” The complaint was admitted and accordingly the website of the disputed

domain name was officially banned from getting accessed in Korea. To avoid and neutralize the sanction, however, the Respondent linked the subject website to another very similar-looking domain name, namely <celltrion-2.com>. Following is the concerned page of the website of the disputed domain name after it was sanctioned, in which it was explained that the website of the disputed domain name can be accessed by using another domain name <celletrion-2.com>.



3.7 In the meantime, even though it was banned officially to access to the website of the disputed domain name by the sanction, such an access control does not work at all in foreign countries. Even in Korea, access to the subject website is being enabled, if access is detoured via foreign country or involves using of Android cell phone.

4. Parties' Contentions

A. Complainant

The Complainant asserts that the disputed domain name is confusingly similar to its registered and well-known trademark "CELLTRION".

The Complainant also alleges that the Respondent has no right or legitimate interest in the disputed domain name because (a) the Complainant has exclusive right on the trademark and never authorized the Respondent to use the disputed domain name, and (b) the Respondent's purpose of registering the disputed domain name was to run an illegal private gambling website by hijacking the reputation of the Complainant, and therefore, that it cannot be considered that the Respondent has legitimate interests in respect of the subject domain name.

The Complainant further asserts that the Respondent has registered and used the disputed domain name in bad faith because the Respondent has used the disputed domain name for commercial gain by committing felonies, i.e., running an illegal private gambling website, and luring Internet users to its website by hijacking the reputation of the Complainant.

B. Respondent

The Respondent has submitted no Response.

Under paragraph 5(e) of the Rules, it is provided that if a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based on the Complaint. As no exceptional circumstance has been brought to the Panel's attention, it proceeds to make the findings below on the basis of the materials contained in the Complaint.

Furthermore, under paragraph 14(b) of the Rules, when a party defaults in complying with any of the requirements of the Rules, in the absence of exceptional circumstances, the Panel is entitled to draw such inferences therefrom as it considers appropriate.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of 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

Excluding the extension (.com) from the disputed domain name, the remaining part is "celltrion" and a figure "1" connected by a hyphen(-). Considering that "1" is a simple and common figure having no distinctiveness, and that "-1" generally means a first portion or part of the main word to which it is connected, "celltrion-1" does not derive any different meaning from "celltrion" itself.

Under the reason, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark "CELLTRION". Therefore, the Panel concludes that the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

The Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests as below:

『 Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidences presented, shall demonstrate your rights or legitimate interests to the domain name for purpose of paragraph 4(a)(ii):

(i) before any notice to you of the disputes, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in accordance with a bona-fide offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleading divert consumers or to tarnish the trademark or service mark at issue. 』



The Respondent has provided no evidence to prove its rights or legitimate interests on the disputed domain name. Therefore, the Panel concludes that the Complainant has satisfied the requirement of paragraph 4(a)(ii) of the Policy.

C) Bad Faith

According to paragraph 4(b)(iv) of the Policy, the circumstances indicating that by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location shall be evidence of the registration and use of the domain name in bad faith.

The disputed domain name was registered on February 14, 2019. Considering that the Complainant's trademark "CELLTRION" has been registered and used since 2002, and that the trademark has become well-known at least in Korea well before the registration date of the disputed domain name, it is reasonably assumed that the Respondent was well aware of the existence of the Complainant's trademark "CELLTRION" at the time of registration of the disputed domain name.

The website operated with the disputed domain name was an illegal sports betting site providing online system involving sports games like football, baseball and basketball which allows users to make a bet based on the game result they predict and to be paid dividends according to actual game result.

In the website, the Respondent used Complainant's trademark "CELLTRION" and its Korean equivalents together with the Complainant's logo  and CI  "CELLTRION". By doing so, the Respondent intended to deceive Internet users as if it were provided by the Complainant.

The Complainant filed a complaint with Korea Communications Standards Commission and Korea Sports Promotion Foundation, requesting to ban the website of the disputed domain name under the ground that the website was "illegal gambling site." The complaint was adopted and accordingly the website was officially banned.

To avoid and neutralize the sanction, however, the Respondent linked the subject website to another very similar-looking domain name, namely <celltrion-2.com>, by doing so, the Respondent continues running its illegal gambling site.

From the facts, the Panel finds that the primary purpose of the Respondent in registering and using the disputed domain name was to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the

Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Therefore, the Panel concludes that the Complainant has satisfied the requirement of paragraph 4(a)(iii) of the Policy.

6. Decision

For all the foregoing reasons, in accordance with Paragraph 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <celltrion-1.com> be transferred to the Complainant.



Jong-Yoon KIM

Sole Panelist

Dated: July 17, 2019