



Asian Domain Name Dispute Resolution Centre

(Seoul Office)

## ADMINISTRATIVE PANEL DECISION

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**Case No.:** KR-2400264

**Complainant:** APR Co., Ltd.

(Authorized Representative for Complaint: Seunghye Paek, Patent Attorney)

**Respondent:** Hamza Shahid

**Disputed Domain Name:** [ medicube.us.com ]

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### 1. The Parties and Contested Domain Name

The **Complainant** is APR Co., Ltd. of 36F, Olympic-ro 300, Songpa-gu, Seoul, Republic of Korea.

The **Respondent** is Hamza Shahid of Gulistan Colony Faisalabad, Punjab 38610 Pakistan.

The **Disputed Domain Name** is < **medicube.us.com** >, which is registered with NAMECHEAP Inc.

### 2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC; the “Centre”) on August 26, 2024, seeking a cancellation of the Disputed Domain Name.

The Centre verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), the Rules for the

Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the Centre’s Supplemental Rules for the Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

On September 2, 2024, the Centre sent an email to the Registrar asking for detailed data on the registrant. On September 3, 2024, the registrar, NAMECHEAP Inc., sent the Centre its response, noting that the language of the registration agreement is English, verifying the Respondent is listed as the registrant, and providing the contact details.

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint. The proceedings commenced on September 3, 2024, and the deadline for the Response was set for September 23, 2024. The Centre received the short response from the Respondent on September 24, 2024.

On September 30, 2024, the Centre appointed Mr. Chanmo Chung as Sole Panelist in the administrative proceeding, and after Mr. Chanmo Chung consented to the appointment and declared his impartiality and independence, the Centre, in accordance with Paragraph 7 of the Rules, organized the Panel for this case in a legitimate way.

### **3. Factual background**

The Panel accepts the following as undisputed facts:

The Complainant is a Korean beauty tech company established in October 2014, specializing in consumer skincare products. The Complainant’s business has experienced steady growth both domestically and globally, allegedly reaching a corporate value of 1 trillion KRW as of June 2023.

The Complainant holds several trademarks for the name “MEDICUBE”, primarily in product classes 3, 5 and 10, including:

- KR trademark (KR Reg. No. 40-1880484, June 20, 2022)

- US trademark (US Reg. No. 7129446, August 8, 2023)
- EU trademark (Int'l Reg. No. 1660556, September 29, 2022)

The Complainant also operates various websites, which incorporate the trademarked character, including:

- <themedicube.co.kr>
- <medicube.us>
- <themedicube.cn>
- <medicube.my>

It is thus accepted that the Complainant has the right to bring this case.

It is also recognized from the WHOIS database that the Respondent registered the Disputed Domain Name on May 11, 2024.

#### **4. Parties' Contentions**

##### **A. Complainant**

The Complainant's position can be summarized as follows:

The Complainant contends that the Disputed Domain Name is confusingly similar to its registered trademarks, the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and that it was registered and is being used in bad faith.

##### **B. Respondent**

The Respondent claims that it operates a professional dropshipping store and never intended to infringe on any trademarks or cause confusion regarding the brand. Additionally, the Respondent has proposed a business collaboration with the Complainant.

## 5. Findings

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

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 consists of "medicube", ".us" and ".com". In domain name dispute resolution, ".com" suffix is disregarded in the analysis of similarity, as it is a non-distinctive identifier of generic top-level domain name (See *Tencent v. Livon Biswas & Shubhankar Ghosh*, ADNDRC/HK-2001374; WIPO Overview 3.0, section 1.11.1).

Similarly, the suffix ".us" is also disregarded. It is a well-established law that an addition of a geographic term to a trademark does not preclude a finding of confusing similarity between a domain name and the corresponding trademark (e.g., *AltaVista v. S.M.A.*, WIPO/D2000-0927; WIPO Overview 3.0, section 1.8). In this case, the suffix only creates misunderstanding among the public that the Disputed Domain Name is associated with the Complainant's U.S. branch.

The remaining part of the Disputed Domain Name, “medicube”, is identical to the Complainant’s trademark.

Therefore, the Panel concludes that the Disputed Domain Name is confusingly similar to the Complainant’s trademark.

Accordingly, the Panel finds that the Complainant has successfully established the element in Paragraph 4(a)(i) of the Policy.

### **B) Rights and Legitimate Interests**

The Panel acknowledges the following statements from the Complainant, which were not disputed by the Respondent:

- 1) The Complainant has never authorized or licensed the Respondent to use any domain name incorporating the MEDICUBE mark.
- 2) There is also no evidence that the Respondent is commonly known by a name related to MEDICUBE.

While the Respondent claims that it has adhered to ethical business and never intended to infringe on the Complainant’s rights, the Panel, however, is supposed to base its determination not on assertions or intentions but on factual evidence. The Panel finds that the Respondent’s business does infringe on the Complainant’s rights and is not convinced by the Complainant’s argument that its dropshipping operations constitute non-infringing use of the Disputed Domain Name.

Therefore, the Panel concludes that the Complainant has established a prima facie case that the Respondent lacks rights and legitimate interests in the Disputed Domain Name under paragraph 4(a)(ii) of the Policy

### **C) Bad Faith**

Based on the evidence presented by the Complainant, it is clear that they have developed significant goodwill and reputation in their brand prior to the registration of the Disputed Domain Name. The evidence indicates that the Respondent was aware of the Complainant's trademark at the time of registration and intentionally leveraged the Complainant's reputation. The Respondent purposefully utilized the Complainant's reputation, caused confusion by displaying the Complainant's mark as well as the contents of the Complainant's official U.S. website, and even misinformed consumers as if its website were the Complainant's official website.

As a result, the Panel concludes that the Disputed Domain Name was registered and is being used in bad faith. The Complainant has successfully established the element outlined in Paragraph 4(a)(iii) of the Policy.

Therefore, the Panel finds that the Complainant has proved all three elements required under Paragraph 4(a) of the Policy.

## 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, <medicube.us.com>, be cancelled.



Chanmo Chung

Sole Panelist

Dated: October 10, 2024