



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. KR-2000221

Complainants1: Hyundai Motor Company

Complainants2: Hyundai Heavy Industries Holdings Co., Ltd.

(Authorized Representative for Complainants 1,2 : Patent Attorney Sung-Pil HWANG (E.M. HWANG & PARTNERS))

Respondent: Imad Boukai

(Authorized Representative for Respondent : Changhoon Lee (AJU Kim Chang & Lee))

Disputed Domain Name(s): hyundaitechnology.com

1. The Parties and Contested Domain Name

The Complainants are Hyundai Motor Company of 12, Heolleung-ro, Seocho-gu, Seoul (Yangjae-dong), Republic of Korea and Hyundai Heavy Industries Holdings Co., Ltd. of 75, Yulgok-ro, Jongno-gu, Seoul(Gye-dong), Republic of Korea.

The Authorized Representative of Complainants is Sung-Pil Hwang, E.M. HWANG & PARTNERS, Mansung Building, 9-8, Gaepo-ro 31-gil, Gangnam-gu, Seoul.

The Respondent is Imad Boukai, General Procurement, Inc. ("GPI"), 800 East Dyer, Santa Ana, California, US.

The Authorized Representative of the Respondent is Changhoon Lee, AJU Kim Chang & Lee, 7-14th Floor, Donghee Building, 302 Gangnam-daero, Gangnam-Gu, Seoul 06253, Republic of Korea.

The domain name at issue is 'hyundaitechnology.com'(the "disputed domain name"), registered with GoDaddy.com, LLC.

2. Procedural History

The Complainants was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC, the "Center") on September 14, 2020, seeking for a cancellation of the disputed domain name.

On September 25, 2020, the Center sent an email to the Registrar asking for the detailed data of the registrant. On September 26, 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 "UDRP"), 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 October 8, 2020. On October 22, 2020, the Respondent expressly requested an additional four (4) calendar days in which to respond to the complaint, and the Center automatically granted the extension and notified the Parties thereof. The due date for the Response was November 1, 2020, and the Response was filed by the due date.

On November 5, 2020, the Center appointed Mr. Sung-Joon Choi 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.

As the Complainants requested to submit an additional statement on the Respondent's response, the Center notified that the Complainants should submit an additional statement by November 27, 2020 and the statement was filed by the due date. The Respondent's additional response was received by the center on December 3, 2020.

According to the information on the registrar of the disputed domain name, Imad Boukai was a Respondent of the disputed domain name, not GPI, which was originally designated by the Complainants. The Panelist hereby notified the Complainants to correct the Complaint and re-write a statement against Imad Boukai on January 5, 2021.

The Complainants submitted a modified Complaint and relevant documents on January 14, 2021. The Respondent was requested to submit a modified Response, statements with the corrected information on January 14, 2021. The Respondent submitted a letter of attorney with the corrected information, a modified Response, and additional statements on January 22, 2021.

On February 1, 2021, the Complainants once again requested to submit an additional statement on the Respondent's modified response. The Center notified that the Complainants should submit an additional statement by February 12, 2021 and the statement was filed by the due date. The Respondent's additional response was received by the Center on February 22, 2021.

The Panelist asked the Respondent for explanation on March 15, 2021. The Respondent submitted the explanation and evidence on March 20, 2021. The

Complainants requested to submit an additional statement and the Panelist allowed the request. On April 1, 2021, the Complainant's additional statement was received by the Center.

3. Factual background

According to Evidence No. 1 through Evidence No. 3 attached to the Complaint, the Complainant 1, was founded in December 1967, by the founder Chung Ju-Yung with Hyundai Engineering and Construction Company as its parent company, and Complainant 1 ranked sixth in the world in terms of total automobile production in 2006. In March 2000, Chung Mong-Gu, the second son of the founder Chung Ju-Yung, spun off the Complainant 1 from the Hyundai corporate group (the "Hyundai Group"). The Complainant 1 is currently producing automobiles in its automobile manufacturing facilities located in seven major regions and boasting fifth place in the world automobile sales ranking. The Complainant 1 recorded total sales of KRW 105.7 trillion in 2019. Also, Complainant 1 is using "HYUNDAI MOTOR COMPANY" as its company name in English.

Also, according to Evidence No. 4 and No. 10-1, 2, 4 attached to the Complaint, the

Complainant 1 has registered the trademark  for Class 12 designated goods, passenger cars (automobiles) and trucks and so on, with the registration number 58023 on October 20, 1978. Also, the Complainant 1 has registered the trademark **HYUNDAI** for Class 12 designated goods, passenger cars (automobiles), trucks, wheel, spark plug for land vehicles, power switch for automobiles and so on, with the registration number 178391, on September 6, 1989.

On February 28, 2012, the Complainant 1 has registered the trademark  for Class 9 designated goods, personal computers, notebook computers, and laptop computers and so on, with the registration number 907264. The Complainant 1 currently owns each of the foregoing trademarks. The Complainant 1 also has

registered the domain name “hyundai.com” on June 24, 1998, and has opened and been operating the Complainant 1’s website with such domain name.

Meanwhile, according to Evidence No. 10-3 attached to the Complaint, the Complainant 1 filed an application for the registration of the trademark **HYUNDAI** for Class 9 designated goods(computer hardware and computer peripheral devices and so on) and Class 12 designated goods(automobiles and so on) on September 6, 2016, in Korea, after the disputed domain name was registered as described below. Such trademark has been registered on May 10, 2017, with the registration number 1251630.

Further, as described in Evidence Nos. 5, 6, and 7 attached to the Complaint, Hyundai Heavy Industries, Co., Ltd., the predecessor of the Complainant 2, started its shipbuilding business in 1972 and ranked first in the world in terms of the size of shipbuilding orders and production in 1987. In 1993, the Complainant 2 was listed in the Guinness Book of Records for the world’s largest annual shipbuilding capacity and developed into a comprehensive heavy industry company by merging with Hyundai Heavy Electric Co., Ltd. and Hyundai Heavy Equipment Co., Ltd. The Complainant 2 was spun off from the Hyundai Group and became Hyundai Heavy Industries Group, Co., Ltd. in 2002. The Complainant 2 delivered 2,000 ships for the first time in the world in 2005, changed its company name to Hyundai Heavy Industries Holdings Co., Ltd., and became a holding company in 2018. The Complainant 2 recorded total sales of KRW 26.63 trillion in 2019 and is using “HYUNDAI HEAVY INDUSTRIES HOLDINGS CO., LTD” as its company name in English.

Also, as stated in Evidence No. 10-5 attached to the Complaint, the Complainant 2 filed an application for the registration of the trademark **Hyundai Connect** for Class 9 designated goods, remote monitoring apparatus, black boxes for ships and so on, and such trademark has been registered on May 19, 2020, with the registration number 1607108.

Meanwhile, according to Evidence Nos. 8 and 9-1 through 9-5 attached to the Complaint and Evidence Nos 1 and 2, 22-1 through 22-3, 10, and 23 attached to the Response, the Respondent is the president of GPI and also the president of Hyundai Technology Group, Inc. (formerly known as Hyundai Technology of California, Inc.) and Hyundai Technology, Inc. The Respondent has registered the disputed domain name “hyundaitechnology.com,” on March 14, 2016, and GPI has opened and been operating a website with the disputed domain name since long before this disputed was filed.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

- i. The term “technology” included in the disputed domain name is an English term frequently used to describe or represent a company with a highly advanced level of technology in the general business community, and it is a common noun that lacks distinctiveness. Therefore, the main part of the disputed domain name is “hyundai, ” and thus the disputed domain name is identical or confusingly

similar to the trademarks  (trademark registration number 58023);

 (trademark registration number 178391); 

(trademark registration number 907264); and  (trademark registration number 1251630), which are all owned by the Complainant 1, and

the trademark  (trademark registration number 1607108), which are owned by the Complainant 2.

- ii. Although there is a website being operated with the disputed domain name, the website cannot be deemed to be used by the Respondent because Hyundai Technology Group, Inc., not the Respondent, is selling laptops, tablets, desktops, and storage, among other things, on the website. Therefore, the Respondent has

not established its use of or demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, before any notice to the Respondent of this dispute. In addition, such conducts of Hyundai Technology Group, Inc. would mislead general consumers and dilute the value of each foregoing trademark owned by the Complainant 1 or the Complainant 2, and thus cannot be considered as fair use. Also, even if Hyundai Bioscience Co., Ltd., the trademark owner of the registered trademark **•HYUNDAI**, granted the non-exclusive license to use the trademark to GPI, the period of such non-exclusive license was only from April 1, 2016, to April 31, 2019. Therefore, GPI was not the legitimate owner of the license to use the foregoing trademark when it registered the disputed domain name on March 14, 2016, and thus the Respondent has no rights and legitimate interests in respect of the disputed domain name. Also, Hyundai IBT Co., Ltd.'s attempt to add desktops, laptops, and personal computers to the designated goods of the registered trademark **•HYUNDAI** should be invalidated, as such addition may cause confusion as to the source (*see* the Supreme Court of Korea, Case Number 2012 *Hu* 3657). Accordingly, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

- iii. Even if GPI has the license to use the registered trademark **•HYUNDAI**, the registration of the disputed domain name is not legitimate because the Respondent was a mere employee of GPI, and thus the Respondent's registration of the disputed domain name constitutes the Respondent's privatization of the company's assets as the representative director.

In addition, where the trademark owner of the registered trademark **•HYUNDAI**, Hyundai IBT Co., Ltd. or Hyundai Bioscience Co., Ltd., has no relation to or affiliation with the overall Hyundai Group or its major subsidiaries or affiliated companies, and the Respondent and Hyundai Technology Group, Inc. that operates the website with the disputed domain name, also have no relation to or affiliation with the Complainants' registered trademark "HYUNDAI" at all, Hyundai Technology Group, Inc. stated "*the*

Hyundai brand was founded by Chung Ju-Yung in 1947 in South Korea. Hyundai produces products in motor, industry, construction, steel, and technology industries,” on its website as if it is operating its business directly in connection with the “HYUNDAI” brand. Also, the website indicates **HYUNDAI** in the color and font that are almost identical with those of the Complainant 1’s registered trademark **HYUNDAI**, and by displaying and selling products attached to the “HYUNDAI” trademark on the website, the website misleads general consumers and confuses the source or affiliation of the products displayed or sold on the website as if such products were produced and sold by the Complainants or a company in a special relationship with the Complainants. Moreover, a news article that is titled “Apple & Hyundai” and recently published on the website contains the Complainant 1’s logo and brand intact, causing confusion among the users of the website as to the source or affiliation of the products displayed or sold on the website, as if such products were produced or sold by the Hyundai Group or the Complainant 1. The Respondent attracts users to the website by intentionally creating a likelihood of confusion among the users as to the source or affiliation of the products displayed or sold on the website for its commercial gain. Also, the Respondent is directly interfering with the registration and use of the disputed domain name by the Complainants. Accordingly, it can be judged that the Respondent registered the disputed domain name and allowed a third-party entity to use the website in bad faith. In conclusion, the Respondent’s disputed domain name has been registered and is being used in bad faith.

- iv. In light of the foregoing, the Respondent shall cancel the registration of the disputed domain name.

B. Respondent

The Respondent's contentions may be summarized as follows:

- i. In order to request the cancellation of the registration of the disputed domain name, the Complainants must prove the presence of all (i), (ii), and (iii) elements stipulated in Paragraph 4(a) of the UDRP.
- ii. The Respondent registered the disputed domain name on behalf of GPI as the president and the sole shareholder holding 100 percent of GPI, for GPI's use of the disputed domain name.

By the way, Hyundai Bioscience Co., Ltd. owned the "HYUNDAI" trademark for designated goods, including computers and computer peripheral products, over fifteen (15) years in many jurisdictions, and GPI is the legitimate licensee of the trademark "HYUNDAI," who was granted the license to use the trademark "HYUNDAI" from Hyundai IBT Co., Ltd. (currently known as Hyundai Bioscience Co., Ltd.) on January 1, 2016, which was before Respondent registered the disputed domain name. Under the Respondent's authorization, GPI has opened a website with the disputed domain name, promoted computers and electronic products, and marketed and sold such products through the existing distribution channels in fact, before receiving any notice of this dispute. Accordingly, GPI has legitimate interests in respect of the registration of the disputed domain name. Further, GPI operated the foregoing website in cooperation with Hyundai Technology Group, Inc., of which the Respondent is serving as the president, and is using the name "Hyundai Technology, Inc." on the foregoing website under the authorization of the current owner of the trademark "HYUNDAI," Hyundai Technology, Inc., depending on the necessity for the promotion of the trademark "HYUNDAI."

- iii. In light of the foregoing; the reasons for the Seoul Central District Court's decision holding that the trademark rights in the registered trademark  for designated goods, including computers and computer

peripheral products, have been transferred to Hyundai IT Corporation (currently known as Hyundai IBT Co., Ltd. and Hyundai Bioscience Co., Ltd.), and thus such trademark rights are not held by Hyundai Corporation, which is a part of the Hyundai Group (*see* the Seoul Central District Court, Case Number 2009 GaHap 88414, June 23, 2010); and the fact that Respondent and GPI have never used or advertised any relationship or association with the Hyundai Group or any of its subsidiaries or affiliates, it is clear that Respondent did not register the disputed domain name in bad faith.

In addition, the disputed domain name was not registered for the purpose of selling it to the Complainants or a competitor. The Complainants have not alleged or proved that the disputed domain name was registered primarily to disrupt the business of a competitor.

- iv. On the other hand, most companies bearing the name “Hyundai” are not legally connected to the Hyundai Group. They include Hyundai Motor Group, Hyundai Department Store Group, Hyundai Heavy Industries Group, and Hyundai Development Company. Further, there are many trademark registrations even in Korea for the “Hyundai” mark or the like registered or owned by third parties who are not related to the founder of the Hyundai Group, Chung Ju-Yung. The Complainants has not raised any issues with Hyundai Bioscience Co., Ltd.’s registration and use of domain names “hyundaibioscience.com” and “hyundaiibt.com.”
- v. Based on the foregoing, the Complaint shall be denied as the Complainants failed to prove (i) and (ii) elements under Paragraph 4(a) of the UDRP.

5. Findings

Paragraph 4(a) of the UDRP provides that each of three (3) findings must be made in order for the Complainants to prevail:

- (i) Respondent's domain name must be identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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 term "technology" included in the disputed domain name is an English term frequently used to describe or represent a company with a highly advanced level of technology in the general business community, and it is a common noun that lacks distinctiveness. Therefore, the main part of the disputed domain name is "Hyundai," and thus the disputed domain name is identical or confusingly similar

to the trademarks  ,  ,  , and  , to which the Complainant 1 has rights, and the trademark  , to which the Complainant 2 has right, because the spelling of the main part of the disputed domain name and that of the foregoing trademarks are identical." data-bbox="187 540 885 708"/>

B) Rights and Legitimate Interests

In order to review whether the disputed domain name falls within (ii) element stipulated in Paragraph 4(1) of the UDRP and (iii) element described in Section C) below, the relevant facts have been summarized as follows.

According to Evidence Nos. 8, 14, 9-1 through 9-5 attached the Complaint; Evidence Nos. 2, 5, 6, 10, 13, 14, 15, 19, 20, 21, 23, 25, 11-1 through 11-3 and

22-1 through 22-3 attached to the Response, the following facts have been recognized.

「The Respondent is the president of GPI and also the sole shareholder holding 100 percent of GPI. The Respondent is also the president of Hyundai Technology Group, Inc. (formerly known as Hyundai Technology of California, Inc.) and Hyundai Technology, Inc. GPI is a corporation established in accordance with the laws of State of California, the United States of America, in 1996, operating the business of marketing and distribution of electronic products, such as computer and mobile devices, among others. GPI has ordered various OEM manufacturers to manufacture various computer and data storage devices with Trademark 1 (as defined below), including laptop and tablet computers, and sold such products supplied by the OEM manufacturers.

As the president and sole shareholder of GPI, the Respondent registered the disputed domain name on behalf of GPI on March 14, 2016. In doing so, the Respondent listed GPI as the Registrant Organization and Admin Organization.

The Hyundai Group, in which the Complainants were once included, had a subsidiary called Hyundai Electronic Industrial Co., Ltd., and Hyundai Electronic Industrial Co., Ltd. changed its company name to Hynix Semiconductor Inc. in 2001. However, the monitor business was spun off from Hyundai Electronic Industrial Co., Ltd. in 2000, and Hyundai Imagequest Co., Ltd. was established accordingly. Hyundai Imagequest Co., Ltd. was renamed Imagequest Co., Ltd. in March 2001. Hyundai Electronic Industrial Co., Ltd. divided and transferred a certain portion of the trademark rights in the registered trademark  for former Class 39 designated goods, including but not limited to, electronic calculators, monitors, integrated circuits, and disks, to Imagequest Co., Ltd. in January 2002. In addition, Hyundai Electronic Industrial Co., Ltd. also transferred the trademark rights in the trademark

•**HYUNDAI** and **HYUNDAI** for Class 9 designated goods, registered in many different jurisdictions (including the trademark number 3833761, registered with the Community Trade Mark System (CTM); and the trademark number 4470951-2, registered in Japan, among others. The trademark **HYUNDAI** hereinafter referred to as Trademark 1”). Afterward, Imagequest Co., Ltd. was again renamed Hyundai Imagequest Co., Ltd. in March 2004, and Hyundai Imagequest Co., Ltd. registered additional Class 9 designated goods, such as computers and laptop computers (the trademark •**HYUNDAI** after the division and with additional designated goods hereinafter referred to as “Trademark 2” and Trademark 1 and Trademark 2 collectively hereinafter referred to as “Trademarks”). Hyundai Imagequest Co., Ltd. again changed its company name to Hyundai IT Corporation in March 2006. In the lawsuit that Hyundai IT Corporation claimed for damages arising from a default under the trademark assignment agreement against Hyundai Corporation, which was originally a part of the Hyundai Group, the Seoul Central District Court held that the trademark rights to the trademarks •**HYUNDAI**, ‘HYUNDAI’, ‘현대’, and ‘現代’ for designated goods including computers, monitor-related products (including peripheral products) have been transferred and assigned to Hyundai IT Corporation (currently known as Hyundai IBT Co., Ltd. and Hyundai Bioscience Co., Ltd.) from Hynix Semiconductor Inc., and the permanent exclusive right to use the trademark rights have been granted to Hyundai IT Corporation for the trademark rights in the jurisdictions where the transfer or assignment of the trademark rights are not permitted, and thus Hyundai Corporation is prohibited from exercising the foregoing trademark rights against Hyundai IT Corporation, within the extend of the valid assignment in accordance with the trademark assignment agreement (*See* the Seoul Central District Court, Case Number 2009 *GaHap* 88414, June 23, 2010). Afterward, Hyundai IT Corporation was subsequently renamed Hyundai IBT Co., Ltd. in March 2012, and Hyundai Bioscience Co., Ltd. in August 2018.

Hyundai IBT Co., Ltd. registered the domain name “hyundaiibt.com” in March 2012, and is currently holding such domain name under the name of Hyundai Bioscience Co., Ltd. Hyundai Bioscience Co., Ltd. has registered and is currently using the domain name “hyundaibioscience.com.” By entering into a trademark license agreement by and between GPI and Hyundai IBT Co., Ltd., on January 1, 2016, Hyundai IBT Co., Ltd. granted the non-exclusive license to use the Trademarks for the period from April 1, 2016, to March 31, 2019, to GPI. After then, Hyundai IBT Co., Ltd. was renamed Hyundai Bioscience Co., Ltd. and executed a trademark assignment agreement with Hyundai Technology, Inc., which was established on October 24, 2018, assigning the trademark rights in the Trademarks and all of the trademark rights in and exclusive licenses to use the trademark “HYUNDAI” held by Hyundai Bioscience Co., Ltd., to Hyundai Technology, Inc., on October 30, 2018. The parties of the foregoing trademark assignment agreement agreed to be bound by the non-exclusive license under the above-mentioned trademark license agreement, which was entered into earlier than the foregoing trademark assignment agreement. The transfer registration of Trademark 2 has been completed on January 18, 2019, pursuant to the foregoing trademark assignment agreement.

Afterward, Hyundai Technology, Inc. entered into a licensing agent agreement with Hyundai Technology of California, Inc., which was established on September 11, 2017, and renamed Hyundai Technology Group, Inc. on December 24, 2019, appointing Hyundai Technology of California, Inc. as the agent of Hyundai Technology, Inc., in executing a trademark license agreement for the recognition of the existing non-exclusive license acknowledged under the foregoing trademark assignment agreement, on December 31, 2018. Then, Hyundai Technology Group, Inc., as the agent of Hyundai Technology, Inc. executed a trademark license agreement with GPI on behalf of Hyundai Technology, Inc., on December 26, 2019, granting the non-exclusive right to use the Trademarks to GPI for the period from January 1, 2019, to December 31, 2030, which was commenced retroactively.

After registering the disputed domain name, the Respondent had GPI, of which the Respondent was the president and the sole shareholder, use the disputed domain name. GPI opened a website with the disputed domain name before October 4, 2016 (also before Hyundai Technology, Inc. and Hyundai Technology of California, Inc. were established), and had been introducing computer memory-related products with the Trademark 1 on such website. GPI has continued to operate such website with the disputed domain name, and the sign



has been placed on the left side of such website page and electronic products with the Trademark 1 attached, such as notebook computers, tablets, micro SD memory cards, portable Data Storage, and keychain USB products, among other things, have been introduced and promoted on such website. Further, under the “Where to Buy” menu on such website, GPI has been listed as one of the distributors of the products introduced or promoted on such website. Also, the “LIFE INSPIRED” item of such website states that “*the Hyundai brand was founded by Chung Ju-Yung in 1947 in South Korea. Hyundai produces products in motor, industry, construction, steel, and technology industries.*” The News menu page on the website publishes a news article titled “Apple & Hyundai,” including an oblique photo of the Complainant 1’s logo and brand. The far bottom of such website contains a notice describing “Copyright@2020 Hyundai Technology Group, Inc. All rights reserved” or “Copyright@2020 Hyundai Technology, Inc.”」

Based on the foregoing recognized facts, we have reviewed whether the Respondent has the rights or legitimate interests in respect of the disputed domain name, as described below.

On January 1, 2016, which was before the disputed domain name was registered, GPI, of which the Respondent is the president and the sole shareholder, was granted the non-exclusive license use the Trademarks from April 1, 2016, to March 31, 2019, by the then-current the owner of the Trademarks, Hyundai IBT Co., Ltd. After then, GPI was granted the non-exclusive license to use the

Trademarks by Hyundai Technology, Inc., who became the new owner of the Trademarks, for the period from January 1, 2019, to December 31, 2030. The main part of the Trademarks is “HYUNDAI,” and the disputed domain name also contains the identical spelling of “hyundai” with a common noun “technology” added to the main part (the term “technology” is a common noun used in relation to computers and storage devices, which have been introduced or promoted on the website opened with the disputed domain name). Therefore, the Respondent has legitimate interests in respect of the disputed domain name, as the president and the sole shareholder of GPI.

The Complainants asserted that, even if GPI owns the non-exclusive license to use the Trademarks, the registration of the disputed domain name by the Respondent cannot be said to be legal as it constitutes the president’s privatization of the assets of the company because Respondent is a mere employee of the company. However, the Respondent, who is the president and the sole shareholder of GPI, registered the disputed domain name for GPI’s use and GPI is using the disputed domain name in fact, the Respondent’s registration of the disputed domain name cannot be deemed illegal.

Also, with respect to the notices describing “Copyright@2020 Hyundai Technology Group, Inc. All rights reserved” or “Copyright@2020 Hyundai Technology, Inc.,” the Respondent alleged that such notices were indicated on the website under the authorization of the owner of such trademarks, Hyundai Technology, Inc., and GPI operated the website in cooperation with Hyundai Technology Group, Inc. for the purpose of promoting the trademark “HYUNDAI” which is attached to the products that have been introduced or promoted on the website, such as laptop (notebook) computers. Considering the facts that (i) the Respondent is the president and the sole shareholder of GPI, and also the president of Hyundai Technology Group, Inc. and Hyundai Technology, Inc.; (ii) GPI holds the non-exclusive license to use the Trademarks; and (iii) the website has been opened and operated before Hyundai Technology Group, Inc. and Hyundai

Technology, it is safe to conclude that the Respondent's foregoing allegations are valid.

Accordingly, the Complainants failed to prove (ii) element in Paragraph 4(a) of the UDRP against the disputed domain name, as the Respondent has the rights and legitimate interests in respect of the disputed domain name.

C) Bad Faith

With respect to the issue of whether the disputed domain name has been registered and is being used in bad faith, the following is our review of the validity of the Complainants' argument that the Respondent has registered and been using the disputed domain name in bad faith because the website with the disputed domain name indicates that "*the Hyundai brand was founded by Chung Ju-Yung in 1947 in South Korea*" and the website misleads consumers and confuses the source of the products sold through the website as if such products are affiliated with the

Complainants, who are the owners of the trademarks  ,  ,  ,  , and  , and dilutes the value of the Complainants' trademark rights in the foregoing trademarks.

Based on the indications of the Complainants' main industries, which are included in their company names, it is clear that the Complainants are not in the computer or data storage devices production industry, including laptop (notebook) or tablet computers (the Complainants have not made any argument that they manufacture or sell computer or data storage devices and there has not been any evidence supporting such argument at all). The Complainant 1 filed an application for the registration of the trademark  on September 6, 2016, when nearly six (6) months had passed since the disputed domain name was registered (it is speculated that the website with the disputed domain name would have been

opened already by this date). Therefore, it is unlikely that consumers were misled and confused the source of the products introduced or promoted through the website as if such products were manufactured or distributed by the Complainants, merely because the website with the disputed domain name contains the mark



, which has the color and font that are almost identical with those of the Complainant 1's trademark **HYUNDAI**. In addition, considering

that the owner of the trademarks **•HYUNDAI**, **HYUNDAI** (these two (2) trademarks consist of the Trademarks), '현대', and '現代' is Hyundai

Technology, Inc., and GPI holds the non-exclusive license to use such trademarks,

GPI's use of the mark  in blue color on the website cannot be

deemed illegal. But, there is a possibility that general consumers may be misled or confused as if such computers or data storage devices are sold by the

Complainants or a company affiliated with the Complainants. However, such

possibility is caused by the fact that Hyundai Electronic Industrial Co., Ltd., an affiliated company of the Hyundai Group founded by Chung Ju-Yung, spun

certain businesses off and formed a company, and allowed such company to use

"Hyundai" in its company name; and divided a portion of the trademark rights to

the trademarks **•HYUNDAI**, **HYUNDAI**, '현대', and '現代' registered

in various jurisdictions worldwide, for Class 9 designated goods, including

computers, monitors, and peripheral products, and assigned such portion of the

trademark rights to the newly formed company. Based on the foregoing facts and

through the above-mentioned partial assignment process, Hyundai Technology,

Inc. became the owner of the registered trademarks **•HYUNDAI**,

HYUNDAI, '현대', and '現代' for designated goods including computers and

data storage devices, and GPI owns the non-exclusive license to use such

registered trademarks. Furthermore, the Complainants cannot readily prevent

Hyundai Technology, Inc. or GPI from manufacturing or selling computers or

data storage devices using the trademark "HYUNDAI." In light of the foregoing,

it cannot be concluded that the Respondent had unjust purposes to attract users to the website by intentionally creating a likelihood of confusion among the users as to the source or affiliation of the products for its commercial gain, merely because the website opened with the disputed domain name mentioned the brand of “HYUNDAI”; and the founder Chung Ju-Yung or the News menu page on the website publishes a news article titled “Apple & Hyundai,” including an oblique photo of the Complainant 1’s logo and brand; or simply because there is a slight possibility that general consumers may be misled or confused as to the source or affiliation of the products sold or promoted on the website. In addition, the reason why the Complainants have not claimed for the cancellation of the registration of the domain name “hyundaibioscience.com,” which has been registered and been using by Hyundai Bioscience Co., Ltd., should also be considered.

Also, even if there has been registered for additional designated goods, including computers and laptop computers, of the registered trademark  , which has been transferred to Hyundai Imagequest Co., Ltd. (the company spun off from an affiliated company of the Hyundai Group, Hyundai Electronic Industrial Co., Ltd.) under the same circumstance described above, in August 2004 in Korea, the Respondent’s bad faith cannot be assumed just because such registration for additional designated goods has certain issues, as long as such registration has not been invalidated yet.

Further, based on the foregoing facts, it is still not safe to conclude that the Respondent has registered and been using the disputed domain name in bad faith, even though the Complainant 1 has registered and been holding the trademark



for Class 9 designated goods, such as personal computers and laptop computers, among others, on February 28, 2012.

Lastly, the Complainants failed to provide any evidence supporting their allegation that the Respondent has registered the disputed domain name primarily

for the purpose of disrupting the businesses of the Complainants or the Complainants' registration or use of the disputed domain name.

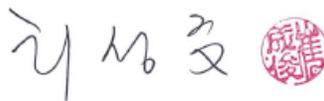
Accordingly, the Respondent cannot be deemed to have registered and been using the disputed domain name in bad faith, and, contrary to this judgment, even if there is room to find the Respondent's bad faith in the registration and use of the disputed domain name, it is still clear that the Respondent has legitimate interests in respect of the disputed domain name.

D) Conclusion

Complaints failed to prove the presence of (ii) and (iii) elements in Paragraph 4(a) of the UDRP, and at least failed to prove the presence of (ii) element.

6. Decision

For the foregoing reasons, the Complaint is denied for having no valid legal basis.



Sung-Joon Choi
Sole Panelist

Dated: 2021-4-29