



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-2401892
<b>Complainant:</b>	Lemon Inc.
<b>Respondent:</b>	Crystal International
<b>Disputed Domain Name(s):</b>	<byteplus.ai>

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**1. The Parties and Contested Domain Name**

The Complainant is Lemon Inc., of P.O. Box 31119 Grand Pavilion, Hibiscus Way, 802 West Bay Road, Grand Cayman, KY1 - 1205 Cayman Islands.

The Respondent is Crystal International, of 201 Nambusunhwan-ro 377-gil, Seoul, Gangnam-gu Seoul, 06274 Korea.

The domain name at issue is <byteplus.ai>, registered by Respondent with Megazone Corp., dba HOSTING.KR, of 7F Megazone Building 46, Nonhyeon-ro 85-gil, Gangnam-gu Seoul, 06235 Korea.

**2. Procedural History**

On 5 June 2024, the Complainant filed a Complaint involving the disputed domain name <byteplus.ai> with the Hong Kong Office of Asian Domain Name Dispute Resolution Centre (“the Center”), pursuant to the Uniform Domain Name Dispute Resolution Policy (“Policy”) approved by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on 24 October 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (“Rules”), approved by ICANN Board of Directors on 28 September 2013 and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (“Supplemental Rules”) effective from 21 August 2023.

On 6 June 2024, the Center transmitted by email to the Registrar a request for confirmation of the WHOIS records of the disputed domain name and other related information. On 18 June 2024, the Registrar responded with details of the registration. According to the reply, the language of the Registration Agreement of the disputed domain name is Korean.

On 19 June 2024, the Center reminded the Complainant that the language of proceedings of this case should be Korean. On the same day, the Complainant requested that the language of proceeding of the case be changed to English.

On 20 June 2024, the Center made a formal notification of the complaint to the Respondent and a separate reminder about the language of proceedings.

On 8 July 2024, the Center invited Prof. Chan-Mo Chung for panelist appointment and Prof. Chung accepted the invitation on the same day.

On 15 July 2024, the Center informed the Parties of the appointment of Prof. Chan-Mo Chung as the sole panelist of the case.

Having reviewed the communications records, the Panel finds that it was properly constituted and appointed in accordance with the Rules and the Supplemental Rules.

### 3. Factual background

The Complainant, an affiliate of ByteDance Group, is the owner of trademark registrations for BYTEPLUS across various jurisdictions including with the Korean Intellectual Property Office (KIPO), the Intellectual Property United Kingdom (IPOUK), IP Office Indonesia (DGIP), and the United States Trademark & Patent Office (USPTO). Details are shown below:

TRADEMARK	JURISDICTION/ TM OFFICE	APPLICATION/REGI STRATION NUMBER	REGISTRATION DATE
BYTEPLUS	KR / KIPO	4017985350000	November 11, 2021
BYTEPLUS	KR / KIPO	4018564630000	April 13, 2022
BYTEPLUS	UK / IPOUK	UK00003556757	April 9, 2021
BYTEPLUS	ID / DGIP	IDM000919881	November 12, 2021
BYTEPLUS	US / USPTO	7059226	May 23, 2023

BytePlus business team was launched in 2021 to meet a niche market of providing machine learning technologies and solutions. The BytePlus now allegedly spans over three continents, with over 200 team members and 10 new products. The Complainant's BYTEPLUS brand is deemed to be recognized in Korea as well, particularly in the information technology and electronic commerce sector.

As the Respondent has not responded at all, no information is given except that 15 July 2023 is the registration date of the disputed domain name.

### 4. Parties' Contentions

#### A. Complainant

With regard to the change of language of proceedings to English, the Complainant submitted the following factors, among others, for consideration:

- i. Complainant is unable to communicate in Korean and translation of the Complaint would unfairly disadvantage and burden the Complainant and delay the proceedings and adjudication of this matter;
- ii. The disputed domain name is comprised of the terms in English; and
- iii. The Respondent has been named as the losing party in multiple UDRP decisions.

With regard to the substance of the case, the Complainant requests transfer of the disputed domain name on the following grounds:

- i. The disputed domain name is identical to Complainant's BYTEPLUS trademark;
- ii. The Respondent has no rights or legitimate interests in the disputed domain name; and
- iii. The disputed domain name has been registered and is being used in bad faith as evidenced by the pattern of cybersquatting by the Respondent.

B. Respondent

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

According to Paragraph 5(f) of the UDRP Rules, if a Respondent does not submit a response, the Panel shall decide the dispute based upon the complaint.

## 5. Findings

### 5.1 Preliminary Issue: Language of Proceedings

According to Paragraph 11 of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The spirit of Paragraph 11 is to ensure fairness in the selection of language by giving full consideration to the parties' level of comfort with each language, the expenses to be incurred and possibility of delay in the proceeding in the event translations are required and other relevant factors.

Looking the circumstances of this case from the perspectives above mentioned, this Panel finds the following factors particularly relevant. On one hand, the Complainant is unable to communicate in Korean. Translating the Complaint would burden the Complainant and could cause delays in the proceedings. On the other hand, the disputed domain name consists of the English words, "byte" and "plus", and the Respondent is seemingly well aware of the UDRP process.

The Panel also notes that the WIPO Overview of WIPO Panel Views on Selected UDRP Questions (Third Edition) states: "where it appears the parties reasonably understand the nature of the proceedings, panels have also determined the language of the proceeding/decision taking account of the panel's ability to understand the language of both the complaint and the response such that each party may submit pleadings in a language with which it is familiar" (section 4.5.1).

In accordance with the spirit of the relevant paragraph of the UDRP Rules, the approach of the Center which has notified the Respondent in both English and Korean, and that of other panelists as summarized in the WIPO Overview, this Panel accepts the Complaint

filed in English but will render the remaining findings in Korean, followed by the decision in both languages.

## 5.2 Substantive Issue

UDRP 규정 제4조 (a)항에 따르면 신청인은 자신의 주장을 관철시키기 위하여 다음과 같은 요건을 모두 입증해야 한다.

- (i) 신청인이 권리를 갖고 있는 상표 또는 서비스표와 등록인의 도메인이름이 동일하거나 혼동을 일으킬 정도로 유사하다는 것,
- (ii) 등록인이 그 도메인이름의 등록에 대한 권리 또는 정당한 이익을 가지고 있지 아니하다는 것, 그리고
- (iii) 등록인의 도메인이름이 부정한 목적으로 등록 및 사용되고 있다는 것.

따라서 상기의 사항과 관련하여 이하에서 그 요건의 충족여부를 검토한다.

### A) 신청인의 상표 · 서비스표와 본 건 도메인이름의 유사성

제출된 서면과 증거에 의하면 신청인은 ‘BYTEPLUS’ 라는 문자상표를 등록하였으며, 피신청인이 등록한 본 건 분쟁 도메인이름에서 확장자를 제외한 요부는 ‘byteplus’이다. 도메인이름은 대문자와 소문자를 구별하지 않으므로 신청인의 상표와 본 건 도메인이름은 정확히 일치한다.

이에 본 패널은 첫 번째 요건이 입증되었다고 판단한다.

### B) 피신청인의 권리 또는 정당한 이익의 부존재

피신청인이 답변서를 제출하지 않았기에 충분한 검토를 하기 어려우나, 일견 피신청인의 상호 등으로부터 ‘byteplus’와의 관련성을 찾기 어려우므로 피신청인에게 이 사건 도메인이름의 등록에 대한 권리 또는 정당한 이익이 존재하지 않는 것으로 추정된다.

따라서 본 패널은 두 번째 요건이 입증되었다고 판단한다.

### C) 피신청인의 부정한 목적

신청인이 제출한 증거자료에 의하면 피신청인은 직업적으로 도메인이름의 매입에 투자하여 천여 개 이상의 도메인이름을 등록한 것으로 보인다. 도메인이름에의 투자 자체는 정당한 것이나 타인이 권리를 가지고 있는 상표와

동일 또는 유사한 도메인이름을 다수 등록, 사용하는 것에 대해서 UDRP규정은 부정한 목적을 추정케 하는 증거로 보고 있다.

피신청인이 본 사건 도메인이름을 등록하기 이전에 이미 신청인은 그 요부와 동일한 다수의 상표를 한국을 포함한 여러 국가에 등록하고 있었는데 신청인은 이를 알고서 등록한 것으로 추정된다. 이와 같은 피신청인의 부정한 목적에 대한 추정은 이미 복수의 사건에서 피신청인이 타인의 상표권을 침해하는 도메인이름을 부정한 목적으로 등록 및 사용한 것으로 판정된 것으로 더욱 강화된다고 할 것이다.

- Valextra S.P.A. v. Crystal International, D2018-1044 (WIPO Jul. 11, 2018)
- Nike, Inc. v. Crystal International, D2001-0102 (WIPO Mar. 19, 2001)
- Dell Inc. v. Crystal International, FA1910001868000 (FORUM Nov. 29, 2019)
- Getty Images (US), Inc. v. Crystal International, FA1304001492488 (FORUM, May 22, 2013)
- 아디다스 악티엔게젤샤프트 v Crystal International, KR-0900036 (ADNDRC-KR, Feb. 10, 2010)

특히 피신청인은 “.ai” 최상위도메인을 포함한 여러 최상위도메인 하에 정보통신 및 인공지능서비스와 관련한 저명한 기업의 상표와 동일 또는 유사한 도메인이름을 다수 등록하고 있는 것으로 보아 이 사건 신청인의 표장을 알고 등록하였을 가능성은 대단히 높다고 할 것이다.

- <alibabacloud.jp> (Alibaba Group Holding Limited – ALIBABA)
- <awscloud.ai> (Amazon Technologies, Inc. – AWS)
- <chatgptcloud.ai> (OpenAI, L.P. – CHATGPT)
- <googlecloud.cloud> (GOOGLE LLC – GOOGLE)
- <huaweicloud.sg> (Huawei Technologies Co., Ltd. – HUAWEI)

마지막으로, 피신청인은 이 사건 도메인이름을 등록한 이후 별다른 활동이 없이 소위 수동적 보유를 지속하고 있는바 *Telstra Corp. v. Nuclear Marshmallows*, D2000-0003 (WIPO Feb. 18, 2000) 등 다수의 선행하는 도메인이름 분쟁 패널들은 이를 부정한 목적을 추정케 하는 징표의 하나로 보고 있다.

따라서 본 패널은 신청인이 세 번째 요건도 입증하였다고 판단한다.

## D) 소결

위와 같이 신청인은 피신청인에 의한 이 사건 도메인이름의 등록 및 사용이 UDRP 규정 제4조 (a)항의 세 가지 요건에 모두 해당됨을 입증하였다.

## 6. Decision

For the foregoing reasons, in accordance with Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders that the disputed domain name, <byteplus.ai>, be transferred to the Complainant.

위와 같은 검토와 판단의 결과, 본 행정패널은 ‘규정’ 제4조 (a)항 및 ‘절차규칙’ 제15조에 의하여, 분쟁도메인이름인 <byteplus.ai>를 신청인에게 이전할 것을 결정한다.



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Chan-Mo Chung  
Sole Panelist

Dated: 22 July 2024