

## **ADMINISTRATIVE PANEL DECISION**

Développement Information et Maintenance de Systèmes d'Information v.  
Jeff Park (박준우)  
Case No. D2022-0958

### **1. The Parties**

The Complainant is Développement Information et Maintenance de Systèmes d'Information, France, represented by Darkanian & Pfirsch, France.

The Respondent is Jeff Park (박준우), Republic of Korea.

### **2. The Domain Name and Registrar**

The disputed domain name <dimsi.com> is registered with Gabia, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on March 18, 2022. On March 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 22, 2022, 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 March 27, 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 March 29, 2022, the Respondent requested for English to be the language of the proceeding. On March 30, 2022, the Complainant requested for English to be the language of the proceeding.

The Center verified that the 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 April 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2022. The Response was filed with the Center on April 28, 2022.

The Center appointed Kathryn Lee as the sole panelist in this matter on May 16, 2022. 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 a French IT solutions and cloud hosting company incorporated on April 19, 2006. The Complainant uses the acronym of “DIMSI” as its tradename and its official website is at the domain name <dimsi.fr>, registered on March 8, 2006. The Complainant registered the DIMSI stylized trademark in classes 9, 38, 42, and 45 with the French Trademark Office on May 22, 2006 (Serial Number 3430136) and the registration subsequently expired on May 22, 2016. On February 26, 2021, the Complainant obtained a trademark registration for the text mark “DIMSI” in classes 9, 35, 42, and 45 with the French Trademark Office (Serial Number 4737279). Its total operating income in 2020 was EUR 3,011,156.

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

The Respondent claims to have registered the disputed domain name on October 29, 2005 (after the prior owner allowed the registration to expire); the Complainant claims this date is in 2007.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name consists solely of “dimsi” and is therefore identical to the DIMSI trademark in which it has both unregistered and registered rights. The Complainant asserts that it began using DIMSI as a tradename since its incorporation in 2006 and that the use continues to date, even after its trademark registration for the DIMSI stylized mark expired in 2016. In 2021, the Complainant re-registered the DIMSI trademark. The Complainant further asserts that due to the long and continued use, it has come to be known as DIMSI among its clients worldwide and that the DIMSI mark represents significant goodwill to the benefit of the Complainant.

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.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant asserts that based on DomainTools, a web service that provides domain name, IP address, and WHOIS data, the disputed domain name was first registered and owned by a company and the Respondent only appears as the registrant for the first time on June 15, 2007. Therefore, this date – which is well after the Complainant had commenced use of DIMSI as a tradename – should be considered the date of transfer of the disputed domain name to the Respondent absent contrary evidence by the Respondent. The Complainant further asserts that since registration by the Respondent, the disputed domain name has not been used to sell goods or services, or been linked to any website. Rather, the Complainant asserts that the Respondent acquired the disputed domain name primarily for the purpose of selling it to the Complainant for valuable consideration in excess of the Respondent's out of pocket costs. The Complainant states that the disputed domain name is advertised for sale and when the Complainant made an offer of USD 2,000, the Respondent counteroffered with USD 29,888 and never responded to the Complainant's following offer of USD 2,500. The Complainant asserts that the Respondent's counteroffer is well in excess of the costs that the Respondent would have incurred in connection with the disputed domain name, which is evidence of bad faith. The Complainant also notes that the Respondent has a history of bad faith registrations as he was named as the respondent in several other UDRP cases in which the panelists concluded that the respondent registered and used the domain names in bad faith and ordered the domain names to be transferred to the complainants.

## **B. Respondent**

In the Response, the Respondent does not address the first element.

As for the second element, the Respondent asserts that he has legitimate interests in the disputed domain name as a domain name reseller. The Respondent asserts that he registered the disputed domain name on October 29, 2005, after the prior owner allowed the registration to expire. The Respondent claims that he had no knowledge of the Complainant when registering the disputed domain name and simply viewed the disputed domain name as potentially valuable since it is a five letter word that can serve as an acronym for a multitude of phrases. The Respondent further asserts that he did not use the disputed domain name to target the Complainant or its goods and services, or to confuse Internet users into believing that the Complainant was associated with the Respondent's website.

Finally, the Respondent denies that he engaged in bad faith registration or use of the disputed domain name. He contends that he registered the disputed domain name at least one year prior to the Complainant's alleged first use, and that he only became aware of the Complainant and its rights when it received the Complainant's offer for purchase of the disputed domain name. He explains that he registered the disputed domain name based on its inherent value as a term that others may be interested in, noting that there are 67,900 results for "dimsi" on Google. He states that he intended to sell it to any willing purchaser, and that he had no intent to sell the disputed domain name to the Complainant for profit, to disrupt the Complainant's business, to confuse consumers seeking to find the Complainant's website, or to prevent the Complainant from owning a domain name incorporating its trademark.

## **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, but both Parties requested for English to be the language of the proceeding. Therefore, the Panel finds it proper and fair to render this decision in English.

### **B. Identical or Confusingly Similar**

According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.1.3, the Complainant's trademark rights must be in existence at the time the Complaint is filed. The Complainant has demonstrated with supporting evidence that it holds a registration to a mark consisting of "DIMSI" in France. The disputed domain name solely consists of the term "dimsi", 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. Therefore, it is difficult for the Panel to find that the Complainant has 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**

The Respondent has submitted a copy of an email dated October 30, 2005, sent from SnapNames.com, a domain name resale website, to the email address provided on Whois for the disputed domain name,

confirming the recipient's acquisition of the disputed domain name on October 29, 2005. The Panel finds that this establishes the Respondent's date of registration of the disputed domain name as preceding incorporation of the Complainant and the Complainant's use of DIMSI as its tradename and mark. Accordingly, the Panel finds it reasonable to conclude that there was no registration in bad faith. Further, offering to sell the disputed domain name *per se*, without additional supporting factors, does not necessarily indicate bad faith.

Even if the registration date is in June 2007 (not October 2005), the Complainant would not succeed.

The Complainant was formed in April 2006 and the Complainant states in the Complaint that it extended its activities to Southeast Asia in 2013 and to Africa in 2019, and that the Complainant has been a Microsoft partner since 2006 and became a "Microsoft Gold certified Partner" since 2020. The Complainant asserts that its turnover in 2020 (whether net or gross is not clear) was EUR 3 million; in contrast, it provides merely a single invoice from June 2006 for EUR 13,000. This is a far cry from demonstrating a reputation between April 2006 and June 2007 so as to support an inference that the Respondent was targeting the Complainant (if the Panel accepts the 2007 acquisition date); it may have been, but there is simply not enough evidence for the Panel to accept this assertion.

The Panel would also note that insofar as the Complainant's evidence as regards the acquisition date relies on an inference, it shows a registration by a third party in October 2004 with the next entry being the registration in the name of the Respondent in 2007, with no records in between. Given the significant lack of evidence of the Complainant's reputation between its formation in April 2006 and the supposed acquisition of the disputed domain name in June 2007 by the Respondent (*i.e.*, even accepting that this would be true), the Complainant's evidence falls significantly short of meeting its burden on the third element.

Therefore, the Panel finds that this element has not been established.

## **7. Decision**

For the foregoing reasons, the Complaint is denied.

*/Kathryn Lee/*

**Kathryn Lee**

Sole Panelist

Date: May 30, 2022