

SINGAPORE DOMAIN NAME DISPUTE RESOLUTION SERVICE

Administrative Panel Decision

Case No. SDRP-2002-0004(F)

Samsung Electronics Co., Ltd v Funexpress.com.sg Pte Ltd

1. The Parties

- 1.1 The Complainant, Samsung Electronics Co., Ltd, is a company incorporated under the laws of Korea, with its principal place of business at 416, Maetan-dong, Suweon, Kyungkido, Republic of Korea.
- 1.2 The Respondent is Funexpress.com.sg Pte Ltd, a company incorporated in Singapore, whose registered address is 10 Anson Road #15-14, International Plaza, Singapore 079903.

2. The Domain Names and Registrar

- 2.1 The domain name in issue is "samsungmobile.com.sg" (the "Domain Name").
- 2.2 The Registrar of the Domain Name is Singapore Network Information Centre (SGNIC) Private Limited ("SGNIC") of 8 Temasek Boulevard #14-00, Suntec Tower Three, Singapore 038988.

3. Procedural History

- 3.1 The Complainant submitted a complaint ("the Complaint") pursuant to the Singapore Domain Name Dispute Resolution Policy ("the Policy"), the Rules for the Singapore Domain Name Dispute Resolution Policy ("the Rules") and the Supplemental Rules for the Singapore Domain Name Dispute Resolution Policy ("the Supplemental Rules").
- 3.2 The Secretariat for the Singapore Domain Name Dispute Resolution Service ("Secretariat") received an electronic copy of the Complaint and hard copies of the same on 20 December 2002. The Secretariat forwarded the Complaint, together with the prescribed Complaint Notification Instructions to the Respondent by e-mail and post on 23 December 2003, after verifying that the Complaint satisfied the formal requirements of the Policy, Rules and Supplemental Rules, and notified the Respondent of the commencement of the present proceedings and the deadline for the filing of a Response, namely, 15 January 2003.
- 3.3 The Respondent did not submit a Response by 15 January 2003 or thereafter.
- 3.4 On 17 January 2003, the Secretariat notified the parties of the appointment of the undersigned, Richard Tan, as the sole panellist on the Administrative Panel ("the Panel") to decide the dispute between the parties, after the latter signed a Statement of Acceptance and Declaration of Impartiality and Independence.
- 3.5 On 31 January 2003, the Panel, in the exercise of its discretion and its powers under Rule 12 of the Rules, in a letter addressed to the parties, invited the Complainant to provide a further statement to clarify certain parts of its Complaint by 13 February 2003. The Panel further stated that in the event the Complainant

submitted a further statement, it would allow the Respondent an opportunity to respond to that further statement, if it so wished.

- 3.6 On 7 February 2003, the Complainant, through its solicitors, submitted a further statement by email to the Secretariat in which it clarified that there were certain clerical errors in paragraph 24 of the Complaint and submitted an amendment to the various figures contained in paragraph 24 thereof.
- 3.7 On 7 February 2003, the Secretariat sent an email to the parties attaching a copy of the Complainant's further statement dated 7 February 2003, and communicated the Panel's decision to allow the Respondent an opportunity, if it so wished, to respond to the Complainant's further statement by 5.00 pm, 17 February 2003. The Secretariat also stated that the Panel would then make its decision by 3 March 2003.
- 3.8 The Respondent did not submit any response to the Complainant's further statement by 17 February 2003, or thereafter.

4. Factual Background

- 4.1 The Complainant is a Korean corporation dealing in a wide range of goods bearing the mark "SAMSUNG" in Singapore and elsewhere. According to the Complaint, the Complainant has used its "SAMSUNG" trademarks on its goods and services in Singapore and around the world since 1993.
- 4.2 The Complainant has trademark registrations and pending applications in Singapore for the word mark "SAMSUNG" and a device mark which includes the word "SAMSUNG" in various classes of goods and services, including Classes 7, 9, 11 and 14. The goods for which the trademarks have been registered in Singapore include machines and machine tools, apparatus and equipment for recording and transmission of sound or images, telephones and a wide variety of electric goods and products. The Complainant also claims that it is the registered proprietor of its "SAMSUNG" trademarks in many other countries throughout the world.
- 4.3 The Complainant in its Complaint, states that its annual sales for products and services under its "SAMSUNG" marks were approximately US\$24 billion worldwide and SG\$3 billion in Singapore for the year 2001. The Complainant also sought to demonstrate that the Complainant has advertised the "SAMSUNG" mark extensively over recent years by providing certain figures of its advertising expenditure over recent years. The Panel however noted that the Complainant's annual advertising expenditure worldwide for each of the years 1999 to 2001 as stated in paragraph 24 of the Complaint was actually lower than the annual advertising expenditure claimed for Singapore alone in each of the corresponding yearly periods. The Panel, as stated above, requested in the exercise of its discretion, a further statement from the Complainant to explain the discrepancy in the figures if it so wished. The Complainant submitted a further statement to clarify that there were "clerical" errors in paragraph 24 of the Complaint and submitted an amendment to paragraph 24. The Panel notes that, based on the amended figures, the Complainant's worldwide advertising expenditure was US\$888m in 2001 and US\$1,139m in 2002, whilst its advertising expenditure in Singapore was about S\$7.9m in 2001. No figure for advertising expenditure in Singapore was however given for 2002.
- 4.4 According to the WHOIS search conducted by the Complainant on 18th September 2002, a copy of which was attached to the Complaint, the

Respondent registered the domain name "samsungmobile.com.sg" (the "Domain Name") on 1 July 2002.

- 4.5 The Complainant has provided a copy of a printout of the Respondent's website at <http://www.samsungmobile.com.sg> as at 18 September 2002. The website was described by the Complainant as "under construction". The website contained a statement that the Respondent was "bringing you the complete resource center for your Samsung mobile needs. Please bear with us for a short while. Please visit us again." The website also contained a list of various items which the Respondent appeared to be offering, including "Samsung Product specifications", "Ring tones and Picture Messages", "Polyphonic Ring Tone Downloads", "Animated Screensavers", "Wallpapers", "Where you can grab a mobile phone in Singapore", "Product Review by our Phone Specialist" and a "Discussion Forum for Samsung users and Developers".
- 4.6 The website also contained an email address for website visitors with questions and business enquiries. As at 26 January 2003, the contents of the website appeared to have remained unchanged.
- 4.7 Subsequent to the discovery of the Respondent's registration of the "samsungmobile.com.sg" domain name in September 2002, the Complainant's solicitors sent a letter to the Respondent on 14 October 2002 demanding *inter alia* that the Respondent cease use of the Domain Name and transfer the same to the Complainant. No response to this letter was received. The Complainant's solicitors sent a reminder to the Respondent on 25 October 2002. This letter was also apparently unanswered.
- 4.8 The Complainant thereafter initiated the present proceedings.

5. The Parties' Contentions

5.1 The Complainant's Contentions

The Complainant contends that:

- (1) The domain name "samsungmobile.com.sg" is identical or confusingly similar to the "SAMSUNG" mark in which the Complainant has rights, as:
 - (a) the Complainant is the registered proprietor of six trademarks in Singapore bearing the word "SAMSUNG", including Trade Mark No. T93/01089H in Class 9 for *inter alia* apparatus and instruments for recording, transmission or reproduction of sound or images, radio telephone sets and telephone apparatus, and has also carried out significant sales and advertising by reference to the same, with the result that the mark is a well recognized global brand;
 - (b) the addition of the word "mobile" after the name or mark "SAMSUNG" to form the domain name "samsungmobile.com.sg" does not prevent the Domain Name from being identical or confusingly similar to the "SAMSUNG" trademark merely because "mobile" is a generic or descriptive word.
- (2) The Respondent has no rights or legitimate interests in respect of the Domain Name, as:

- (a) the Respondent is neither authorized nor licensed to use the Complainant's name or trademark, and the Respondent is promoting its own products and services by reference to the Domain Name;
 - (b) the Respondent has not acquired any trademark or service mark rights over the Domain Name, nor is it commonly known by the Domain Name;
 - (c) the Respondent is seeking to divert customers looking for the Complainant's products to the Respondent's website for commercial gain as the Respondent's own products and services are promoted on the website; and
- (3) The Respondent's Domain Name has been registered or is being used in bad faith, as:
- (a) the Respondent has used the Domain Name in a manner such that visitors to the website would be misled into thinking that the Respondent's website was affiliated with the Complainant, and would then be offered the Respondent's products and services at the website;
 - (b) the Respondent registered the Domain Name when it had actual or constructive knowledge of the Complainant's fame in the mark;
 - (c) the Respondent failed to respond to the Complainant's request for transfer of the Domain Name; and
 - (d) the Respondent used the Complainant's mark to ride on the Complainant's goodwill in the mark.

5.2 Absence of a Response from the Respondent

The Respondent has not submitted any Response.

Discussions and Findings

- 6.1 The Complainant has the burden of proving each of the following three elements under paragraph 4(a) of the Policy in order to be entitled to a transfer of the Domain Name:
- (i) that the Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
 - (ii) that the Registrant has no rights or legitimate interests in respect of the domain name; and
 - (iii) that the Registrant's domain name has been registered or is being used in bad faith.
- 6.2 The Respondent is required under the Rules, to submit a Response to the Complaint within fifteen working days after the date of commencement of the administrative proceedings. In the event of a failure to submit a Response, Rule 5(f) provides that absent any exceptional circumstances, the Panel is to decide the dispute "based upon the complaint". Rule 14(b) further provides that if a party in the absence of exceptional circumstances, fails to comply with any provision of

the Rules, the Panel “shall draw such inferences therefrom as it deems appropriate”.

- 6.3 The aforesaid provisions of the Rules are identical to the corresponding provisions of the Rules of the well-known Uniform Domain Name Dispute Resolution Policy (“UDRP”) adopted by ICANN (the Internet Corporation for Assigned Names and Numbers). As the Singapore Domain Name Dispute Resolution Policy (“SDRP”) and its Rules have been modelled on the UDRP and the UDRP Rules, reliance may be placed on decisions made by panels in disputes decided under the UDRP. It should however be noted that whilst Rule 15(a) of the UDRP Rules provides that a panel may decide a complaint in accordance with “any rules and principles of law that it deems applicable”, Rule 15(a) of the SDRP Rules expressly states that the panel is to decide the complaint in accordance with “any rules and principles of *the law of Singapore* that it deems applicable”. Some care should therefore be taken in applying decisions made under the UDRP, since there may be certain elements of local law that require panels deciding disputes under the SDRP to adopt a different approach. However, with regard to issues relating to the burden and standard of proof and the drawing of inferences from a party’s default or failure to submit a response, there ought, in practice, to be very little difference between the way a panel deciding a case under the SDRP and a panel deciding a case under the UDRP and applying general common law principles, would approach these issues.
- 6.4 As the Respondent has not submitted a Response, and there having been no exceptional circumstances brought to the attention of the Panel, in accordance with paragraph 5(f) of the Rules, this Panel is entitled to decide the dispute based on the Complaint and to accept as true the factual averments of the Complaint for the purposes of these proceedings: *Talk City Inc. v Robertson*, WIPO Case No. D2000-0009 (February 29, 2000) (noting that Rule 14(b) provides that the Panel is entitled to “draw such inferences” from the Respondent’s failure to comply with the rules “as it considers appropriate”).
- 6.5 The Respondent’s default, however, does not lead to an automatic ruling in favour of the Complainant. The burden remains on the Complainant to establish, on a balance of probabilities, that it is entitled to a transfer of the domain name: *World Wrestling Federation v Bosman*, Case No. D99-0001, *Telstra Corporation Ltd v Nuclear Marshmallows*, Case No. D2000-0003, *Digital Vision, Ltd v Advanced Chemill Systems*, Case No. D2001-0827, and also the first decision made under the Policy, *Viacom International Inc v Elitist Technologies Co Ltd* (SDRP-2002/0001(F)). This Panel also notes that in cases of default, a Complainant’s papers may be held to “an exacting standard”: *Edgar Rice Burroughs, Inc. v Adtel Communications*, WIPO Case No. D2000-0115.

Paragraph 4(a)(i) of the Policy

- 6.6 First, the Complainant must show that the Registrant’s domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights.
- 6.7 As noted above, the Complainant has provided evidence that it has registered various trademarks in Singapore, including the word mark “SAMSUNG” and other device marks, the predominant feature of which is the word “SAMSUNG”. The Panel notes the Complainant’s contention that the word “SAMSUNG” is not an English word and is distinctive of the Complainant. The Panel accepts that the word “SAMSUNG” is not a generic or descriptive word. The Panel holds that the Complainant has rights in the trademark “SAMSUNG” as a registered trademark.

As regards the Complainant's claim that it also has rights to the aforesaid mark based on its claimed sales and advertising figures in Singapore and worldwide (which figures are presumably being relied upon by the Complainant to demonstrate that it has sufficient reputation and goodwill to also sustain a passing-off action), the Panel notes that the figures set out in the Complaint are unaccompanied by any supporting documentary evidence. It is also slightly curious that the Complainant has, as already noted above, provided a figure for its worldwide advertising expenditure in 2002, but has provided none for Singapore for the same year. Nevertheless, as the Complainant has attached to its Complaint a copy of a printout from Interbrand's website which lists the "SAMSUNG" mark as one of the world's most valuable brands (number 42 on a list of 100 brands), the Panel is prepared to hold that, on balance, and given that the Respondent has not sought to challenge this aspect of the Complainant's case relating to its reputation and goodwill worldwide and particularly, in Singapore, the Complainant has succeeded in establishing that it has rights in the trademark "SAMSUNG" even insofar as those rights consist of common law rights in an unregistered trademark or trade name.

- 6.8 The disputed domain name "samsungmobile.com.sg" is made up of a combination of the Complainant's "SAMSUNG" trademark and the word "mobile". Where the domain name in dispute is similar or identical to the Complainant's mark save for the addition of a term descriptive of the Complainant's products, the element of confusing similarity would still be present: see for example, *Telstra Corporation Ltd v Ozurls* (WIPO D2001-0046) where the domain name "telstramobiles" was held to be descriptive of the products and services offered by Telstra Corporation Ltd., Australia's well-known telecommunications and information services company. It was held there that the addition of the descriptive word "mobiles" would not reduce the confusing similarity present.
- 6.9 Similarly, in *Avery Dennison Corporation v. Sarah Wilkerson d/b/a Wilk Enterprises* (Claim No. FA0108000099593), it was held that the disputed domain name "averylabels.com" was confusingly similar to the "Avery" trademark. The addition of "labels" to the domain name was generic and descriptive of the Complainant's products, and therefore did not reduce the confusing similarity.
- 6.10 The addition of "mobile" to "SAMSUNG", being descriptive of the mobile phones that the Complainant sells, would similarly not reduce the confusing similarity. The Panel therefore finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

Paragraph 4(a)(ii) of the Policy

- 6.11 Next, the Complainant has to establish that the Respondent has no legitimate rights or interests in the domain name. Such rights or interests would be demonstrated if any of the following non-exhaustive criteria in paragraph 4(c) of the Policy are shown:
- (i) before any notice to the Registrant of the dispute, the Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;
 - (ii) the Registrant (as an individual, business, or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or

- (iii) the Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.
- 6.12 Did the Respondent make demonstrable preparations to use the website before any notice to the Registrant of the dispute?
- 6.13 The Panel notes that the Domain Name had been registered on 1 July 2002, and the Respondent was first notified by the Complainant of its claims to the same in mid-October 2002, some three and a half months later. It would appear from the documents submitted that from at least mid-September 2002, the Domain Name resolved to a website which was described to be “under construction” and which contained numerous statements of the Registrant’s intention to launch various goods and services when the site turned operational. Apart from this list of statements, there is no other evidence to show that such preparations were being taken.
- 6.14 Given the relatively short interval between the registration of the Domain Name and the notification of the Complainant’s claim, and noting that the Registrant stated its intention to launch various services on the website, this Panel is not, however, prepared to find, on the facts, that the Respondent’s notices on the website could not have constituted a “demonstrable preparation to use” the domain name.
- 6.15 However, even if the Respondent had made such preparations, the issue is whether such use constituted a “bona fide” offering of goods and services.
- 6.16 In this regard, the decision of the panel in *Nokia Corporation v Nokia Ringtones & Logos Hotline* (WIPO Case No. D2001-1101, October 18, 2001) is noteworthy. In that case, the domain name “worldnokia.com” had been used by the respondent in that case to offer logos, ringtones, software and other products and services to owners of mobile phones. The respondent claimed that its products were only compatible with the Nokia mobile phone and it was for that reason that the name “worldnokia” was used. The panel in that case noted that other panels (WIPO Case No. D2000-0079 *Motorola Inc. v NewGate Internet Inc.*; WIPO Case No. D2000-0113 *Stanley Works and Stanley Logistics Inc. v Camp Creek Co.*; WIPO Case No. AF-0126 *Mikimoto (America) Co. v Asanti Jewellers Ltd*; WIPO Case No. D2000-1201 *R.T. Quaife Engineering Ltd v Luton*) had held that a licensee or a dealer, agent or distributor of products of the trademark owner or of compatible products does not per se have a right to a domain name which includes that trademark. The panel said: “It follows that Respondent in this case would only have a right to the domain name <worldnokia.com> if Complainant had specifically granted that right. Respondent has not contested that Complainant has not licensed or otherwise permitted Respondent to use the trademark NOKIA. The mere fact that Respondent sells logos and ringtones compatible with NOKIA mobile phones is not sufficient for Respondent to claim a legitimate interest.”
- 6.17 In the present case, the Respondent was clearly aware of the Complainant’s reputation and goodwill in its “SAMSUNG” trademark, as it intimated in its website that it intended to provide various services for the users of “SAMSUNG” mobile phones. The Complainant has however stated that the Respondent is not an authorized dealer of the Complainant’s, nor has the Respondent been licensed to use the Complainant’s name or trademark. Given the absence of a Response, and there being no evidence to suggest otherwise, this Panel accepts the Complainant’s assertions in this regard as true.

- 6.18 On this basis and following the approach of the panel in *Nokia Corporation v Nokia Ringtones & Logos Hotline* (WIPO Case No. D2001-1101, October 18, 2001) cited above, even if it could be said that the Respondent had made “demonstrable preparations” to use the Domain Name, the mere fact that the Respondent intends to offer products and services such as ring tones, picture messages compatible with the Complainant’s mobile phones is insufficient for it to claim a legitimate interest in the domain name, without more.
- 6.19 Accordingly, the Panel finds that paragraph 4(c)(i) of the Policy is not established.
- 6.20 There is also no evidence to suggest that the Respondent has acquired trademark or service mark rights in the Domain Name. There is also nothing to suggest that the Respondent has been commonly known by the Domain Name. Indeed, it has been registered as Funexpress.com.sg Pte Ltd and has conducted business under this name.
- 6.21 Accordingly, the Panel finds that paragraph 4(c)(ii) of the Policy is not established.
- 6.22 The Complainant also asserts that there is no evidence that the Respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.
- 6.23 Whether or not this is the case is determined not by the amount of money that a party makes from the commercial use of the domain name, but whether the site is indeed commercial: *National Association for Stock Car Auto Racing, Inc. v. David Crawford, Jr.* (WIPO D2001-1338). The Respondent’s site states that it will offer “Ring tones”, “Picture Messages” and “Polyphonic Ring Tone Downloads”. Given the preponderance of similar sites that charge fees for such downloads, the Panel finds that it is likely that the Respondent would do so as well.
- 6.24 Indeed, the Registrant operates another website, <http://www.funsms.com.sg>, which does offer such services for a fee. It should also be noted that the website currently operated by reference to the Domain Name provides for a link to the Respondent via e-mail for “Business Enquires”. These facts clearly indicate that the Domain Name has been or will be used for commercial purposes.
- 6.25 The Panel further notes that in addition to offering the above services, the Respondent also intends to provide information relating to the Complainant’s mobile phones. It has been held that where the Respondent provides not only information but also offers products or services on the website, to argue that the Respondent is indeed making a non-commercial use is to overlook the benefit the Respondent would receive in attracting visitors looking for such informational services to its website: *Synplicity, Incorporated v. Brad Balla* (WIPO D2001-1000), and *Chanel, Inc v. Estco Technology Group* (WIPO D2000-0413).
- 6.26 As such, the Panel finds that paragraph 4(c)(iii) of the Policy has not been established.
- 6.27 Based on the information available to the Panel in the Complaint, and given that the Respondent has not shown (or attempted to show) that the Respondent has any rights or legitimate interest in the Domain Name, the Panel finds that the Complainant has sufficiently discharged the burden of establishing that the Respondent has no rights or legitimate interests in respect of the domain name, and that accordingly, paragraph 4(a)(ii) of the Policy has been satisfied.

Paragraph 4(a)(iii) of the Policy

- 6.28 The Complainant has to further establish that the Respondent's domain name has been registered or is being used in bad faith. The following non-exhaustive circumstances referred to in paragraph 4(b) of the Policy would show evidence of such bad faith:
- (i) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant, who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to the domain name;
 - (ii) the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct;
 - (iii) the Registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
 - (iv) by using the domain name, the Registrant has intentionally attempted to attract, for commercial gain, Internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.
- 6.29 In the present proceedings, the Complainant seeks to rely on limb (iv) in establishing that the Respondent's domain name has been registered or is being used in bad faith.
- 6.30 In this regard, the Complainant asserts that the Respondent's various references to the Complainant and its "SAMSUNG" mark on the subject website creates a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Registrant's website with the Complainant. In addition, by appropriating the Complainant's "SAMSUNG" mark, internet surfers seeking the Complainant's products or services would be misled into concluding that they were visiting a legitimate website "samsungmobile.com.sg" affiliated with the Complainant. Such potential customers of the Complainant visiting the subject website would instead be offered products of the Respondent. Furthermore, given the distinctiveness of the Complainant's "SAMSUNG" mark, it would be inconceivable that the Respondent could be making any active use of the domain name without creating a false impression of association with the Complainant.
- 6.31 The Panel notes that where the disputed domain name is distinctive, as is the case here, the Panel would generally be more prepared to find that the Respondent has acted in bad faith in registering or using the domain name: *Viacom International Inc. v. Elitist Technologies Co Ltd* (SDRP – 2002/0001(F)). Various decisions based on the UDRP also recognize that where the domain name is obviously connected with well-known and distinctive trademarks, use or registration by anyone other than the Complainant suggests opportunistic bad faith: see *Pavilion Agency, Inc v Greenhouse Agency, Ltd* (WIPO D2000-1221); *Singapore Airlines Limited v. Robert Nielson (trading as Pacific International Distributors)* (WIPO Case No. D2000-0644).

- 6.32 In the present case, the Respondent obviously knew of the existence of the Complainant's marks at the time of its registering the Domain Name, and was intending to offer its own commercial products and services in connection therewith.
- 6.33 Apart from not filing a Response, the Respondent also did not reply to the Complainant's cease and desist letter of 14 October 2002 nor the subsequent reminder of 25 October 2002. A respondent's failure to respond to a complainant's attempts to contact him has been held to support a finding of bad faith especially if accompanied by a refusal or failure by the respondent to contradict the assertion that the respondent registered the domain names in question in order to benefit from the well-known mark: *Toyota Motor Sales USA v Rafi Hamid dba ABC Automobile Buyer* (WIPO D2001-0032); *Encyclopaedia Britannica v Zucarini* (WIPO D2000-0330), *Google, Inc. v Google Entertainment* (SDRP2002/0003(F)).
- 6.34 In the absence of a Response, an inference may therefore properly be drawn that the Respondent, by securing a domain name registration combining the Complainant's distinctive "SAMSUNG" name with an obvious descriptor "mobile" (which the Panel finds did not reduce the scope for confusion but instead increased it by reinforcing the connection with the Complainant's products), sought to ride on the reputation of the Complainant's mark by attracting for commercial gain users to the Registrant's website by creating a likelihood of confusion with the Complainant as to "the source, sponsorship, affiliation, or endorsement of the Registrant's website", within the meaning of paragraph 4(b)(iv) of the Policy.
- 6.35 Given all the circumstances, the Panel finds that the Respondent's domain name has been registered or is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

7. Conclusion

- 7.1 Having proven each of the three elements in paragraph 4(a) of the Policy, the Panel finds that the Complainant is entitled to the remedy it seeks under paragraph 4(i) of the Policy. Therefore, the Panel resolves that the Domain Name be transferred to the Complainant.

Richard Tan
Sole Panellist

22 February 2003