



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HKcc-1700039
<b>Complainant:</b>	Emperor Management Services Limited
<b>Respondent:</b>	drama u
<b>Disputed Domain Name(s):</b>	<emperorgroup.co>

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**1. The Parties and Contested Domain Name**

The Complainant is Emperor Management Services Limited, of 28<sup>th</sup> Floor, Emperor Group Centre, 288 Hennessy Road, Wanchai, Hong Kong.

The Respondent is drama u, of No.9 Kl, Kl, 34677, Malaysia.

The domain name at issue is <emperorgroup.co> registered by the Respondent with GoDaddy.com, LLC, of 14455 North Hayden Road, Suite 219, Scottsdale, Arizona, 85260, United States.

**2. Procedural History**

The Complainant filed the Complaint with the Hong Kong Office of Asian Domain Name Dispute Resolution Centre on 2 August 2017 in accordance with the Uniform Policy for Domain Name Dispute Resolution approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999 (the Policy), the Rules for Uniform Domain Name Dispute Resolution Policy approved by the ICANN Board of Directors on 28 September 2013 (the Rules) and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy effective from 31 July 2015 (the Supplemental Rules). On 2 August 2017, the Hong Kong Office acknowledged receipt of the Complaint and sent an email to GoDaddy.com, LLC (the Registrar) requesting verification of information regarding the disputed domain name. On 2 August 2017, the Registrar sent its verification response to the Hong Kong Office confirming that the Respondent is listed as the registrant of the disputed domain name and that his contact information is as identified in the Complaint.

On 4 August 2017, the Hong Kong Office sent the Respondent a written notice of complaint, informing him that he was required to submit a Response within 20 days from 4 August 2017 (that is, on or before 24 August 2017). The Hong Kong Office did not

receive a Response from the Respondent in respect of the Complaint by that deadline. Accordingly, on 25 August 2017, the Hong Kong Office notified the Respondent's default.

On 31 August 2017, the Hong Kong Office appointed Prof. Matthew Kennedy as the sole Panelist in this dispute, who confirmed that he was available to act independently and impartially between the parties in this matter. On 31 August 2017, the Hong Kong Office transferred the case files to the Panel.

### **3. Factual background**

The Complainant forms part of a corporate group commonly known as "Emperor Group", which operates a diversified group of businesses in sectors that include financial services, property, watch and jewellery, entertainment, hospitality, media, furniture and furnishing, as well as food and beverage. The Complainant has registered trademarks in multiple jurisdictions, including Hong Kong trademark registrations no. 199510432, no. 199707232 and no. 300800045, all for EMPEROR, registered from 14 October 1993, 15 November 1995 and 19 January 2007, respectively, specifying property development services in class 37, hotel and other services in class 42 and games and other goods in class 28, respectively. The Complainant has also registered other trademarks, including Hong Kong trademark registrations no. 199510433 for 英皇 and no. 300800054 for a crown device, registered from 14 October 1993 and 19 January 2007, respectively, specifying property development services in class 37 and games and playthings and other goods in class 28, respectively. These trademark registrations all remain in force. The Complainant's group operates official websites at various domain names including <emperorgroup.com> where it provides information about itself and its businesses.

The Respondent appears to be located in Malaysia. His contact information as listed in the Registrar's WhoIs database is incomplete.

The disputed domain name was created on 6 March 2017 and resolves to a webpage in Chinese that is presented as the webpage of Emperor Group with photographs of the Chairman and senior executives of the Complainant's group and information on the businesses of the Complainant's group.

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

#### **A. Complainant**

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name is confusingly similar to the Complainant's EMPEROR trademark. The disputed domain name contains two words: "emperor" and "group". The dominant part of the disputed domain name is "emperor".
- ii. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not registered any mark consisting of "emperor" or "emperorgroup" in Hong Kong, Macau, mainland China or WIPO. The Complainant's group has never authorized or consented to the Respondent using any of its registered trademarks.
- iii. The disputed domain name has been registered and is being used in bad faith. The Respondent has unlawfully used marks and logos identical and/or

confusingly similar to the Complainant's registered trademarks and the Complainant's copyright materials regarding its group companies, business descriptions and photographs of the Chairman and senior executives of the Complainant's group at the website under the disputed domain name. The design and layout of the Respondent's website are also similar to the previous design and layout of the Complainant's group website. The Respondent has registered the disputed domain name in bad faith with a view to misleading the public into believing that the disputed domain name is owned by the Complainant's group and to disrupting the business of the Complainant's group.

- iv. It has recently come to the attention of the Complainant that someone has impersonated the Complainant's group and unlawfully used the name "Emperor Group" to send fake lucky draw cards and related promotional leaflets by post to the public to entice the public to provide their personal data. The telephone number shown on these cards and leaflets is the same telephone number shown on the website to which the disputed domain name resolves. The motive and intention of the Respondent's registration of the disputed domain name is to mislead the public into believing that the disputed domain name belongs to the Complainant's group and that the lucky draw was run by the group so as to attract the public for commercial gain.

B. Respondent

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

**5. Findings**

The Respondent's default does not automatically result in a decision in favour of the Complainant. 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 is 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**

Based on the evidence submitted, the Panel finds that the Complainant has rights in the EMPEROR trademark.

The disputed domain name wholly incorporates the Complainant's EMPEROR trademark as its initial and dominant element. The disputed domain name also includes the element "group" but, as a mere dictionary word, that element does not dispel the confusing similarity between the disputed domain name from the Complainant's trademark: see *The Swatch Group AG and Swatch AG v. caizhen*, WIPO Case No. D2017-0630.

The only other element in the disputed domain name is the country code Top-Level Domain (“ccTLD”) suffix “.co” but that can be disregarded as a mere technical requirement of registration.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks. The Complainant has satisfied the first element of Paragraph 4(a) of the Policy.

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

The Panel has already found the disputed domain name confusingly similar to the Complainant’s EMPEROR trademark. The Complainant submits that its corporate group has never authorized or consented to the Respondent using any of its registered trademarks.

Nothing on the record indicates that the Respondent has any relevant trademark rights, that he uses the disputed domain name in connection with a bona fide offering of goods or services, that he has been commonly known by the disputed domain name or that he is making a legitimate non-commercial or fair use of the disputed domain name.

Based on the evidence on the record and the findings in Section 5C below, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has satisfied the second element of Paragraph 4(a) of the Policy.

## **C) Bad Faith**

As regards registration, the disputed domain name is not only confusingly similar to the Complainant’s EMPEROR trademark but also identical to the name by which the Complainant’s EMPEROR GROUP is commonly known, but for the ccTLD suffix. The website to which the disputed domain name resolves prominently displays the Complainant’s EMPEROR trademark as well as the Complainant’s 英皇 trademark and crown logo. The website also displays photographs of the Complainant’s group Chairman and senior executives and information regarding the group’s businesses. This all gives the Panel reason to find that the Respondent deliberately targeted the Complainant’s EMPEROR trademark and registered the disputed domain name in bad faith.

As regards use, the disputed domain name resolves to a website that falsely purports to be a website of the Complainant’s group. It displays photographs of the Complainant’s group Chairman and senior executives and information regarding the businesses of the Complainant’s group, but with different contact telephone numbers. The telephone numbers match those that appear on lucky draw cards and flyers that falsely purport to be issued by the Complainant’s group, as they display the same trademarks and logo and some of the same photographs and other material. The website, lucky draw cards and flyers all appear to be part of a scam operation to lure people into ringing or faxing the telephone numbers and providing their personal information. On the balance of probabilities, the Panel is persuaded that the goal of this operation is commercial gain. Therefore, the Panel finds that the disputed domain name is used in an attempt intentionally to attract, for commercial gain,

Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of that website within the meaning of Paragraph 4(b)(iv) of the Policy.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith. The Complainant has satisfied the third element of Paragraph 4(a) of the Policy.

## **6. Decision**

For the foregoing reasons, the Panel orders that the disputed domain name <emperorgroup.co> be transferred to the Complainant.

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Matthew Kennedy  
Panelist

Dated: 11 September 2017