



Asian Domain Name Dispute Resolution Centre

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(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1300474
Complainant:	Wynn Resort Holdings Limited
Respondent :	Mr Wang

1. The Parties and Contested Domain Name

The Complainant is Wynn Resort Holdings Limited of 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109, U.S.A represented by Mayer Brown JSM of Hong Kong..

The Respondent is “Mr Wang” of address unknown.

The domain name at issue is <wymlasvegas.com>, registered by Respondent with eNom Inc., of Kirkland, WA 98033, U.S.A. (“the Registrar”).

2. Procedural History

The Complaint was filed with ADNDRC (Hong Kong Office) on 4 January 2013. On 5 January 2013, the Registrar confirmed to ADNDRC that the Respondent was listed as registrant and providing details for the disputed domain name.

ADNDRC confirmed that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (“the **Policy**” or “**UDRP**”) and the Rules under the Policy.

In accordance with the Rules, paragraphs 2(a) and 4(a), ADNDRC (Hong Kong office) formally notified the Registrar of the Complaint and the proceedings formally commenced on 9 January 2013. The Respondent failed to file a Response within the required period of time.

ADNDRC (Hong Kong office) appointed Hon. Sir Ian Barker, QC as the sole panelist on 1 February 2013. The Panel finds it was properly constituted. The Panel has advised ADNDRC (Hong Kong office) that it is in a position to act independently and impartially between the parties.

3. Factual background

The Complainant

The Complainant's group is a United States-based gaming operator which also develops hotel gaming resorts. Its founder is a Mr Steve Wynn who is Chairman and Chief Executive of the Complainant's parent company. The group has been listed on the Nasdaq Stock Exchange since 2002.

The group has developed and operates luxury hotel and casino resorts in Las Vegas and Macau. The resorts are known in English as "Wynn Macao" and "Wynn Las Vegas". The group has opened representative offices in Beijing, Shanghai, Guangzhou and Hong Kong and has launched a heavy promotional campaign for Wynn Macau and has obtained a concession to operate gaming properties in Macau.

The Complainant owns registered trademarks for "Wynn" and "Wynn Las Vegas" in many countries, including China, Hong Kong, Macau and the United States.

The disputed domain was registered by the Respondent on 1 September 2012. The Respondent created a website accessed by the disputed domain name which was an exact reproduction of the Complainant's website. This website was taken down by ABC Computer Systems Limited on 4 October 2012.

The Complainant forwarded a "cease and desist" letter to the Respondent on 8 October 2012 which complained about the Respondent's action in allegedly forging the Complainant's website and infringing its copyright. No response was received.

The Respondent, on a website accessed through the domain name <zhaopin.com>, has represented himself as 'Wynn Resorts' using the Complainant's Las Vegas address and the disputed domain name as the website. He had used the cursive writing trademark for 'Wynn - Las Vegas'. The Complainant was approached by two persons who had received "job offers" from the Respondent to work for the Complainant on Las Vegas. A university student was allegedly tricked into paying a large sum to the Respondent when responding to the "job offer".

The Complainant gave the Respondent no rights to reflect its trademarks in the disputed domain name.

4. Parties' Contentions

A. Complainant

The disputed domain name is confusingly similar to the Complainant's registered trademarks. The letter 'm' replaces the letters 'nn' in the trademarked expression 'Wynnlasvegas'.

The Respondent has shown no legitimate rights or interests in the disputed domain name and has not shown any defence possible under Paragraph 4(c) of the Policy.

The Respondent registered and is using the disputed domain name in bad faith which is clearly shown by his actions in copying the Complainant's website and placing it on the website accessed by the disputed domain name. His actions in purporting to advertise jobs at the Complainant's business at Las Vegas, giving the disputed domain name as his address, also show bad faith.

5. Findings

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 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.

Two preliminary observations can be made.

First, having written several hundred decisions under the Policy over the last 13 years for various providers, this Panelist has never encountered such a blatant case of cybersquatting where a Respondent has taken the whole of a Complainant's website as an exact reproduction.

Secondly, one must question why any Registrar would accept a registration of a domain name from somebody described only as "Mr Wang" giving no address. There must be millions of Wangs worldwide. It is not asking too much of a Registrar to require particulars of name and address. The situation in this case shows the desirability of a registrant of a domain name being required to provide proper contact details when registering a domain name.

A) Identical / Confusingly Similar

The disputed domain name is confusingly similar to the Complainant's trademark 'WynnlasVegas'. The only difference is the letter 'm' being substituted for the letters 'nn'. The sound of the two expressions is very similar. This is a clear case of 'typosquatting' whereby a domain name has a letter changed in the wording of a registered mark.

Accordingly, Paragraph 4(a)(i) of the Policy is established.

B) Rights and Legitimate Interests

The Complainant gave the Respondent no authorization whatsoever to reflect its trademark in a domain name. That is sufficient for the Complainant to discharge the onus under Paragraph 4(a)(ii) of the Policy.

The Respondent could have invoked Paragraph 4(c) of the Policy which sets out situations when the presumption of lack of legitimate rights or interest can be rebutted but the Respondent has chosen to file no submissions.

Accordingly, Paragraph 4(a)(ii) of the Policy is satisfied.

C) Registration and Use in Bad Faith

The Respondent's blatant action in reproducing the Complainant's entire website on the website accessed by the disputed domain name is overwhelming evidence of bad faith registration and use without anything more.

Add to this breach of copyright and passing off the Respondent's attempts to attract employees and the Respondent's failure to respond to the 'cease and desist' letter, then the requirements of Paragraph 4(a)(iii) of the Policy are totally satisfied.

6. Decision

For the foregoing reasons, in accordance with Paragraphs 4(1) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <wymlasvegas.com> be transferred to the Complainant.



Hon. Sir Ian Barker, QC
Panelist

Dated: February 18, 2013