



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2401951
Complainant:	Otis Elevator Company
Respondent:	Yeasin Miah
Disputed Domain Name:	<sigmaelevator-kr.com>

1. The Parties and the Disputed Domain Name

The Complainant is Otis Elevator Company, of 1 Carrier Place, Farmington, Connecticut, United States of America (the “USA”).

The Respondent is Yeasin Miah, of Room 301, Block 118, Changchun 8th street, Futian, Yiwu, Zhejiang, China.

The domain name at issue is <sigmaelevator-kr.com> (the “disputed domain name”), registered by Respondent with NameCheap, Inc, of 4600 E Washington St #305, Phoenix, Arizona, USA (the “Registrar”).

2. Procedural History

The Complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the “Centre”) on 23 December 2024. The Complainant elected to have this UDRP proceeding (defined below) dealt with by a single-member panel (the “Panel”). On 24 December 2024, the Centre transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On 7 January 2025, the Registrar transmitted by email to the Centre its verification response, disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information provided in the Complaint. The Centre sent a notification of deficiencies of the Complaint to the Complainant on 8 January 2025, providing the registrant and contact information disclosed by the Registrar. The Complainant was also instructed to amend the Registrar information and submit any missing documentation. The Complainant was given five calendar days to rectify these deficiencies. The Complainant filed an amended Complaint on 10 January 2025.

The Centre verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution

Policy (the “Rules”), and the ADNDRC Supplemental Rules to the ICANN Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with Paragraphs 2 and 4 of the Rules, the Centre formally notified the Respondent of the Complaint, and proceedings commenced on 13 January 2025 (the “UDRP proceeding”). In accordance with Paragraph 5 of the Rules, the due date for Response was 2 February 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on 3 February 2025.

The Centre appointed Yana Zhou as the Panel in this UDRP administrative proceeding on 3 February 2025. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Centre to ensure compliance with Paragraph 7 of the Rules.

3. Factual background

A. Complainant’s Factual Allegations


A.1 Background History

The Complainant, established in the USA in 1898, has been a stalwart in the elevator and escalator industry, asserting a dominant market position internationally. The Complainant’s founder is the inventor of the modern elevator, having created the world’s first safety elevator in 1853. The Complainant has become the world’s largest producer of elevators, lifting equipment, and other horizontal transportation systems.

The Complainant boasts a rich historical presence within the Chinese market, where the Respondent appears to reside, marked by significant installations since the late 19th century. In addition, the Complainant has been operating in South Korea through its subsidiary Sigma Elevator since 1968.

A.2 Trade mark standing

The Complainant asserts rights to the following registered trade marks:

- Chinese trade mark registration no. 1547035, filed on 7 December 1999, for the mark , in class 7 of the Nice Classification; and
- Chinese trade mark registration no. 3319879, filed on 25 September 2002, for the mark SIGMA, in class 7 of the Nice Classification.

The aforementioned trade marks shall be referred to as “the Complainant’s trade mark” or “the trade mark SIGMA”. Furthermore, the Complainant owns the domain name <sigmaelevator.com>, which is nearly identical to the disputed domain name, registered in 2000.

B. Respondent’s Factual Allegations

The Respondent has failed to submit a response in this UDRP proceeding, resulting in the Complainant’s allegations remaining unchallenged.

4. Parties' Contentions

A. Complainant's Submissions

The Complainant's contentions can be summarised as follows.

A.1 The disputed domain name is confusingly similar to a trade mark in which the Complainant has rights

The disputed domain name <sigmaelevator-kr> bears a close resemblance to the Complainant's trade mark SIGMA and pertains directly to the Complainant's core business, thereby raising considerable concerns of public confusion. The Complainant further contends that the inclusion of "kr" in the disputed domain name may mislead the public into perceiving an affiliation with the Complainant and its presence in South Korea. Furthermore, the notable similarity between the disputed domain name and the Complainant's prior domain name <sigmaelevator.com> could readily lead to consumer confusion regarding the source of the service provided.

A.2 The Respondent has no rights or legitimate interests in respect of the disputed domain name

The disputed domain name was registered on 4 February 2024, a date significantly subsequent to the establishment of the Complainant's rights to "SIGMA". There exists no evidence to suggest that the Respondent possesses any rights or legitimate interests in the disputed domain name or its components. The Complainant has not granted the Respondent authorisation to register or utilise the disputed domain name.

A.3 The Respondent registered and is using the disputed domain name in bad faith

The Complainant asserts that the Respondent has maliciously registered the disputed domain name, as it closely resembles the Complainant's well-established trade mark. The Respondent is alleged to have utilised the Complainant's trade mark on its website to promote its products in a misleading manner, infringing upon the Complainant's intellectual property rights. Such utilisation constitutes an attempt to exploit the Complainant's established reputation and amounts to trade mark infringement.

A.4 Relief sought

The Complainant requests that the disputed domain name be transferred to it.

B. Respondent

The Respondent has defaulted in this UDRP proceeding, failing to advance any substantive defence.

5. Findings

A. Applicable Legal Framework and Burden of Proof

Pursuant to Paragraph 15 of the Rules, the Panel will decide the matter based on the statements and documents submitted, alongside the Policy, the Rules, and any pertinent rules and principles of law.

Under Paragraph 4(a) of the Policy, the onus is on the Complainant to establish three essential elements for a successful claim:

- i. The disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- ii. The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- iii. The disputed domain name has been registered and is being used in bad faith.

These three elements will be referred to as “the requirements of the Policy”. The standard of evidence in UDRP administrative proceedings is the balance of probabilities. The Panel will assess each requirement in turn.

B. Identical or Confusingly Similar

The Panel finds that the Complainant possesses UDRP-relevant rights in the trade mark SIGMA as of 1999.

The disputed domain name <sigmaelevator-kr.com> includes the Complainant’s trade mark in its entirety, conjoined with the letters “kr”, which are linked by a dash. This association raises legitimate concerns regarding potential public confusion. The inclusion of the letters “kr” is likely to give rise to a false impression of an affiliation with the Complainant and its presence in South Korea.

For the avoidance of doubt, the generic Top-Level Domain (“TLD”) (in this case, <.com>) is generally disregarded in assessing the likelihood of confusion under this requirement of the Policy. *See e.g.* WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”), section 1.11.

The Panel concludes that the Complainant has satisfied the first requirement of the Policy.

C. Rights and Legitimate Interests

The Respondent’s default permits the Panel to draw adverse inferences. The evidence indicates that the Respondent is not commonly known by the disputed domain name and has not obtained the requisite authorisation from the Complainant for its registration or use. Moreover, it appears that the Respondent has failed to establish any legitimate use of the disputed domain name for a *bona fide* offering of goods or services, nor has any legitimate non-commercial or fair use been demonstrated. In the Panel’s view, there is a conspicuous absence of any rights or legitimate interests held by the Respondent in respect of the disputed domain name.

At the time of writing this decision, the disputed domain name resolves to a parked page featuring PPC advertisement for goods and services related to the Complainant’s business segment. The Panel has therefore taken stock of section 2.9 of the WIPO Jurisprudential

Overview 3.0, according to which UDRP panels have found that the use of a domain name to host a parked page containing PPC links does not represent a bona fide offering where such links compete with, or capitalise on, the reputation and goodwill of the complainant's trade mark or otherwise mislead Internet users. The Panel notes that this reflects the Respondent's current use of the disputed domain name.

The Panel finds that the Complainant has met the second requirement of the Policy.

D. Bad Faith

The Panel is persuaded by the Complainant's argument that the Respondent's registration of the disputed domain name amounts to an act of bad faith. The Respondent's conduct appears to be a deliberate attempt to capitalise upon the goodwill associated with the Complainant's trade mark.

As noted above, the disputed domain name currently resolves to a parked page featuring PPC advertisement for goods and services related to the Complainant's business segment. In addition, the Complainant has submitted evidence indicating that the Respondent has utilised the Complainant's trade mark to promote products on the website associated with the disputed domain name, thereby manifesting an intent to mislead Internet users and unlawfully benefit from the Complainant's established reputation. The Respondent's conduct falls squarely within the ambit of Paragraph 4(b)(iv) of the Policy.

6. Decision

For the foregoing reasons, in accordance with Paragraph 4(a) of the Policy and Paragraph 15 of the Rules, the Panel orders that the disputed domain name <sigmaelevator-kr.com> be transferred to the Complainant.



Yana Zhou
Panelist

Dated: 12 February 2025