



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-2301846
Complainant: SEGWAY INC.
Respondent: Reinhard Poetzlberger
Disputed Domain Name(s): <segway-motors.com>

1. The Parties and Contested Domain Name

The Complainant is **SEGWAY Inc.**, a Company incorporated in the United States of America (“USA”) with its place of business at 14 Technology Drive, Bedford, NH 03110, USA. The Complainant is represented by **Chofn Intellectual Property**, 1217, 12th Floor, No. 68 West Road of North Fourth Ring, Haidian, Beijing 100081, China.¹

The Respondent is **Reinhard Poetzlberger** of Obere Konigsstrabe 4, Kassel, NA, 40589, Denmark. The Respondent is not represented.

2. Domain Name and Registrar

The domain name at issue is segway-motors.com; (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 5 December 2023 was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“**ADNDRC**” or the “**Centre**”) on 5 December 2023.
- 3.2 On 6 December 2023, the Centre sent an email to the Registrar requesting information related to the Domain Name registration and verification within five (5) days.

¹ See Complaint Form C, Annex 2: Power of Attorney issued by the Complainant.

- 3.3 On 11 December 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 14 December 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 19 December 2023.
- 3.5 On 15 December 2023, the Complainant submitted the amended Complaint Form C.
- 3.6 On 15 December 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 15 December 2023, the Centre, in accordance with the Rules, Paragraphs 2 and 4, notified the Respondent of the Complaint. Thus, the commencement date of the proceedings is 15 December 2023. In accordance with Paragraph 5 of the Rules, the Centre fixed the due date for the response as on or before 4 January 2024. The Respondent did not submit any reply. Accordingly, on 5 January 2024, the Centre notified the Respondent's default.
- 3.8 On 22 December 2023, the Centre invited Jayems, Dhingra Jag Mohan, to confirm availability to be the Sole Panellist for this matter. On 23 December 2023, 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 5 January 2024, the Centre confirmed the appointment of the Sole Panellist and notified the Parties.
- 3.10 Therefore, the Panel finds that it was properly constituted within the scope of the Policy, which is incorporated in the agreement between the Registrar and the Respondent.² Thus, the Panel has jurisdiction to decide this dispute.

² See Complaint Form C, Annex 1: Domain Name Registration Agreement with Registrar Namecheap.

4. Factual background

- 4.1 The Complainant submitted that it was founded in 1999 by the inventor Dean Kamen and since 2002 has been producing and marketing several products of personal transporter (“PT”) under the brand name Segway. The Complainant submitted an extract from WIKIPEDIA to elaborate on its history.³ The Certificate of Incorporation dated 18 June 2015 shows that the Company Segway Inc. is incorporated in the State of Delaware, United States of America.⁴
- 4.2 The Complainant has been engaged in research and development, design, manufacturing, distribution, and sales of short-distance travel products. The Complainant submitted that it operates from strategic locations in the United States, the Netherlands and Beijing and has production facilities in the United States and China.
- 4.3 The Complainant has the exclusive right to use trademarks such as SEGWAY in Classes 9, 12, and 28. The evidence as the registered owner/assignee of the Trademark “SEGWAY” is evidenced by the 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 Status⁵

#	Trademark No. / Applicant/Assignee	IP Office/ Registry	Nature of Trademark	Class	Application Filed Date	Current Status
1	RU 734124 / SEGWAY Inc. (USA)	IPO, Russia	Word (SEGWAY e-Skates)	12, 28	21.06.2018	Valid till 03.08.2028
2	002545762 / SEGWAY LLC (USA)	OHIM	Word (SEGWAY)	9, 12, 16, 25, 28, 35, 36, 39, 41.	20.08.2004	23.01.2012
3	002957587 / SEGAWAY LLC (USA)	OHIM	Word (SEGWAY)	9, 35, 39	30.03.2005	25.11.2012
4	2294042 / from ACME Manufacturing LLC (USA) Assignment to SEGWAY LLC (USA)	TM Registry, UK	Word (SEGWAY)	12	28.08.2002	Not given.

³ See Complaint Form C, Annex 6: “A Segway is a two-wheeled, self-balancing personal transporter device invented by Dean Kamen. It is a registered trademark of Segway Inc. It was brought to market in 2001 as the Segway HT and then subsequently as the Segway PT. HT is an initialism for "human transporter" and PT for "personal transporter." Ninebot, a Beijing-based transportation robotics startup rival, acquired Segway Inc. in April 2015, broadening the company to include other transportation devices; in June 2020, it was announced that it would no longer make the Segway PT.

⁴ See Complaint Form C, Annex 4: Certificate of Company Incorporation.

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

Table-1: Summarized List of Trademarks Registered and Current Status⁵

#	Trademark No. / Applicant/Assignee	IP Office/ Registry	Nature of Trademark	Class	Application Filed Date	Current Status
5	1972773 / Segway Inc. (USA)	IP, Australia	Word (SEGWAY)	7, 9, 12, 18, 25, 28, 39.	30.11.2018	29.11.2028
6	2,769,942 2,727,948 2,805,463 2,891,587 SEGWAY LLC. USA	USPTO, USA	Word (SEGWAY)	12, 12, 36, 41	30.09.2003 17.06.2003 13.01.2004 05.10.2004	Not given.
7	23242175 3193591 3193593 3193989 3193990 SEGWAY INC. USA	IPO, China	Word (SEGWAY)	12, 9, 28, 35, 39	28.05.2018 07.08.2003 21.10.2003 14.01.2006 21.09.2003	27.05.2028 06.08.2033 20.10.2033 13.01.2026 20.09.2033
8	751704 / ACME Manufacturing LLC (USA)	IMPI, Mexico	Word (SEGWAY)	12	12.09.2001	Not given

- 4.4 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 <segway-motors.com>, and the registration expires on 2 June 2024. The Domain resolves to an active website with a contact address in Moscow, Russia.⁶

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 twelve (12) 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 SEGWAY trademark is well-known to the public worldwide and is registered in several countries, including Russia, the USA, China, and the European Union. The Complainant has submitted fifteen (15) trademark certificates in its evidence, as listed in Table 1.

⁶ See Complaint Form C, Annex-3: Domain WHOIS Lookup Report, and the website.

- 5.1.3 The Complainant contended that the SEGWAY Brand name was formally established in 2002, and the Complainant is a world leader in the new short-distance power transportation products and has more than 1,000 basic patents based on the global industry.
- 5.1.4 The Complainant submitted the snapshots of awards for its products and contended that these have been sold in more than 60 countries and regions.⁷
- 5.1.5 The Complainant contended that the disputed Domain Name points to a website which is highly overlapping with the Complainant's official website and that the Respondent's use of the Disputed Domain Name is not in any way bona fide. The Complainant submitted the screenshots of the Respondent's website using the disputed Domain Name bearing the trademark and pictures of the Complainant's products to show that the Domain Name is registered and used in bad faith.⁸
- 5.1.6 The Complainant submitted that the Disputed Domain Name was registered on 2023-06-02, much later than the Complainant's worldwide use of the SEGWAY trademark. Since 2019, SEGWAY has been active in Russia and has created a Russian-language website based on the habits of Russian users.⁹
- 5.1.7 The Complainant further contended that its investigation of the disputed Domain name shows the website's content overlapping with the project operated by the Complainant.¹⁰

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 absence of a response from the Respondent as required under Paragraph 5 of the Rules, this proceeding has proceeded by way of default.

⁷ See Complaint Form C Annex 7: Media Coverage and World-Class Awards.

⁸ See Complaint Form C Annex 11: Disputed Domain Website Content.

⁹ See Complaint Form C Annexure 12: Report on Segway's business activities in Russia.

¹⁰ See Complaint Form C Annex 11: Content of the website of disputed Domain.

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**”), and 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
- 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 fifteen (15) Trademark Registration Certificates from *eight (8) national trademark registries*, per the details above in Table 1. It is noted from the review of the Trademark Certificates that the Complainant is the registered assignee and the owner.

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.

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.¹¹

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

¹¹ See Complaint Form C, Annex 8: Search Engine Screenshots.

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.¹² 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."¹³

- 6.8 In the present case, the Complainant's Trademark is incorporated in its entirety in the disputed Domain Name and inserting "-motors" and Top Level Domain ("TLD"), making it "segway-motors.com" 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.¹⁴
- 6.9 The Complainant, referring to the *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. D2000-0429, and WIPO Case *Rohde & Schwarz GmbH & Co. KG v. Perthshire Marketing Ltd.*, WIPO Case No. D2006-0762 submitted that the TLD and suffix "-motors" should be disregarded.¹⁵ The Complainant contended that the main identifying part of the disputed domain name is segway, which is completely consistent with the Complainant's English trademark SEGWAY and referred to the case, *DHL Operations B.V. v. DHL Packers*, WIPO Case No. D2008-1694.¹⁶
- 6.10 The Panel finds that both the referred cases and several other precedents from the WIPO Domain Name Decisions are persuasive and support the requirements in Paragraph 4(a)(i) Part (2) of the Policy.
- 6.11 The disputed Domain Name is confusingly similar to the Complainant's trademark SEGWAY. Since "-motors.com" is not taken into account in the comparison, "SEGWAY" 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 relevant public the impression of being the same as the Complainant's website.
- 6.12 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

- 6.13 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

¹² See Section 1.7 of the WIPO Overview 3.0.

¹³ See Section 1.8 of the WIPO Overview 3.0.

¹⁴ See section 1.11 of the WIPO Overview 3.0.

¹⁵ See Complaint Form C, Annex 9: WIPO Case No. D2006-0762.

¹⁶ See Complaint Form C, Annex 10: WIPO Case No. D2008-1694.

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.

6.14 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).

6.15 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.

6.16 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 products and pictures similar to the Complainant's SEGWAY trademark. The Complainant submitted that the content of the disputed website overlapped with the project operated by the Complainant.¹⁷

6.17 Based on the use of the Complainant's trademark in the Domain Name and substantial similarity between the Complainant's website, trademark, and a crude replica of the Complainant's products, 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.

6.18 The Complainant contended that the trademarks database search did not find any trademarks under the Respondent; the name of the Respondent is also not linked in any way with the disputed Domain.

¹⁷ See Complaint Form C, Annex 11: Content on the Disputed Domain Name website.

- 6.19 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.
- 6.20 Accordingly, the Panel finds that the Respondent has no rights or legitimate interests with respect to the Domain Name, and the requirement of Paragraph 4(a)(ii) is fulfilled.

C) Registered and being Used in Bad Faith

- 6.21 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.
- 6.22 In the Complaint Form Annex 11, the Complainant has provided screenshots of the Respondent's website under the disputed Domain name and contended that the Respondent should have known about well-known products and trademarks of the Complainant before registering its domain. 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.
- 6.23 In view of the substantial similarity of pictures and names on the website linked to the disputed Domain Name and the registration date (2 June 2023) of the disputed Domain Name, the Panel is persuaded by the Complainant's contention. The Panel agrees that it can be reasonably inferred that the Respondent was aware of the Complainant's prior trademark and reputation of SEGWAY motorised PT and HT devices and its websites, besides the international popularity of its brand name products, well before registering the disputed Domain Name.
- 6.24 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 <segway-motors.com> **be transferred** to the Complainant, forthwith.



Jayems, Dhingra Jag Mohan

Sole Panellist

LL.M. (IP Laws), WIPO Neutral

Dated: 10 January 2024