



Asian Domain Name Dispute Resolution Centre

seoul

(Seoul Office)

## ADMINISTRATIVE PANEL DECISION

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**Case No. :** KR-2400253

**Complainant:** Spigen Korea Co., LTD.

(Authorized Representative for Complaint : Beomchang Jeon)

**Respondent:** ZhiTao Song

**Disputed Domain Name(s):** [ spigenus.com ]

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### 1. The Parties and Contested Domain Name

The Complainant is Spigen Korea Co., LTD., of 446 Bongeunsa-ro, Gangnam-gu, Seoul, 06153, Republic of Korea

The Respondent is Zhi Tao Song of JianCheng Zhen, SanHu Cun, Yi She, 12Hao, Jian Yang Shi, Sichuan, People's Republic of China.

The domain name at issue is 'spigenus.com', registered with Chengdu West Dimension Digital Technology Co. Ltd.

### 2. Procedural History

The Complaint was filed with the Seoul Office of the Asian Domain Name Dispute Resolution Center (ADNDRC)[“Center”] on January 29, 2024, seeking for a transfer of the domain name in dispute.

On February 1, 2024, the Center sent an email to the Registrar asking for the detailed data of the registrant. On February 5, 2024, Chengdu West Dimension Digital Technology transmitted by email to the Center replied 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 February 7, 2024 and the due date for the Response was February 27, 2024. But, no response was received from the Respondent by the due date.

On February 29, 2024, the Center appointed Mr. Daehee Lee 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**

#### **A. Complainant**

The Complainant, Spigen Korea Co., LTD. established in 2008, is the owner of the trademark <SPIGEN> in China, Korea, US, EU and Canada. Those trademarks were registered for Class 9 and 35. The Complainant is selling several kinds of electronics- and cellular-related accessories in its website under the trademark registered.

#### **B. Respondent**

The Respondent, Zhi Tao Song, JianCheng Zhen, SanHu Cun, Yi She, 12 Hao, Jian Yang Shi, Sichuan, is the current registrant of the disputed domain name < SPIGENUS.COM> registered with Chengdu West Dimension Digital Technology Co. Ltd. The disputed domain name was registered on October 23, 2023. The Respondent is selling cellular-related accessories in the website operated under the disputed domain name. Those products are the same as ones sold by the Complainant.

#### **4. Parties' Contentions**

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

The Complainant's contentions may be summarized as follows:

First, the Complainant argues that the disputed domain name < SPIGENUS.COM> registered on Oct. 12, 2023 is identical or confusingly similar to its trademark <SPIGEN>, that the Respondent simply combined two words <SPIGEN> and <US(mere geographical indication)>, and that it thus meets the first element under the paragraph 4(a) of the Policy.

Second, the Complainant argues that it has never been in business relationship with the Respondent, that the Respondent could not possibly have been commonly known by the domain name, and thus that it meets the second element under the paragraph 4(a) of the Policy.

Third, the Complainant argues that it had obtained the trademark registration in several countries before the disputed domain name was registered, that the Respondent intentionally attempted to attract internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark, and that it thus meets the third element paragraph 4(a) of the Policy.

##### **B. Respondent**

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

## 5. Findings

The 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 Complainant has registered its trademark <SPIGEN> in Korea, US, China, Canada, and EU. The disputed domain name <SPIGENUS.COM> is composed of Complainant's trademark <SPIGEN> and the word <US> which may be a country name or a geographical indication. Because Complainant's trademark <SPIGEN> is recognizable within the disputed domain name, the addition of such terms as <US> and <.com> does not prevent a finding of confusing similarity under the first element of 4(a) of the Policy. The Panel finds that the Complainant has rights in its trademark <SPIGEN>, that the disputed domain name is identical or confusingly similar to Complainant's trademark, and thus that paragraph 4(a)(i) of the Policy has been satisfied.

### **B) Rights and Legitimate Interests**

The Complainant needs to prove that the Respondent has no rights to or legitimate interests in the disputed domain name. Once the complainant makes out a prima facie case that the Respondent lacks rights or legitimate interests, the burden of production on this element shifts to the Respondent to come forward with relevant evidence demonstrating rights to or legitimate interests in the domain name.

The Complainant is a trademark holder of the trademark registered in several countries which is included in the disputed domain name. The Complainant alleges that it has never been in business relationship with the Respondent. The Panel finds

that the Complainant made a prima facie case, and that the Respondent has the burden to rebut. However, the the Respondent did not respond to the Complaint.

For the foregoing reasons, the Panel finds that paragraph 4(a)(ii) of the Policy has been met.

### **C) Bad Faith**

The Complainant needs to prove that Respondent's domain name has been registered and is being used in bad faith. With regard to whether the Respondent registered the domain name in bad faith, the Panel notes that the disputed domain name was registered on October. 12, 2023 while Complainant's mark <SPIGEN> was registered on February 17, 2022 in China, on February 15, 2013 in Korea, on April 14, 2020 in US(2020) and on August 19, 2015 in Canada(2015) respectively. Furthermore, Complainant's mark <SPIGEN> has no lexical meaning such that others cannot easily conceive of Complainant's trade mark without knowing the existence of the trademark. Accordingly, it seems quite conceivable to the Panel that the Respondent registered the disputed domain name in October, 2023 knowing well the trademark of the Complainant.

Paragraph 4(b) of the Policy states nonexclusive circumstances which, if found, shall be evidence of the registration and use of the domain name by Respondent in bad faith. Among those circumstances does the Panel note that by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, internet users to registrant's website or other on-line location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on registrant's website or location.

Here in this case, the Complainant shows that the Respondent, under the website using the disputed domain name identical or confusingly similar to Complainant's trademark, uses the same product images and is selling the same products as those in Complainant's official website. As a result, it is quite reasonable to infer that the Respondent has intentionally attempted to attract, for commercial gain, internet users

to Respondent's website or other on-line location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith, and thus that the paragraph 4(a)(iii) of the Policy has been met.

## **6. Decision**

For all 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 < SPIGENUS.COM > be transferred to the Complainant.



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Daehee Lee  
Sole Panelist

Dated: March 14, 2024