

## **ADMINISTRATIVE PANEL DECISION**

PVR Limited, INOX Leisure Limited v. Bak J-seon, James, PAK PAK, James  
Case No. D2023-0015

### **1. The Parties**

The Complainants are PVR Limited, India, and INOX Leisure Limited, India, both represented by Saikrishna & Associates, India.

The Respondents are Bak J-seon, James, and PAK PAK, all in the Republic of Korea.

### **2. The Domain Names and Registrars**

The disputed domain names <pvrinoxcinemas.com>, <pvr-inox.com>, <pvrinoxlimited.com>, <pvrinoxld.com>, <pvrinoxmovies.com>, and <pvrinox.net> are registered with ITEASY Inc.

The disputed domain name <pvrinox.com> is registered with HANGANG Systems Inc. dba Doregi.com.

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 3, 2023. On January 3, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 5, 2023, both Registrars transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint.

On January 10, 2023, the Center notified the Parties in both English and Korean that the language of the registration agreements for the disputed domain names is Korean. On January 12, 2023, the Complainants requested for English to be the language of the proceeding. On January 17, 2023, the Respondents requested for Korean 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 Respondents of the Complaint, and the proceedings commenced on January 18, 2023. In accordance with the Rules, paragraph

5, the due date for Response was February 7, 2023. The Respondents sent several informal communications to the Center, starting from January 6, 2023, but no formal Response was filed with the Center.

The Center appointed Kathryn Lee as the sole panelist in this matter on March 13, 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 PVR Limited (hereinafter “PVR”) is an Indian entertainment company incorporated in 1995 which operates film cinemas under the trademark PVR. There are currently around 176 PVR multiplexes in 71 cities in India and Sri Lanka, serving around 100 million visitors annually. The Complainant PVR owns a number of trademark registrations for PVR including Indian Trademark No. 1079437 registered on February 8, 2002 and Indian Trademark No. 1079436 registered on February 8, 2002.

The Complainant INOX Leisure Limited (hereinafter “INOX”) is also an Indian cinema chain. It began operations in 2002 and currently runs around 169 multiplexes across India under the trademark INOX. It has had more than 700 million visitors to date. The Complainant INOX owns a number of trademark registrations for INOX including Indian Trademark No. 1126782, registered on August 16, 2002, and Indian Trademark No. 1126781, registered on August 16, 2002.

The Complainants PVR and INOX publicly announced a merger of the two companies on March 27, 2022.

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

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

The Respondent Bak J Seon appears to be an individual/entity with an address in the Republic of Korea.

The disputed domain names <pvrinoxcinemas.com>, <pvr-inox.com>, <pvrinoxlimited.com>, <pvrinoxltd.com>, <pvrinoxmovies.com>, and <pvrinox.net> were all registered on March 27, 2022 and resolve to registrar holding pages.

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

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

The Complainants contend that the disputed domain names are confusingly similar to the PVR and INOX trademarks in which the Complainants have rights since each of the domain names contain both the PVR and INOX marks in their entirety.

The Complainants also contend that the Respondents have no rights or legitimate interests in the disputed domain names and confirm that they have not authorized or licensed rights to the Respondents in any respect. The Complainants also state that there was no legitimate noncommercial or fair use, nor use with a *bona fide* offering of goods and services.

Finally, the Complainants contend that the disputed domain names were registered and used in bad faith. The Complainants contend that the PVR and INOX trademarks are coined terms and that the Respondents would not have registered the disputed domain names without the knowledge of the Complainants' impending merger. Rather, the Complainants contend that the Respondents took undue advantage of the information on the merger by registering the disputed domain names in order to profit by using them to display pay-per-click links or by selling them to the Complainants or the Complainants' competitors. The

Complainants further contend that the Respondents have offered them for sale to the Complainant INOX for USD 180,000, which is an unreasonable price and evidence that the Respondents acquired the disputed domain names primarily to unlawfully gain profits.

## **B. Respondent**

The Respondents sent several emails to the Center inquiring about the administrative procedures and status of the proceedings, but did not submit any substantive response.

## **6. Discussion and Findings**

### **A. Consolidation of Multiple Domain Names and Respondents**

The Complaint was filed by two entities against three respondents and concerns seven domain names.

According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.1, "in assessing whether a complaint filed by multiple complainants may be brought against single respondent, panels look at whether the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation." Here, the Complainants' trademarks are reflected in each of the seven disputed domain names, and given the impending merger of the Complainants, they have similar interests in preventing third parties from misappropriating the PVR and INOX trademarks. Given the circumstances, it would be equitable and procedurally efficient to permit the consolidation. Accordingly, the Panel finds that the Complainants may bring this Complaint against the Respondents.

Further, according to "[WIPO Overview 3.0](#)", section 4.11.2, "where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties." The subject complaint concerns seven domain names, five of which are registered to an entity/organization named "James," and the other two are each registered to an entity/organization named "PAK PAK" and an entity/organization named "Bak J Seon." However, the same email address is provided for the registrant and administrative contacts for all seven domain names, and it would appear that all seven domain names are actually controlled by the same individual or entity. This is the same email address from which the Respondents communicated with the Center several times on procedural matters and status of the proceedings, and not once did the Respondents deny owning all seven disputed domain names. Accordingly, the Panel finds that it is proper and fair and also administratively efficient to consolidate the subject complaint against the three Respondents.

### **B. Language of Proceedings**

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 stating that it would accept the Complaint filed in English, and that the Response would be accepted in either Korean or English. The Respondents subsequently chose not to submit a substantive response.

The Panel finds it proper and fair to render this decision in English. Based on the email communications between the Complainant PVR and the Respondents, the Respondents appear more than capable of communicating in the English language. Further, on the web page linked to the disputed domain name <pvrinox.com>, the Respondents have provided content in English: "Coming Soon. Welcome to Pvrino.com. We oppose a dominant player in any business. It reduces [sic] competition and hurts customer's rights. This site has no relations with PVR, INOX of India" which also displays a sufficient level of

knowledge 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.

### **C. Identical or Confusingly Similar**

The Complainants have demonstrated with supporting evidence that the Complainant PVR has rights to the trademark PVR and that the Complainant INOX has rights to the trademark INOX. As for the disputed domain names, they each consists of the two terms “pvr” and “inox” on their own, or combined with a descriptive term “ltd”, “limited”, “movies”, and “cinemas”. According to [WIPO Overview 3.0](#), section 1.7, a domain name is considered confusingly similar to a trademark if it “incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name”. In this regard, the PVR and INOX marks are readily recognizable within the disputed domain names, and as such, the disputed domain names are confusingly similar to the PVR and INOX trademarks of the Complainants. The additional terms do not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

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

### **D. Rights or Legitimate Interests**

On the basis of the present record, the Panel finds that the Complainants have made the required allegations to support a *prima facie* showing that the Respondents have no rights or legitimate interests in the disputed domain names. Once such a *prima facie* basis has been established, the Respondents carry the burden of demonstrating its rights or legitimate interests in the disputed domain names. However, the Respondents in this case have chosen to file no substantive response to these assertions by the Complainants, and there is no evidence or allegation in the records that would warrant a finding in favor of the Respondents on this point. For instance, the disputed domain names resolve to the registrar holding pages, so there can be no *bona fide* offering establishing rights or legitimate interests. Moreover, the disputed domain names contain the Complainants’ trademarks, thus carrying a high risk of implied affiliation to the Complainants.

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

### **E. 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, the trademarks PVR and INOX are both coined terms, and it would be quite a coincidence for the Respondents to have registered the disputed domain names without any knowledge of the Complainants on the very same day as the announcement of the merger. Not only that, two of the disputed domain names contain the terms “movies” and “cinemas” which are the very services of the Complainants. Therefore, with no explanation to the contrary from the Respondents, it is likely that the Respondents learned of the merger of the Complainants and took an opportunity to unfairly profit from the likelihood of association with the Complainants’ trademarks by registering domain names corresponding to the combination of the Complainants’ two trademarks.

The disputed domain names do not currently display any content, but from the inception of the UDRP, UDRP panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3. Considering the distinctiveness of the PVR and INOX marks, the Respondents’ offer of USD 180,000 which is likely well in excess of the out-of-

pocket expenses incurred by the Respondents for registering and maintaining the disputed domain names, and the Respondents' failure to submit a response or provide any evidence of actual or contemplated good-faith use, the Panel finds that the Respondents' non-use of the disputed domain name does not prevent a finding of bad faith.

For the reasons given above, the Panel finds that the third and final element has been sufficiently 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 names, <pvrinoxcinemas.com>, <pvr-inox.com>, <pvrinox.com>, <pvrinoxlimited.com>, <pvrinoxltd.com>, <pvrinoxmovies.com>, and <pvrinox.net> be transferred to the Complainants.

*/Kathryn Lee/*

**Kathryn Lee**

Sole Panelist

Date: March 27, 2023