



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

ADMINISTRATIVE PANEL DECISION

Case No. : KR-2300248

Complainant: APR Co., Ltd.

(Authorized Representative for Complaint : Seunghye Paek, Patent Lawyer)

Respondent: Natalia Skrzypiec

Disputed Domain Name(s): [medicub-eu.com]

1. The Parties and Contested Domain Name

The Complainant is APR Co., Ltd., of 36F, 300 Olympic-ro, Songpa-gu, Seoul, Republic of Korea

The Respondent is Natalia Skrzypiec, of 122A Wright Street, Hurstville, New South Wales, Australia.

The domain name at issue is ‘medicub-eu.com’, registered with GoDaddy.com, LLC.

2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC) ["Center"] on September 15, 2023, seeking for a cancellation of the domain name in dispute.

On October 10, 2023, the Center sent an email to the Registrar asking for the detailed data of the registrant. On October 11, 2023, 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 "Policy"), 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 11, 2023 and the due date for the Response was October 31, 2023. No Response was filed by the due date.

On November 2, 2023, the Center appointed Mr. Chanmo Chung as 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.

3. Factual background

The Panel accepts the followings as undisputed facts:

The Complainant is a Korean beauty tech company founded in October 2014. It provides consumer skincare products. The Complainant's business has made steady growth domestically as well as globally, allegedly reaching its corporate value to 1 trillion KRW.

The Complainant has registered several trademarks for the character "MEDICUBE" in product classes 5 and 10, which include:

- KR trademark (KR Reg. No. 40-1880484, June 20, 2022)
- US trademark (US Reg. No. 7129446, August 8, 2023)
- WIPO (Int'l Reg. No. 1660556, August 9, 2022)
- EU trademark (Int'l Reg. No. 1660556, September 29, 2022)

The Complainant also maintains various websites, which incorporate the trademarked character. To name but a few,

- <themedicube.co.kr>
- <medicube.us>
- <themedicube.cn>
- <medicube.my>

It is thus accepted that the Complainant has right to bring this case.

It is also recognized from the WHOIS database that the Respondent registered the Disputed Domain Name on August 8, 2023.

4. Parties' Contentions

A. Complainant

The Complainant contends that the Disputed Domain Name is confusingly similar to the Complainant's registered trademarks, the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and that the Disputed Domain Name was registered and is being used in bad faith.

B. Respondent

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

According to Paragraph 5(f) of the UDRP Rules, if a Respondent does not submit a response, the Panel shall decide the dispute based upon the Complaint and evidence adduced by the Complainant.

5. Findings

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name must be identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- 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 Disputed Domain Name is composed of “medicub”, “-eu” and “.com”. In domain name dispute resolution, “.com” is disregarded in the analysis of similarity, as it is a non-distinctive identifier of generic top-level domain name (See *Tencent v. Livon Biswas & Shubhankar Ghosh*, ADNDRC/HK-2001374; WIPO Overview 3.0, section 1.11.1).

The suffix “-eu” is also disregarded. It is a well-established law that an addition of a geographic term to a trademark does not preclude a finding of confusing similarity between a domain name and the corresponding trademark (e.g., *AltaVista v. S.M.A.*, WIPO/D2000-0927; WIPO Overview 3.0, section 1.8). The suffix only creates misunderstanding among the public that the Disputed Domain Name is associated with the Complainant's European branch.

The remaining part of the Disputed Domain Name, “medicub”, is nearly identical to “medicube”. The Panel searched the web for any particular meaning for “medicub”. The Google search engine showed no such particular meaning, and all the results related to the Complainant.

Therefore, the Panel accepts that the Disputed Domain Name is confusingly similar to the Complainant's trademark.

Accordingly, the Panel finds that the Complainant has succeeded in proving the element in Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

The Panel accepts the following statements of the Complainant:

- 1) The Complainant has never authorized or licensed the Respondent to register or use any domain name incorporating the Complainant's MEDICUBE mark.
- 2) The name of the Respondent does not correspond to "medicub" and it is unlikely that the Respondent is commonly known as "medicub".

The Panel also notes that there is no evidence that the Respondent has made any good faith non-infringing use of the Disputed Domain Name.

Thus, the Panel finds that the Complainant made a prima facie case that the Respondent lacks rights and legitimate interests in the Disputed Domain Name under paragraph 4(a)(ii) of the Policy

C) Bad Faith

According to the various evidence submitted by the Complainant, the Complainant has built up goodwill and reputation in the brand over the years predating the registration of the Disputed Domain Name. The evidence suggest that the Respondent have been aware of the Complainant's mark at the time of its registration of the Disputed Domain Name and purposefully utilized the Complainant's reputation, caused confusion by displaying the Complainant mark as well as the contents of the Complainant's official US website.

Accordingly, the Panel finds that the Disputed Domain Name was registered and is being used in bad faith, and that the Complainant has succeeded in proving the element in Paragraph 4(a)(iii) of the Policy.

Therefore, the Panel finds that the Complainant has proved all three elements required under Paragraph 4(a) of the Policy.

6. Decision

For the foregoing reasons, in accordance with Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders that the Disputed Domain Name, <medicub-eu.com>, be cancelled.



Chanmo Chung
Sole Panelist

Dated: November 10, 2023