

ADMINISTRATIVE PANEL DECISION

South African Reserve Bank v. KAI

Case No. D2023-0691

1. The Parties

The Complainant is South African Reserve Bank, South Africa, represented by Edward Nathan Sonnenbergs Inc., South Africa.

The Respondent is KAI, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <samint.com> is registered with Megazone Corp., dba HOSTING.KR (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2023. On February 15, 2023, the Center transmitted by email to Koreacenter.com co., Ltd. a request for registrar verification in connection with the disputed domain name. On February 21, 2023, Koreacenter.com co., Ltd. replied to the Center indicating that the disputed domain name was transferred to another organization on February 16, 2023. On February 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 3, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (JUNGYUNKOOK) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed amended Complaints on March 10, 2023, and on March 15, 2023.

On March 7, 2023, 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 March 9, 2023, the Complainant requested for English to be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amended Complaints 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 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 6, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on April 26, 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.

On May 8, 2023, the Center issued a procedural order (the "Procedural Order") to the Parties on the Panel's behalf. In the Procedural Order, the Panel requested from the Complainant evidence of its trademark rights and a copy of the prior communications between the Complainant's agent and the named Respondent which was mentioned in the original Complaint. The Complainant filed a response on May 12, 2023, and the Respondent did not file any response.

4. Factual Background

The Complainant is the central bank of South Africa established in 1996. The Complainant wholly owns the South African Mint Company RF (Pty) Ltd which was founded in 1988 and which mints coins and coin products in South Africa. The Complainant owns the trademark SOUTH AFRICAN MINT COMPANY (South African Trademark Registration Number 2011/12962, registered on June 3, 2013) and SOUTH AFRICAN MINT & Logo (South African Trademark Registration Number 2016/06023, registered on November 12, 2019). The Complainant has also filed to register the trademark SA MINT (South African Trademark Application Number 2022/25600, filed on August 22, 2022). The Complainant's official website is at domain name <samint.co.za>.

The Respondent appears to be an individual or entity with an address in the Republic of Korea.

The disputed domain name was registered by the Respondent in 2023, and resolves to a website displaying pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has registered trade mark rights for the trade mark SOUTH AFRICAN MINT COMPANY and that the dominant and distinctive portion of this trade-mark is the phrase "SOUTH AFRICAN MINT". The Complainant also contends that the disputed domain name is identical to the SA MINT trademark in which the Complainant has common law rights. The Complainant contends that SOUTH AFRICAN MINT has been used as a tradename and trademark since 1890 and that it holds trademark registrations for a family of SOUTH AFRICAN MINT trademarks. The Complainant also contends that it has filed a trademark application for SA MINT which is an abbreviation of SOUTH AFRICA MINT and is currently pending before the South African Intellectual Property Office. The Complainant asserts that the Complainant has used SA MINT extensively in the course of its business, for example, in the official domain name for the Complainant <samint.co.za> and on its official website going back to as early as 2005.

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 disputed domain name consists of the SA MINT mark and the Respondent is attempting to benefit from the association with the Complainant by trying to sell the disputed domain name and earn unlawful profit from Internet users that visit the website. The Complainant also adds that it cannot think of any possible way in which the Respondent can use the disputed domain name without infringing on the Complainant's trademark rights or causing confusion/misunderstanding among visitors to the disputed domain name of some sort of connection with the Complainant.

B. Respondent

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

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 position on this point. The Center issued a notice in Korean and English stating that it would accept the Complaint filed in English, and that the Response would be accepted in either Korean or English. The Respondent subsequently chose not to submit a substantive response.

The Panel finds it proper and fair to render this decision in English. The disputed domain name is composed of alphabet letters, and the website connected to the disputed domain name displays links to goods in English. Besides, both Parties were given the opportunity to submit arguments in the language of their preference, and the language in which to render the decision is reserved for the Panel. The Panel would have considered a Response in Korean, but no Response was submitted. Accordingly, the Panel determines that rendering the decision in English is fair and procedurally efficient given the circumstances of this case.

B. Identical or Confusingly Similar

The Complainant has established registered rights in the trademark SOUTH AFRICAN MINT COMPANY. The Panel finds that the disputed domain name is confusingly similar to this mark as it bears the operative features of the mark ("SA" and "Mint").

Moreover, the Complainant has alleged common law rights in the trademark SA MINT and in support, has submitted website pages from as early as 2005 showing the Complainant's use of SA MINT in connection with its business, as well as use of SA MINT as a Twitter handle, the name of its LinkedIn account, and its domain name <samint.co.za>. Further, SOUTH AFRICAN MINT has been used as a trade name and trademark since 1980, and "South Africa" is commonly abbreviated as "SA." Not only that, the Complainant has submitted articles from media sources such as Business Insider South Africa, Business Tech, and SowetanLive using SA MINT to refer to the Complainant and the Complainant's goods/services, showing that the term is commonly used as an identifier for the Complainant and its goods/services. As the disputed domain name consists entirely of "samint", it is identical to the mark in which the Complainant has unregistered trademark rights for purposes of the Policy.

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, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the

disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

D. Registered and Used in Bad Faith

The Panel finds that there is sufficient evidence to find bad faith in this case.

Section 3.1 of the [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, evidence suggests that the Respondent more likely than not knew of the Complainant when registering the disputed domain name. The Respondent has given no explanation for having registered a domain name containing the term “samint”. Further, information on the Complainant and its trademark would have been easily discoverable through an Internet search. In fact, the top results of the Panel’s Google searches for “samint” and “SA MINT” for the ten-year period preceding the date of registration of the disputed domain name in 2023 are all in connection with the Complainant. Further, by linking the disputed domain name with a parking page displaying pay-per-click links displaying terms such as “South African Gold Coins”, “Coin Prices Online” and “Gold Coins” which are the very goods of the Complainant, the Respondent created a likelihood of confusion and benefited commercially from the confusion of Internet users that visited the site by mistake as per paragraph 4(b)(iv) of the Policy.

For the reasons given above, the Panel finds that the third element has been established.

7. 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, <samint.com>, be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: May 30, 2023