

## The Addidas Domain Case

By Won Hee CHO, Partner of BAE, KIM & LEE IP Group

Plaintiff, Mr. Yoon, holding a domain name “addidas.com” in which “d” is added to “adidas,” filed a trial of confirmation of the non-existence (2010 GaHap 45031), that is a claim to vacate a decision to transfer the registration of the domain name, against Adidas AG, a world-famous sports goods manufacturer and distributor, claiming that Adidas company has no right to ban plaintiff from using his domain name “addidas.com.” In this case, the 12th Civil Division of the Seoul Central District Court recently ruled against the plaintiff and ordered the plaintiff to transfer his domain name “addidas.com” to Adidas AG (“Adidas”). In the holding, the judge ruled that the plaintiff’s domain name is a mere addition of one letter “d” to the defendant’s trademark “adidas,” and in light of the constitution of spellings, it is very liable to mistype when inputting the domain name related to the defendant’s trademark in a web browser address bar. In other words, if people do not carefully look at “addidas,” it can be recognized as being identical with the defendant’s trademark and also both sounds are the same.

Further, the judge held that “considering domestic/foreign sales, domestic advertising expenses and trademark holding status, Adidas has a legitimate right for domain name and in view of the mode of using the plaintiff’s domain name, the plaintiff registered/held or used the domain name for unjust purposes; thus, unless under special circumstances, Adidas has the right to cancel the registration of the plaintiff’s domain name.” In addition, the judge explained that it is difficult to expect that a person with a legitimate right for a specific domain name would have all domain names similar to the domain name and he would spend unnecessary expenses for holding a domain name which is very similar to his domain name, thereby causing potential confusion and dilution/damage of the distinctiveness of his domain name; and considering that the plaintiff has used the domain name with “d” added to “adidas” and sold products bearing adidas mark without permission, Adidas claiming a right to the plaintiff’s domain name is not against the Principle of Abuse of Right or the Principle of Trust and Good Faith.

(The plaintiff, after registering an internet domain name “addidas.com” in the international organization, has sold footwear bearing a worldwide sports brand “Adidas” trademark through the above domain. Consequently, Adidas requested to the Domain Name Dispute Resolution Center that the plaintiff should transfer his domain to Adidas, and the Center decided to order the plaintiff to do so last February. Subsequently, the plaintiff filed a lawsuit before the court on the ground that Adidas has no right to ban plaintiff from using his domain, and Adidas also brought a counterclaim.)

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