



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

## ADMINISTRATIVE PANEL DECISION

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**Case No.** KR-2000210

**Complainants:** KCC CORPORATION (Authorized Representative: Heewon SEO,  
Patent Attorney, Bae, Kim & Lee IP Group)

**Respondent:** Virtuatic Virtuatic

**Disputed Domain Name(s):** kccturkiye.com

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### 1. The Parties and Contested Domain Name

The Complainant is KCC CORPORATION, 344, Sapyeong-daero, Seocho-gu, Seoul, (137-703), Republic of Korea.

The Authorized Representative of the Complainant is Heewon SEO, Patent Attorney, Bae, Kim & Lee IP Group, 11th Fl., Shindeok Building, 343, Gangnam-daero, Seocho-gu, Seoul, Republic of Korea.

The Respondent is Virtuatic Virtuatic, 34347, Ortakoy, Istanbul, Besiktas, Turkey.

The domain name at issue is kccturkiye.com, registered by Wild West Domains, LLC.

## **2. Procedural History**

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC) [the "Centre"] on January 14, 2020, seeking cancellation of the domain name in dispute.

On January 16, 2020, the Centre sent an email to the Registrar asking for details on the Disputed Domain Name. On February 18, 2020, Wild West Domains, LLC sent a response by email to the Centre, saying that the Respondent is listed as the domain name registrant and providing the contact details.

The Centre verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and ADNDRC's Supplemental Rules to ICANN Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint. The proceedings commenced on February 20, 2020 and the due date for the Response was March 11, 2020. No Response was filed by the due date.

On March 13, 2020, the Center appointed Mr. Doug Jay Lee as the Sole Panelist in the administrative proceeding and, with the consent to the appointment, impartiality and independence declared and confirmed by the Panelist, the Centre, in accordance with Paragraph 7 of the Rules, organized the Panel on this case in a legitimate way.

We are writing to advise the parties of the Panel's decision.

### **3. Factual background**

i) The Complainant was established on August 12, 1958 and is one of the world's leading manufacturers of construction and industrial materials and paints. "KCC" is the name of the Complainant and the corporate identity trademark of the KCC Group, to which the Complainant belongs. The Complainant began using the trade name and trademark "KCC" in 1995. The Complainant has registered and retained 497 trademarks for "KCC" and marks inclusive of "KCC" in countries around the world, including the United States, China and Korea, as well as several countries in Europe.

ii) The Respondent is listed in the WHOIS database as the registrant, administrative manager and technology manager of the Disputed Domain Name. The Disputed Domain Name Website is being used as the official homepage of KCC DENİZ ENDÜSTRİYEL VE AĞIR SANAYİ BOYALARI TİC. LTD. ŞTİ. (hereinafter, "DENİZ").

iii) The Complainant's Turkish subsidiary, KCC BOYA SANAYİ VE TİCARET LİMİTED ŞİRKETİ (hereinafter, "KCT"), signed a distributor agreement with DENİZ on March 6, 2009. According to Section 12.1 of the agreement, the bilateral contract expired on November 29, 2018, which was the date on which KCT sent a warning letter to DENİZ to request payment of the bond. Afterward, the Complainant and KCT jointly sent a warning letter asking the Respondent not to use the Disputed Domain Name on May 20, 2019. Neither the Respondent nor DENİZ have taken any action as yet.

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

#### **A. Complainant**

The Complainant's contentions may be summarized as follows:

i) The Complainant, the flagship company of the KCC Group, has registered and retained 497 trademarks for "KCC" and marks inclusive of "KCC" in countries

around the world, including the United States, China and Korea, as well as several countries in Europe. The Complainant and its mark “KCC” are well known in Korea, Turkey and around the world.

ii) Anyone could easily recognize that “kccturkiye,” which is the Disputed Domain Name minus the “.com” extension, is a combination of (i) “KCC,” a world-famous mark and the mark/name of the Complainant, and (ii) The name “Türkiye” is Turkish for the country known in English as Turkey.

iii) The Disputed Website is being used as the official homepage of DENIZ, even though the agreement between DENIZ and the Complainant’s Turkish subsidiary is currently expired.

#### 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) Similarity**

The Disputed Domain Name must be considered as confusingly similar to the Complainant's trademarks. When comparing the Disputed Domain Name to the Complainant's mark, the relevant comparison to be made is between only the second-level portion of the Disputed Domain Name and the Complainant's mark. The addition of the generic top-level domain (gTLD) ".com" does not add any distinctiveness to the Disputed Domain Name. Seen in that light, the Disputed Domain Name can be considered as having combined the Complainant's famous "KCC" trademark and the name "Türkiye," which is Turkish for the country known in English as Turkey. Therefore, the Disputed Domain Name "kccturkiye.com" is confusingly similar enough to be confused with the Complainant's "KCC" registered trademark.

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

- i. Under Paragraph 4(a)(ii) of the Policy, the Complainant may first make a prima facie case that the Respondent lacks the rights or legitimate interests in respect of the Disputed Domain Name, after which the burden shifts to the Respondent to demonstrate that it does have such rights or legitimate interests.
- ii. The Respondent is an entity completely unrelated to the Complainant, and has registered and retained the Disputed Domain Name that contains the Disputed Mark, even though he/she has not been granted authorization by the Complainant, which owns the Disputed Mark.
- iii. The Disputed Website is being used as the official homepage of DENİZ, which owns the Turkish registered trademark " " (Reg. No. 2017 12638). The Respondent has not commented on the nature of the relationship between it and the Turkish mark. Moreover, this mark was registered in bad faith against the Complainant's "KCC" trademark.

This shows the Respondent has no rights or legitimate interests to the Disputed Domain Name.

## C) Bad Faith

i. The Complainant's trademarks predate the registration of the Disputed Domain Name and the Respondent has never been authorized by the Complainant to register the Disputed Domain Name.

ii. "KCC" is widely known all over the world as the Complainant's name and trademark. The name "Türkiye" is Turkish for the country known as Turkey in English. Accordingly, there is a high likelihood of confusion between "kccturkiye" and the Complainant's Turkish subsidiary KCT.

iii. Moreover, the distributor agreement between the Complainant's Turkish subsidiary, KCT, and DENIZ, says that "all rights to the trademarks and trade names of KCT shall unconditionally remain the absolute property of KCT during and after the term of this Agreement" on page 2 of the Article called "TRADEMARKS AND TRADE NAMES." Therefore, it is obvious that the Disputed Domain Name was registered in bad faith without the agreement of either the Complainant or KCT.

iv. Although the Respondent was fully aware of the Disputed Mark, in that it signed an agreement with the Complainant's subsidiary, it registered the Disputed Domain Name, including the Disputed Mark, and is intentionally attempting to mislead Internet users as to the owner of the Disputed Website in order to cause confusion about the Disputed Domain Name by displaying the Complainant's registered mark "" on the landing page of the Disputed Website.

v. Although DENIZ is not currently in a lawful business relationship with the Complainant and KCT, it has introduced itself as having the sole authority among Turkish companies over the Disputed Website, so as to unfairly lure Internet users and cause consumer confusion.

For all of the reasons stated above, it is clear that the Disputed Domain Name has been registered and is being used in bad faith.

## 6. Decision

With due regard to the parameters of the Policy, the Rules and the Supplemental Rules, the Panel finds that the Complainant has met the criteria for a bad-faith filing under Paragraph 4(a)(iii) of the Policy.

Based on the foregoing reasons, the Complaint is allowed and the Domain Name registration is to be transferred to the Complainant.



DougJay Lee

Sole Panelist

Dated: April 13, 2020