



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

## ADMINISTRATIVE PANEL DECISION

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**Case No.:** KR-2500271

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

**Respondent:** Mustapha Bakhou

**Disputed Domain Name:** [ medicube.pro ]

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### 1. The Parties and Contested Domain Name

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

The **Authorized Representative** of the Complainant is Y.P. Lee, Mock & Partners, Seoul, Republic of Korea

The **Respondent** is Mustapha Bakhou of Ait Yahya Ait Hbib Tagzirt, Beni Mellal, 23652, Morocco.

The **Disputed Domain Name** is 'medicube.pro', which is registered with GoDaddy.com LLC.

### 2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC; the "Centre") on February 5, 2025, seeking for 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 February 11, 2025, the Centre sent an email to the Registrar, GoDaddy.com LLC., asking for detailed data on the registrant. On February 12, 2025, the registrar, 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.

On February 12, 2025, the Centre notified the Complainant of the deficiency of the Complaint and requested Complaint to rectify the deficiency by changing the details of the Respondent according to the Whois information provided by the Registrar. On the same day, the Centre received a revised Complaint submitted by the Complainant.

In accordance with the Rules, the Centre formally sent Written Notice of Complaint to the Respondent in English, notifying the Respondent of the commencement of the proceedings and that the deadline for submitting the response is March 5, 2025. The Centre received no response from the Respondent at all.

On March 6, 2025, the Centre sent email to Mr. Changhoon LEE for listing as a candidate of the panelist. On the same day, Mr. Changhoon LEE confirmed that he is available to act as a panelist for this case, and if appointed, he can act independently and impartially between the parties.

On March 6, 2025, the Centre notified the parties that the Panel in this case had been selected, with Mr. Changhoon LEE acting as the sole panelist. The Panel determines that the appointment was made in accordance with Rules 6 and Articles 8 and 9 of the Supplemental Rules.

### 3. Factual background

The Complainant is a beauty technology company based in Seoul that sells technological solutions and devices to enhance beauty care. According to the Complaint, the Complainant is the owner of international and national trademark registrations, including the following:

- Korea trademark “MEDICUBE”, registered under Registration No. 45-0077194 on November 30, 2018, for goods and services in international classes 3 and 35;
- Korea trademark “MEDICUBE”, registered under Registration No. 40-1880484 on June 20, 2022, for goods in international classes 5, 8 and 10;
- Korea trademark “**medicube**™”, registered under Registration No. 40-2218529 on July 5, 2024, for goods and services in international classes 3, 5, 9, 10, 29, 35, 42 and 44;
- US trademark “medicube”, registered under Registration No. 6,228,261 on December 22, 2020, for goods in international class 3;
- US trademark “MEDICUBE”, registered under Registration No. 7,129,446 on August 8, 2023, for goods in international classes 5 and 10;
- EU trademark “MEDICUBE”, registered under International Registration No. 1378349 on October 24, 2017, for goods in international class 3;
- EU trademark “MEDICUBE”, registered under International Registration No. 1660556 on April 7, 2022, for goods in international classes 5 and 10; and
- UK trademark “MEDICUBE”, registered under International Registration No. 1660556 on April 7, 2022, for goods in international classes 5 and 10.

The Complainant is the owner of each of the foregoing trademarks. According to the Complaint, the Complainant’s marks have been used in connection with various goods, but no evidence of ownership of the domain names registered by the Complainant has been provided.

The Disputed Domain Name was registered on December 16, 2024 and, according to the screenshots provided by the Complainant – which have not been contested by the

Respondent, resolved prior to the present proceeding to an active website where the Complainant's trademark MEDICUBE was displayed in the top center section of the home page and purported MEDICUBE beauty care products were offered for sale, using images of the Complainant's goods. The Complainant's MEDICUBE trademark was also reproduced in the upper right-hand section of each page of the website, along with copyrighted images of the Complainant's advertisements, photographs and descriptions of the Complainant's products. The website did not appear to contain any disclaimer of non-affiliation with the Complainant.

As of the date of this Decision, the Disputed Domain Name is no longer active.

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

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

The Complainant's contentions may be summarized as follows:

- The Disputed Domain Name is "medicube.pro" and is identical or confusingly similar to the trademarks "MEDICUBE" owned by the Complainant.
- The Complainant has never granted the Respondent any license, permission, or other right to own or use the Disputed Domain Name or any other domain name including the Complainant's registered trademarks. The Complainant further contends that there is no evidence that the Respondent has any legitimate rights in the Disputed Domain Name.
- The Respondent is intentionally attempting to mislead Internet users to the Respondent's website at the Disputed Domain Name by creating confusion with the Complainant's trademark in order to disrupt the Complainant's business. The Complainant further contends that the Respondent has been selling the Complainant's product at a higher price than the Complainant's retail price while using the Complainant's "MEDICUBE" trademark. The Complainant also contends that the Respondent has copied the

Complainant's copyrighted product photos, model photos, and product detail pages without permission.

- In light of the foregoing, the registration of the Disputed Domain Name should be cancelled.

## **B. Respondent**

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

## **5. Findings**

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**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Disputed Domain Name.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark and service mark for the purposes of the Policy. The

Complainant has provided evidence of ownership of valid trademark registrations for MEDICUBE.

The Panel finds the entirety of the mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is identical or confusingly similar to the mark in which the Complainant has rights for the purposes of the Policy. The Panel finds the addition of the generic Top-Level Domain (“gTLD”) “.pro” to the Disputed Domain Name has no relevance in this case since it is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Based on the available record, the Panel finds the first element of the Policy has been established.

## **B. Rights and Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings rests with the Complainant, panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to produce relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. WIPO Overview 3.0, section 2.1.

- i) Based on its review of the record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainant's prima facie case and has not provided any relevant evidence that it has rights or legitimate interests in the Disputed Domain Name.
- ii) The Respondent has not submitted any response and has not claimed any rights or legitimate interests with respect to the Disputed Domain Name. As per the Complaint, the Respondent was not authorized to register the Disputed Domain Name.
- iii) The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's trademark. Moreover, there is no element from which the Panel could infer a Respondent's right over the Disputed Domain Name, or that the Respondent might be commonly known by the Disputed Domain Name.
- iv) The Panel finds that the Respondent's prior use of the Disputed Domain Name as shown by the screenshots submitted by the Complainant – not contested by the Respondent – does not meet the requirements for a reseller or distributor to be making a bona fide offering of goods or services under a domain name incorporating a third-party trademark.
- v) According to section 2.8.1 of the WIPO Overview 3.0, “resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the ‘Ok! Data test’ (as set out in *Ok! Data Americas, Inc. v. ASD, Inc.*, WIPO Case No.

D2001-0903, and section 2.8.2 of the WIPO Overview 3.0), the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (A) the respondent must actually be offering the goods or services at issue;
- (B) the respondent must use the site to sell only the trademarked goods or services;
- (C) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (D) the respondent must not try to 'corner the market' in domain names that reflect the trademark".

<b>Product image provided by the Complainant at the Complainant's U.S. website</b>	<b>Product image used by the Respondent at the Disputed Domain Name</b>
 A photograph of a Medicube Collagen Night Wrapping Mask tube. The tube is white with a gold band near the bottom and a pink cap. The background is a soft-focus display of other Medicube products on shelves.	 A screenshot of a website showing the same Medicube Collagen Night Wrapping Mask tube. The image is identical to the one on the left, but it includes a semi-transparent overlay with a moon icon and the text 'MIGHT CARE' and 'COLLAGEN NIGHT WRAPPING MASK'. There are also navigation arrows on the left and right sides of the image.

- vi) In the case at hand, at least the third condition is not met, as the Respondent does not appear to have published an accurate and prominent disclaimer on its website aimed at informing users about its lack of relationship with the Complainant. Moreover, the Respondent's publication and reproduction of the Complainant's trademark and product images together with the Complainant's product descriptions (or slight variations thereof) appears to have been designed to reinforce the impression that the website corresponding to the Disputed Domain Name was operated by the



Complainant or one of its affiliates. In addition, the Respondent included “© 2025, Medicube” at the bottom of the website as if the Respondent were the copyright owner of the works posted on the website at the Disputed Domain Name.

Considering the foregoing, there is no evidence in the record giving rise to any rights or legitimate interests in the Disputed Domain Name on the part of the Respondent within the meaning of paragraph 4(c) of the Policy.


Based on the available record, the Panel finds the second element of the Policy has been established.

### **C. Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. WIPO Overview 3.0, section 3.2.1.

The Panel concludes that the Respondent has registered and used the Disputed Domain Name in bad faith for the following reasons:

- (i) Based on the available record, the Panel notes the prior registration and use of the trademark MEDICUBE in connection with the Complainant’s beauty care products, which were promoted and sold online through the Complainant’s website including its official U.S. website prior to the registration of the Disputed Domain Name;

- (ii) the Respondent could verify that the Complainant is the owner of the MEDICUBE trademarks by using a search engine for this purpose before registering the Disputed Domain Name;
- (iii) the Disputed Domain Name includes the MEDICUBE trademark in its entirety and has been resolved to an impersonating online store purportedly offering for sale Complainant's products;
- (iv) although, the Disputed Domain Name is not currently active, the Panel is of the opinion that the Respondent intentionally registered the Disputed Domain Name in order to generate traffic to its own website. The Panel notes that the Respondent does not appear to have published an accurate and prominent disclaimer on its website explaining that there is no existing relationship between the Respondent and the Complainant. On the contrary, the prominent use of the Complainant's MEDICUBE trademark in combination with a different design logo, such as  "Medicube" on the Respondent's website at the Disputed Domain Name, the reproduction of the Complainant's product images on the website to which the Disputed Domain Name resolves, and the inherently misleading nature of the Disputed Domain Name are sufficient evidence, in the Panel's view, that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant as to the source, sponsorship, affiliation, or endorsement of its website; and
- (v) the Panel further finds that the lack of Response supports the Panel's finding of bad faith.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy.

## 6. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name <**medicube.pro**> be **CANCELLED**.



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Changhoon Lee

Sole Panelist

Dated: March 14, 2025