

ADMINISTRATIVE PANEL DECISION

Evolution AB (publ) v. bujang do

Case No. D2023-2102

1. The Parties

The Complainant is Evolution AB (publ), Sweden, represented by Zacco Sweden AB, Sweden.

The Respondent is bujang do, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <evolutionkorea.net> is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 11, 2023. On May 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 15, 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 (Domain Admin, Privacy Protect, LLC (Privacy Protect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 15, 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 an amendment to the Complaint on May 16, 2023.

The Center verified that the Complaint together with the amendment to 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”).

On May 15, 2023, the Respondent sent an informal communication.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default June 7, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on June 12, 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 is a Swedish company founded in 2006, which develops and licenses business-to-business online casino solutions to gaming operators worldwide. The Complainant has operations in 15 countries with around 13,000 employees, and is listed on the Stockholm Stock Exchange and included in the OMX30, a capitalization-weighted index of the 30 most traded stocks on the Stockholm Stock Exchange. The Complainant has used the EVOLUTION mark in numerous countries since October 2020, and owns trademark registrations for various EVOLUTION marks including EVOLUTION and device (International Reg. No. 1670152, registered on December 3, 2021; and European Union trademark Reg. No. 018578196, registered on March 26, 2022). The Complainant also owns domain names that incorporate EVOLUTION, such as <evolution.com> and <evolutiongaming.com>.

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

The disputed domain name was registered on March 14, 2023, and at the filing of the subject Complaint, resolved to a website in Korean purporting to be for a company called “Evolution Casino”, an online casino gaming site.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the EVOLUTION trademark in which the Complainant has rights. The Complainant explains that the disputed domain name incorporates the Complainant’s trademark as a whole, and that “korea” is a geographical term which does not eliminate confusing similarity.

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 the Respondent is actively attempting to create the impression that the disputed domain name is run by the Complainant or at least someone connected to the Complainant by linking the disputed domain name to a website promoting casino and gaming services and using the Complainant’s name, copyrights, and trademarks. The Complaint contends that the disputed domain name is being used for a commercial purpose which will risk diluting and damaging the reputation of the EVOLUTION mark and the Complainant’s business, which does not represent legitimate interests in the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant contends that given the Respondent’s use of the disputed domain name, it is apparent that the Respondent is well aware of the Complainant and its services, and it is surely the Complainant’s reputation that motivated the Respondent to register and use the disputed domain name. The Complainant also contends that it sent a letter to the Respondent and the Respondent’s failure to respond is further evidence of bad faith. In addition, the Complainant contends that the Respondent is claiming to be, or at the very least claiming to represent, the Complainant, and the incorporation of a well-known mark into a domain name in order to attract visitors to a commercial website can amount to bad faith use.

B. Respondent

The Respondent did not reply formally to the Complainant’s contentions. On May, 15, 2023, the Respondent

submitted an email stating : “I don't understand why my domain got involved in this dispute. I spend a lot of time and effort running my site. Can I know when this problem will be solved?”

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark EVOLUTION and design. As for the disputed domain name, it consists of “evolution” combined with the term “korea”. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[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 trademark EVOLUTION is readily recognizable within the disputed domain name, and therefore, the disputed domain name is confusingly similar to the Complainant’s trademark. The additional term “korea” does 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.

B. 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 substantive 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.

Besides, a respondent’s use of a domain name is not considered “fair” if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the disputed domain name corresponds exactly to the Complainant’s trademark, and the additional term “korea” suggests that the disputed domain name belongs to the Complainant’s Korean office, and carries a risk of implied affiliation.

In addition, the Respondent used the disputed domain name to pass himself off as the Complainant or someone affiliated with the Complainant, and the use of a domain name for illegal activity can never confer rights or legitimate interests on the Respondent. See [WIPO Overview 3.0](#), section 2.13.1.

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.

C. Registered and Used in Bad Faith

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

First of all, the Respondent has linked the disputed domain name with a website passing itself off as the Complainant offering casino services. This indicates that the Respondent likely knew of the Complainant and the Complainant’s trademark when registering the disputed domain name. Next, the website at the disputed domain name invited Internet users to contact a separate agency in order to get certified and obtain a link to the gaming website. This highly suggests that there was use/attempt to use the disputed domain name in perpetuating fraud using the personal information obtained in this manner. Considering this, it is quite clear that the Respondent registered the disputed domain name with the intent to benefit financially from the disputed domain name and the fame and reputation associated with the Complainant’s trademark.

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, <evolutionkorea.net>, be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: June 26, 2023