ADNDRC Asian Domain Name Dispute Resolution Centre seoul

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-2000223

Complainant: Hyundai Motor Company (Authorized Representative : Dong-Won Kim Attorney, Joo-Young Moon Patent Attorney, Seung-Jun Ji Patent Attorney)

Respondent: Hyn Kr

Disputed Domain Name(s): hyundaigroupkr.com

1. The Parties and Contested Domain Name

The Complainant is Hyundai Motor Company, 12, Heolleung-ro, Seocho-gu, Seoul, Republic of Korea.

The Authorized Representative of Complainant is Dong-Won Kim Attorney, Joo-Young Moon Patent Attorney, Seung-Jun Ji Patent Attorney, Jeongdong Building 17F, 21-15, Jeongdong-gil, Jung-gu, Seoul, Republic of Korea.

The Respondent is Hyn Kr.
The registered information of the domain name in regard of the Registrant, the Administrative and the Technical Contact is Hyn Kr, 12, Heolleung-ro, Seocho-gu, Ab, Abi 234 NG.
The registered information of the domain name in regard of the Registration's billing contact is Hyn Kr, 5033 Transit Road, Ab, Abi 234, NG.

The domain name at issue is 'hyundaigroupkr.com', registered by NameSilo, LLC.

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)["Center"] on September 28, 2020, seeking for a transferred of the domain name in dispute.

On October 14, 2020, the Center sent an email to the Registrar asking for the detailed data of the registrant. On October 24, 2020, NameSile, LLC 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 October 27, 2020 and the due date for the Response was November 16, 2020. No Response was filed by the due date.

On November 25, 2020, the Center appointed Mr. Jeong-il Suh 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.

3. Factual background

The Complainant "Hyundai Motor Company" is the owner of all rights in and to the trademark "HYUNDAI" and "HYUNDAI MOTOR GROUP". Ever since the Complainant was founded in 1976, the Complainant has become one of the top manufacturing companies in the world. The Respondent registered the disputed domain name with Namesilo.com on July 21, 2020(Exhibit A).

According to the WHOIS domain information found on the website located at http://whois.co.kr, the disputed domain name "hyundaigroupkr.com" is registered under the name of "Hyn Kr".

4. Parties' Contentions

A. Complainant

The Complainant contends that:

(i) The disputed domain name <hyundaigroupkr.com> is confusingly similar to the Complainant's trademark HYUNDAI. It incorporates the Complainant's HYUNDAI mark in entirety with the addition of generic words. The addition of common words "group" or "kr" as a suffix makes no impact on the overall impression conveyed by the domain name to the internet users because "HYUNDAI" is instantly recognizable as the dominant part of the disputed domain name. The term "group" is merely a descriptive word which refers to an economic or legal entity formed of a parent and its affiliated companies, while the term "kr" is simply understood as an abbreviation of Korea, where the head office of the Complainant is located. The disputed domain name contains the word "HYUNDAI" which is not a common or descriptive word; it is a well-known mark and it identifies the business and products of the Complainant, as it has been used as a source identifier of the Complainant for more than 40 years until now.

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is an entity unrelated to the Complainant. The Complainant has not authorized the Respondent to use the HYUNDAI mark. The Respondent does not operate any business or sales using the disputed domain name.

The website which uses the Dispute Domain Name is merely re-directed to the Complainant's official website which uses the domain name. This evidently suggests that the Respondent, who is obviously ill-informed and confused about the Complainant, has no relationship whatsoever with the Complainant.

(iii) The disputed domain name was registered and is being used by the Respondent in bad faith. The Respondent is neither a licensed or authorized seller of the Complainant's products, nor does he have any economic or legal relationship with the Complainant. Therefore, the Respondent, knowing the reputation and value of the subject marks, must have registered the disputed domain name for the purpose of free-riding on the goodwill associated with the Complainant and the Complainant's business, and to profit from such value of the subject marks.

B. Respondent

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

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

The disputed domain name <hyundaigroupkr.com> is comprised of "hyundai", "group" and "kr". The dominant feature of the disputed domain name is "hyundai" which is entirely identical to the HYUNDAI trademark and the additional words "group" and "kr" are just a generic terms and descriptive suffixes. The term "group" is merely a descriptive word which refers to an economic or legal entity formed of a parent and its affiliated companies, while the term "kr" is simply understood as an abbreviation of Korea, where the head office of the Complainant is located.

Numerous UDRP panels have held that where a domain name substantially incorporates a complainant's trademark, this is sufficient to make the domain name "confusingly similar" within the meaning of the Policy.

See Section 1.7 of the WIPO Overview 3.0 says that inclusion of the entire trademark in a domain name will be considered confusingly similar. Also see Section 1.8 of the WIPO Overview 3.0 instructs that the addition of other terms (whether descriptive, geographical, pejorative, meaningless or otherwise) does not prevent a finding of confusing similarity. Also see Section 1.11.1 of the WIPO Overview 3.0 instructs that gTLDs such as (".com") may be disregarded for purposes of assessing confusing similarity.

The Panel finds that the disputed domain name is confusingly similar to the HYUNDAI mark for purposes of paragraph 4 (a)(i) of the Policy.

B) Rights and Legitimate Interests

Paragraph 4(a)(ii) requires Complainant to prove that Respondent has no rights or legitimate interests in the disputed Domain Name. Section 2.1 of the WIPO Overview 3.0 which states that once a complainant makes a prima facie case in respect of the lack of rights or legitimate interests of a respondent, the respondent carries the burden of demonstrating it has rights or legitimate interests in the disputed domain name. Where Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant contends that he has never licensed or authorized the Respondent to use the Complainant's trademark or to register any domain names incorporating the HYUNDAI mark.

There is no evidence presented to the Panel that the disputed domain name is making a legitimate noncommercial or fair use of the disputed domain name. In addition, there is no evidence to suggest that the Respondent has been commonly known by the disputed domain name.

The Panel finds that Complainant has made a prima facie showing that Respondent lacks rights and legitimate interests in the disputed domain name. Respondent has not contested Complainant's allegations.

Therefore, the Panel finds that Complainant has satisfied the elements of paragraph 4(a)(ii) of the Policy.

C) Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the disputed domain name "has been registered and is being used in bad faith". As this requirement is conjunctive, the Complainant must establish both bad faith registration and bad faith use of the disputed domain name. In addition, the circumstances listed in paragraph 4(b) of the Policy are not exclusive, and other circumstances may likewise lead to a finding of bad faith registration and use.

Complainant asserts that the lack of use by Respondent of the website to which the disputed domain name resolves is sufficient evidence of bad faith. The criteria set forth in the Policy paragraph 4(b) are nonexclusive. In addition to these criteria, other factors alone or in combination can support a finding of bad faith. The Respondent in all likelihood registered the disputed domain name with the expectation of taking advantage of the reputation of the Complainants' trademarks or obtaining commercial gain.

The Panel finds that the HYUNDAI mark is well-known throughout the world and that Respondent had actual and/or constructive knowledge of Complainant's trademark rights.

The Panel is satisfied that bad faith registration and use have been established with respect to the disputed domain name in accordance with paragraph 4(b) of the Policy.

These elements are sufficient to establish bad faith registration and use under paragraph 4(a)(iii) of the Policy.

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 <hyundaigroupkr.com> be cancelled.

Jeongil Suh

Jeongil Suh
Sole Panelist

Dated: December 9, 2020