



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-2000212

Complainants: Samsung Electronics Co., Ltd.(Authorized Representative : Bae, Kim & Lee IP Group Heewon SEO Patent Attorney)

Respondent: OLOF GUSTAFSSON

Disputed Domain Name(s): ripsamsung.com

1. The Parties and Contested Domain Name

The Complainant is Samsung Electronics Co., Ltd., 129, Samsung-ro, Yeongtong-gu, Suwon-si, Gyeonggi-do, Republic of Korea.

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

The Respondent is OLOF GUSTAFSSON, 24007 ventura blvd, 120, CALABASAS, California, USA.(Postal Code : 91302)

The domain name at issue is 'ripsamsung.com', registered by Godaddy.com, LLC.

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on March 6, 2020, seeking for a transfer of the domain name in dispute.

On March 11, 2020, the Center sent an email to the Registrar asking for the detailed data of the registrant. On March 11, 2020, Godaddy.com, LLC transmitted by email to the Center its verification response, advising that the Respondent is listed as the registrant and providing the contact details.

The Center 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 the Centre’s Supplemental Rules for 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 March 12, 2020 and the due date for the Response was April 1, 2020. No Response was filed by the due date.

On April 10, 2020, the Center appointed Mr. Chanmo Chung as the Sole Panelist in the administrative proceeding and with the consent for the appointment, impartiality and independence declared and confirmed by the Panelist, the Center, in accordance with paragraph 7 of the Rules, organized the Panel of this case in a legitimate way.

Having reviewed the communications records, the Panel finds that the Centre has discharged its responsibility under Paragraph 2(a) of the Rules “to employ reasonably available means calculated to achieve actual notice to Respondent”. Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the Center's Supplemental Rules and any

rules and principles of law that the Panel deems applicable, without the benefit of any response from Respondent.

3. Factual background

The Complainant, Samsung Electronics Co., Ltd., is the lawful rights holder of the mark 'SAMSUNG', the disputed mark. The Respondent is using the disputed domain name for directing visitors to a website with the address <https://www.escobarinc.com/product/fold2/>.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i) The disputed domain name is similar to the trademark owned by the Complainant, which may cause confusion,
- ii) The Respondent has no right or lawful interest in the disputed domain name, and
- iii) The Respondent registered and used the disputed domain name for unlawful purposes.

B. Respondent

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

5. Findings

A) Confusingly Similar

It is well established that a domain name consisting of a trademark and a negative or pejorative term is considered confusingly similar to the complainant's trademark for the purpose of satisfying standing under the first element. The word 'rip', which is added to the disputed mark in this disputed domain name, is a generic word meaning 'tearing something' or 'rest in peace'. Consequently the Panel agrees that

Respondent's <ripsamsung.com> is confusingly similar to the SAMSUNG mark pursuant to Policy ¶ 4(a)(i).

B) Rights and Legitimate Interests

A potential argument that the Respondent of the disputed domain name might have raised is a fair use claim. UDRP panels have established, however, that a respondent has a legitimate interest in using the trademark as part of the domain name of a criticism site only if such use is prima facie noncommercial, genuinely fair, and not misleading or false. In the present case the use of the disputed domain name is certainly of a commercial and unfair character because a visitor to the website based on the disputed domain name is redirected to a website where similar products to those of the complainant's are marketed and numerous consumer scams are reported about the website. Therefore, the Panel finds that the Respondent has no right or legitimate interests in the registration and retention of the disputed domain name pursuant to Policy ¶¶ 4(a)(ii) and 4(c)(iii).

C) Bad Faith

The Complainant's mark 'SAMSUNG,' which is the company name and trademark of the Complainant's group company, has been registered and widely used all over the world, including the United States, for a long period of time. It is obvious that the Respondent registered and used the the disputed domain name for commercial gain by taking advantage of the Complainant's reputation. The circumstantial evidence that the Respondent has been involved in the selling of clone products of the Complainant corroborates this finding. Accordingly, the Panel concludes that Respondent's registration and use of the disputed domain name demonstrates bad faith under Policy ¶¶ 4(a)(iii) and 4(b)(iv)

6. Decision

For the foregoing reasons, the Panel concludes that relief shall be GRANTED. Accordingly, it is Ordered that the <ripsamsung.com> domain name be TRANSFERRED from the Respondent to the Complainant.



Chanmo Chung

Sole Panelist

Dated: April 21, 2020