



Asian Domain Name Dispute Resolution Centre

- a charitable institution limited by guarantee registered in Hong Kong

(HONG KONG OFFICE)

ADMINISTRATIVE PANEL DECISION

Case No. HK-2301778
Complainant: GP Club
Respondent: Hao Nguyen
Disputed Domain Name(s): <jmsolution.store>

1. The Parties and Contested Domain Name

The Complainant is **GP Club**, a Company incorporated in the Republic of Korea with its place of business at 1222-12F Changgang BD, 86, Mapo-Daero, Mapo-Gu, Seoul. The Complainant is represented by **Chofn Intellectual Property**, 1218, 12th Floor, No. 68 West Road of North Fourth Ring, Haidian, Beijing 100081, China.

The Respondent is **Hao Nguyen**, of Nguyen Co Thach, Ha Noi, Vietnam. The Respondent is not represented.

2. Domain Name and Registrar

The domain name at issue is jmsolution.store; (the “**Domain Name**”), registered by the Respondent with **Namecheap.com, Inc. (the “Registrar”)**, of 4600 East Washington Street, Suite 305, Phoenix, AZ 85034, USA.

3. Procedural History

3.1 The Complaint dated 13 July 2023 was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“**ADNDRC**” or the “**Centre**”) on 14 July 2023.

3.2 On 14 July 2023, the Centre sent an email requesting the Registrar to provide information related to the Domain Name registration verification within five (5) days.

- 3.3 On 14 July 2023, the Registrar replied by email to the Centre its verification response with details of the information, which was withheld under the Privacy Service of the Domain Name. The information included the Contact ID, Administrative, Technical, and Billing Contact details of the Named Registrant. The Registrar confirmed that the language of the Registration Agreement was English.
- 3.4 On 17 July 2023, the Centre provided the Complainant, by email, with the information about the Registrant as received from the Registrar. The Centre invited the Complainant to rectify the deficiencies found in the Complaint Form C, in accordance with Article 4 of the Rules for the ICANN Uniform Domain Name Dispute Resolution Policy (the "**Rules**") and submit an amendment to the Complaint Form C, within five (5) calendar days, on or before 22 July 2023.
- 3.5 On 18 July 2023, the Complainant submitted the amended Complaint Form C and Annexure 5 by adding the certified document of the Vietnamese Trademark.
- 3.6 On 24 July 2023, the Centre verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "**Policy**" or "**UDRP**"), the Rules for UDRP, and the ADNDRC Supplemental Rules for UDRP (the "**Supplemental Rules**").
- 3.7 On 25 July 2023, the Centre, in accordance with the Rules, Paragraphs 2 and 4, notified the Respondent of the Complaint and the date of the commencement of the proceedings as 25 July 2023. In accordance with Paragraph 5 of the Rules, the Centre fixed the due date for the response as on or before 14 August 2023. The Respondent did not submit any reply. Accordingly, on 17 August 2023, the Centre notified the Respondent's default.
- 3.8 On 17 August 2023, the Centre invited Jayems, Dhingra Jag Mohan, to confirm availability to be the Sole Panellist for this matter. On the same day, the invited Panellist confirmed availability and submitted the Statement of Acceptance, Declaration of Impartiality, and Independence, as required by the Centre, to ensure compliance with Paragraph 7 of the Rules.
- 3.9 On 19 August 2023, the Centre confirmed the appointment of the Sole Panellist and notified the Parties. Therefore, the Panel finds that it was properly constituted.

4. Factual background

- 4.1 The Complainant is a Company incorporated in South Korea in 2003, with its place of business and address in Gangnam, Seoul. Since around 2016, the Complainant entered the manufacturing and distribution business of beauty products under the brand name JMSOLUTION. The Complainant stated that it is an integrated cosmetic company with over 500 product lines to provide total beauty solutions for ultimate beauty.

4.2 The Complainant is the registered owner of the Trademark “JMSOLUTION,” as evidenced by the partial list of the Trademark Certificates provided by the Complainant and issued by the International Trademark Registries, summarized in Table-1.

Table-1: Summarized List of Trademarks Registered and Current Status¹
Applicant: GP CLUB CO. LTD (KR)

#	Trademark No. / Applicant	IP Office/ Registry	Nature of Trademark	Class	Application Filed Date	Current Status
1	VN 4-0373504 / GP CLUB CO. LTD (KR)	IPO, Vietnam	Word (JMSOLUTION)	3	5 Apr 2017	Registered
2	4/2017/00004978 / JMINC CO., LTD [KR]	IPO Philippines	Word (JMSOLUTION)	3	3 Apr 2017	Registered
3	1457693 (1999685) / GP CLUB CO., LTD.	IP Australia	Word (JMSOLUTION)	3	9 Dec 2019	Registered
4	40-1286281 / GP CLUB CO. LTD.	IPO Korea	Word (JMSOLUTION)	3	6 Feb 2017	Registered
5	01870460 / GP CLUB CO., LTD.	IPO, China	Word (JMSOLUTION)	3, 19	1 Oct 2017	Registered
6	5,467,157 / JMINC CO., LTD. (KOREA)	USPTO, USA	Word (JMSOLUTION)	3	15 May 2018	Registered
7	5,467,157 / GP CLUB CO. LTD. (Korea)	USPTO, USA	Word (JMSOLUTION)	3	31 May 2022	Registered
8	5986746 /	Japan Patent Office	Word (JMSOLUTION)	3	28 Mar 2017	Registered
9	018387761/ GP CLUB CO., LTD.	EUIPO	Word (JMSOLUTION)	3	20 May 2021	Registered
10	19950554 / GP CLUB	Korea IP Office	Word (JMSOLUTION)	3	7 Jul 2017	Registered
11	40201704984W / JMINC Co., Ltd.	IPO Singapore	Word (JMSOLUTION)	3	28 Mar 2017	Registered

4.3 The Respondent did not submit a response, and its factual background is not known. However, it is confirmed by the Registrar that the Respondent is the registrant of the Domain Name <jmsolution.store>, and the registration expires on 17 May 2024. The Domain resolves to an active website.²

¹ See Complaint Form C, Annex-5, List of Trademark Certificates.

² See Complaint Form C, Annex-3, Domain WHOIS Lookup Report.

5. Parties' Contentions

A. Complainant

5.1 The Complainant seeks that the Domain Name be transferred to the Complainant. The Complainant's contentions and the Complaint are made on the following factual and legal grounds, emphasized in detail in the UDRP Complaint Form C and Annexures:

5.1.1 The disputed Domain Name is identical to its well-known trademark, can lead to consumer confusion, and the Respondent does not have legal rights to use it.

5.1.2 The Complainant contended that the JMSOLUTION trademark is globalised and is registered in several countries and regions. The Complainant has submitted eleven (11) trademark certificates in its evidence, as listed in Table 1.

5.1.3 The Complainant contended that the JMSOLUTION Brand name was formally established in 2016 and by 2018, achieved sales of RMB 2.5 billion in the Chinese Market through the Internet and other forms of cross-border sales.

5.1.4 The Complainant submitted the pictures showing crowds at the grand opening and debut of its brand JMsolution in May 2018 at the China Beauty Expo.³ The Claimant submitted a snapshot showing an investment of KRW 75 billion in October 2018 in GP Club Co., Ltd.,⁴ and a series of accolades to showcase the popularity of the Brand Name and Complainant as per the following:

- In June 2019, Market Capitalization exceeded KRW 1 trillion, joining the list of global unicorn companies.⁵
- In July 2019, ranked first in the sales ranking of personal care and cosmetic brands.
- In 2020, ranked #1 in China for mask sales.
- As of June 2021, *JMSOLUTION* mask sales have reached a cumulative total of RMB 2.2 billion.
- GP Club has been honoured by the President of South Korea on several occasions.⁶
- Celebrity endorsements of its products shown in marketing profile.⁷
- Launch of online and offline sales channels in China, Korea, the United States, Japan, Indonesia, Malaysia, Singapore, Vietnam, and other countries.⁸

³ See pictures contained in Annex-6 of the Complaint Form C.

⁴ See Annex-7 of the Complaint Form C.

⁵ See Complaint Form C Annex-8 Hurun Global Unicorn List 2020.

⁶ See Complaint Form C Annex-9.

⁷ See Complaint Form C Annex-10.

⁸ See Complaint Form C Annex-11.

- 5.1.5 The Complainant stressed that the dominant and consistent feature of JMSOLUTION Mark is used in the infringing and disputed Domain Name, as was in the case of *Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. D2017-0275.⁹
- 5.1.6 The Complainant submitted that the Respondent has no rights or legitimate interests in the Domain Name and impersonates or suggests sponsorship or endorsement by the trademark owner and does not constitute fair use.¹⁰
- 5.1.7 The Complainant contends that the Respondent has registered and used the Domain Name in bad faith. In light of the well-known mark of the Complainant's Trademark, it is inconceivable that the Respondent was unaware of the Complainant's Trademark or Brand Name.
- 5.1.8 The Complainant submitted further arguments to support the issue of bad faith by relying on *eBay Inc. v. Renbu Bai*, WIPO Case No. D2014-1693.¹¹
- 5.1.9 The Complainant submitted the screenshots of the Respondent's website using the disputed Domain Name bearing the trademark and pictures of the Complainant's brands to show that the Domain Name is registered and used in bad faith.

B. Respondent

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

6. Findings

- 6.1 The Complainant initiated the proceedings in English. The Respondent did not provide any response. The language of the Disputed Domain Registration Agreement is also English. Therefore, the Panel finds that in accordance with Paragraph 11(a) of the Rules, the language of this administrative proceeding shall be English.
- 6.2 In view of the lack of a response filed by the Respondent as required under Paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(f), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed factual submissions.

For the Complainant to succeed, the Complainant must prove as per Paragraph 4(a) of the ICANN Uniform Domain Name Dispute Resolution Policy (“**UDRP**”) that each of three findings must be made in order for the Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

⁹ See Complaint Form C Annex-13.

¹⁰ See Complaint Form C Annexure-14 Screenshot of the alleged infringing page.

¹¹ See Complaint Form C Annex-15.

- 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.

Therefore, only if all three elements above have been fulfilled can the Panel grant the remedies requested by the Complainant. The Panel deals with each of the requirements in turn hereafter.

A) Identical or Confusingly Similar

- 6.3 Pursuant to Paragraph 4(a)(i) of the Policy, the Complainant must show that the Domain Name is (1) identical or confusingly similar to a trademark or service mark, (2) in which the Complainant has rights. Concerning having rights, the Complainant has submitted Trademark Registration Certificates from *eleven (11) international registries*, per the details above in Table – 1. It is noted from the review of the Trademark Certificates that the Complainant is the registered owner of the Trademark.
- 6.4 Pursuant to section 1.2.1 of the *WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”)*, where the Complainant holds a nationally or regionally registered trademark or service mark this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. Also, the Complainant's submission of the WIPO Case ***Rexel Developpements SAS v. Zhan Yequn*** is persuasive and supports requirements Paragraph 4(a)(i) Part (2) of the Policy.
- 6.5 The Complainant has provided factual submissions to show that its Mark is a well-known mark by submitting accolades, recognition in international markets, and the results from the Google search engine, which shows that most of the results point to the Complainant's brand.¹²
- 6.6 Accordingly, the Panel finds that the Complainant has proved its rights to the Trademarks used in the disputed Domain Name.
- 6.7 On the first element part (1) for assessment of identical or confusing similarity of the Domain Name with the Trademarks, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Complainant's Trademarks and the disputed Domain Name. In cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark.¹³ Further, “Where the relevant trademark is recognisable within the disputed domain name, adding other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”¹⁴

¹² See Complaint Form C Annex-12.

¹³ See Section 1.7 of the WIPO Overview 3.0.

¹⁴ See Section 1.8 of the WIPO Overview 3.0.

- 6.8 In the present case, the Complainant's Trademark is incorporated in its entirety in the disputed Domain Name with Top Level Domain ("TLD") ".store" and making it "jmsolution.store." It is well established that the addition of the generic Top-Level Domain ("gTLD") ".com," ".net," and any other letters before or after the Complainant's Trademark does not prevent a finding of confusing similarity with the Trademarks.¹⁵
- 6.9 The disputed Domain Name is confusingly similar to the Complainant's trademark JMSOLUTION. Since ".store" is not taken into account in the comparison, "JMSOLUTION" is the main part of the disputed Domain Name, which is identical to the Complainant's well-known and reputed trademark. This is the central and distinguishing element of the disputed Domain Name, as it will give the impression to the relevant public of being the same as the Complainant's website.
- 6.10 Therefore, having considered the above reasons, the Panel finds that the requirement under paragraph 4(a)(i) of the Policy has been satisfied.

B) Rights or Legitimate Interests

- 6.11 Pursuant to paragraph 4(c) of the Policy, any of the following circumstances, in particular, but without limitation, if found by the Panel to be proved based on the evidence, shall demonstrate a respondent's rights or legitimate interests to a domain name for the purposes of paragraph 4(a)(ii) of the Policy:
- (i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
 - (ii) the respondent (as an individual, business, or other organisation) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
 - (iii) the respondent is making a legitimate non-commercial or fair use of the domain name without intent for commercial gain to divert consumers misleadingly or to tarnish the trademark or service mark at issue.
- 6.12 The Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Name. It is usually sufficient for a complainant to make out a prima facie case that a respondent lacks rights or legitimate interests. If a complainant does establish a prima facie case, the burden of production of evidence shifts to the respondent (Section 2.1 of WIPO Overview 3.0).
- 6.13 The Complainant's contentions and the evidence on file show that the Respondent has not been linked or commonly known by the Domain Name. The Complainant also contends, and the Respondent did not submit any response to deny, that the Complainant did not authorize the Respondent's use of the Complainant's trademark in the Domain Name or has any relationship with the Complainant.

¹⁵ See section 1.11 of the WIPO Overview 3.0.

- 6.14 Based on the evidence of the Respondent's use of the Domain Name, it does not satisfy the requirements of a bona fide offering of goods and services. The Respondent has used the Domain Name to point to a website showing static pictures similar to the Complainant's JMSOLUTION trademark without any details of a company or individual owner and the range of goods or services offered. The Complainant submitted that the content of the disputed website overlapped with the project operated by the Complainant.
- 6.15 Based on the use of the Complainant's trademark in the Domain Name and substantial similarity between the Complainant's website and trademark, the Panel concludes that the Domain Name suggested affiliation between the Complainant and the Respondent, which did not amount to bona fide offering of services or legitimate fair use. Once a complainant makes a prima facie case, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name, which the Respondent did not provide.
- 6.16 The Complainant contended that the Google search leads to only the website and services of the Complainant's businesses, and no results were found leading to the disputed Domain Name.
- 6.17 However, by defaulting, the Respondent has failed to rebut the Complainant's prima facie case and demonstrate its rights or legitimate interests in the Domain Name. The Panel finds that the Complainant has satisfied the second element of the UDRP.
- 6.18 Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name, and the requirement of Paragraph 4(a)(ii) is fulfilled.

C) Registered and being Used in Bad Faith

- 6.19 Under paragraph 4(a)(iii) of the Policy, a complainant must show that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four non-exhaustive circumstances that may be considered evidence of registration and use of a domain name in bad faith.
- 6.20 In the Complaint, the Complainant has provided screenshots of a Google Search of its Trademark. The search results all point to the Complainant's website, "jmsolution.com", and the links to online shopping platforms promoting the products under the Complainant's brand name. The disputed Domain Name by which the Respondent impersonates the Complainant by mimicking its Trademark appears to show a misleading relationship or resemblance for unfamiliar consumers, which would amount to bad faith. Paragraph 4(b)(iv) of the Policy gives an example of similar circumstances of bad faith:
- (iv) By using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location by creating a likelihood of confusion with the complainant's mark as to the

source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

6.21 In view of the substantial similarity of pictures and names on the website linked to the disputed Domain Name and the registration date (17 May 2023) of the disputed Domain Name, the Panel is persuaded by the Complainant's contention that it can be reasonably inferred that the Respondent was aware of the Complainant's prior trademark and reputation of JMSOLUTION cosmetics and its websites besides international popularity of its Brand Name Products, well before registering the Disputed Domain Name.

6.22 The Complainant relies on the WIPO case of **eBay Inc. v. Renbu Bai and** submits that the Respondent's actions are an apparent infringement of its trademarks for profit or commercial gain, tantamount to bad faith.

6.23 Having considered the evidence presented and submissions made, the Panel finds that the Respondent has registered and is using the Domain Name in bad faith. Thus, the Complainant has proved the third element of Paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, and in accordance with Paragraphs 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders that the Domain Name <jmsolution.store> **be transferred** to the Complainant, forthwith.



Jayems, Dhingra Jag Mohan

Panellist

LL.M. (IP Laws), WIPO Neutral

Dated: 24 August 2023