

ADMINISTRATIVE PANEL DECISION

VGW Holdings Limited v. 신현두 (Hyundoo Shin)

Case No. D2023-0345

1. The Parties

The Complainant is VGW Holdings Limited, Australia, represented by Kiran Singh, Australia.

The Respondent is 신현두 (Hyundoo Shin), Republic of Korea, represented by CyLaw Solutions, India.

2. The Domain Name and Registrar

The disputed domain name <vgw.com> is registered with Inames Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 25, 2023. On January 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 2023, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

On February 20, 2022, the Center notified the Parties in both English and Korean that the language of the registration agreement for the disputed domain name is Korean. On February 23, 2022, the Complainant requested for English to be the language of the proceeding. On February 25, 2023, the Respondent requested Korean to be used for the language of the proceeding and for a translation of the Complaint into Korean. On March 2, 2023, the Center requested the Complainant to provide a translation of the Complaint into Korean by March 7, 2023. The Complainant submitted the translated version of amended Complaint on March 7, 2023.

The Center verified that the Complaint and the amended 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 WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 29, 2023. The Response was filed with the Center on March 21, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on April 5, 2023. 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 Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is an Australian company that has developed and operated an online social casino-style gaming portal at domain name <vgw.co> since 2010. It has several trademark registrations for the VGW mark, including Australia Registration No. 1762758 (registered on April 4, 2016), Canada Registration No. TMA1053015 (registered on September 6, 2019), and United States Registration No. 5461472 (registered on May 8, 2018).

The Respondent is an individual with an address in the Republic of Korea.

The disputed domain name was registered on August 4, 2002, and resolves to a parking page with an offer for sale and lease.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name consists of "vgw" and is therefore identical to the VGW trademark in which the Complainant has rights.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that there is no evidence of the Respondent's use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant contends that the Respondent registered the disputed domain name primarily for the purpose of renting or selling it to the Complainant or profiting of exploiting the Complainant's brand. The Complainant states that the Respondent has never made use of the disputed domain name and dating back to 2006, has offered the disputed domain name for sale. The Complainant further states that the Complainant experienced rapid growth during 2019 and 2022, and the Respondent suddenly specified the offer price to USD 150 million for sale and USD 90,000 per month for lease in December 2021, which demonstrates the Respondent's opportunistic bad faith.

B. Respondent

The Respondent contends that he registered the disputed domain name in 2002, well before the Complainant was formed as a company, and that the disputed domain name consists of a three letter acronym which could have multiple interpretations, which does not target the Complainant or its trademark. The Respondent further asserts that the Complaint constitutes reverse domain name hijacking.

6. Discussion and Findings

A. Language

Paragraph 11(a) of the Rules provides that the language of the proceeding shall be the language of the registration agreement, unless otherwise agreed to by the parties, subject to the authority of the panel to

determine otherwise. In this case, the language of the Registration Agreement is Korean, and both Parties have had an opportunity to argue their positions on this point. The Center issued a notice in Korean and English requesting the Complaint to be filed in Korean, and the Complainant submitted a Korean translation of the Complaint. The Respondent thereafter submitted a Response in English.

The Panel finds it proper and fair to render this decision in English. Primarily, the Complainant is based in Australia, and the Respondent has designated legal counsel based in India. Therefore, proceeding in English would be fair and procedurally efficient given the circumstances.

B. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark VGW in a number of jurisdictions.

The disputed domain name solely consists of the term “vgw”, and is therefore, identical to the Complainant’s trademark.

For the reasons mentioned above, the Panel finds that the first element has been established.

C. Rights or Legitimate Interests

On the basis of the present record, there is no evidence that the Respondent improperly registered or obtained the disputed domain name with knowledge of the Complainant. In fact, the Complainant did not exist until eight years after the Respondent’s registration of the disputed domain name. Therefore, the Panel finds that the Complainant has not met its burden here with respect to the Respondent’s lack of rights or legitimate interests in the disputed domain name.

D. Registered and Used in Bad Faith

Section 3.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) provides that bad faith under the UDRP is “broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”. Here, the record in this case does not support a finding of bad faith.

First of all, the Complainant was not in existence when the Respondent registered the disputed domain name in 2002, and there is no evidence to suggest that the Respondent knew of the Complainant or its preparations to use the VGW mark when registering the disputed domain name. Therefore, he could not have registered the disputed domain name with bad faith.

Neither is there evidence of use of the disputed domain name in bad faith. The price that the Respondent asks for sale or lease of the disputed domain name may be viewed as excessive, but the offer to sell a disputed domain name without additional supporting factors showing an intent to take advantage of a trademark, does not necessarily indicate bad faith. See Section 3.1.1 of the [WIPO Overview 3.0](#).

Therefore, the Panel does not find sufficient evidence of bad faith in this case.

E. Reverse Domain Name Hijacking

A finding of Reverse Domain Name Hijacking may be made if “the Complainant knew or should have known at the time that it filed the Complaint that it could not prove that the domain name was registered in bad faith”, See *Futureworld Consultancy Opty Ltd. v. Online Advice*, WIPO Case No. [D2003-0297](#).

Here, the disputed domain name was registered well before the Complainant acquired trademark rights or even came into existence, so it would have been impossible for the Respondent to have registered the disputed domain name to target the Complainant and its mark. The Complainant should surely have known

that the Complaint could not succeed based on these facts, and proceeding with this Complaint can only be viewed as an attempt to deprive a registered domain-name holder of a domain name.

Therefore, the Panel finds that the Complaint was brought in bad faith, in an attempt at Reverse Domain Name Hijacking, and constitutes an abuse of the administrative proceeding.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: April 19, 2023