



Asian Domain Name Dispute Resolution Centre

(Kuala Lumpur Office)

ADMINISTRATIVE PANEL DECISION

Case No.	AIAC/ADNDRC-780-2019
Complainant:	Genting Intellectual Property Pte Ltd.
Respondent:	Michaela Falco
Disputed Domain Name(s):	<biminiresortworld.com>

1. The Parties and Contested Domain Name

The Complainant is Genting Intellectual Property Pte Ltd., of 77 Robinson Road, #13, Robinson 77, Singapore (068896).

The Respondent is Michaela Falco, of 102 Sophia Marie CV, Sanford, Florida 32771, United States of America.

The domain name at issue is <biminiresortworld.com>, registered by Respondent with GoDaddy.com, LLC.

2. Procedural History

On 19th September 2019, the Complainant filed a complaint with the Kuala Lumpur Office of the Asian Domain Name Dispute Resolution Centre (“the Centre”) and chose to have the dispute considered and decided by a single-member panel 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 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 3rd December 2019, the Centre, by way of email, issued a Written Notice of Complaint to the Respondent informing the Respondent that the proceedings officially commenced and requested the Respondent to submit a Response (in Form R and its Annexures, if any) within 20 days from 3rd December 2019 (that is, on or before 23rd December 2019) and forwarded the Complaint and its Attachments to the Respondent.

On 31st December 2019, the Centre, by way of email, appointed Dr. Lewis Luk JP as the sole panelist for this case. The Panel considered that it was properly constituted and submitted the acceptance notice as well as a statement of impartiality and independence.

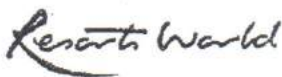
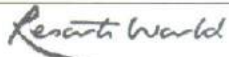





On the same day, the Centre, by way of email, the Centre informed the Panelist and confirmed that the Respondent did not submit a Response with the Centre, within the required time limit. The panelist shall render its decision within 14 days from the date of 31st December 2019, i.e. 14th January 2020.

3. Factual background

The Complainant

The Complainant is a subsidiary of Genting Berhad. Along with Genting International Management Limited ("Genting International"), they form part of the Genting group of Companies (hereinafter collectively referred to as the "Genting Group"). The Complainant is the registered and/or beneficial and/or common law owner of the mark, "RESORTS WORLD", "RESORTS WORLD BIMINI BAHAMAS", "RESORTS WORLD BIMINI" in various classes all over the world including but not limited to the United States.

The Complainant's registered trademarks in the United States are as follows:

Trademark	Classes (Goods / services)	Registration Number
	16, 41, 43	4214139
	28	4871057
	16, 41, 43	4272594
	41	3968486
	28	5375587
	43	87698184
	16, 28, 39, 41, 43	87774125
RESORTS WORLD BIMINI BAHAMAS	41, 43	4756546



The Complainant has also provided a list of trademarks bearing the words "RESORTS WORLD" that are registered worldwide.

The Respondent

The Respondent registered the Disputed Domain Name on 4th June 2019.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i) The disputed domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights:*
 - a) The Complainant is a subsidiary of Genting Berhad. They form part of the Genting Group.
 - b) Genting Group's members, including the Complainant, is the registered proprietor and/or owner and/or beneficial owner of the mark "RESORTS WORLD" ("the Mark") and/or marks consisting of "RESORTS WORLD" and its variations thereof in various classes all over the world including but not limited to the United States as abovementioned.
 - c) The core businesses of the Genting Group are leisure hospitality and casino business, which includes providing leisure activities such as cruises. All the products and/or services bearing the Mark involving the businesses above has been used and provided extensively by the Genting Group.
 - d) The Genting Group and/or its members have won numerous awards in the course of their worldwide trade. It was a five-time winner of World's Leading Casino Resort (2005-2010) awarded by World Travel Awards and has been voted as Asia's leading casino resort for six consecutive years (2005-2010). It cannot be disputed that the Genting Group and/or its members have acquired substantial reputation and goodwill in the Mark for various goods and services. The reputation and goodwill acquired are proprietary rights accorded by statutory and common law rights, which the law permits to guard against all manners of misappropriation and infringement. The Mark, "RESORTS WORLD" owned by the Genting Group and/or its members is clearly a well-known mark worldwide.
 - e) Based on the above, Genting Group's members including the Complainant are the registered proprietor and/or owner and/or beneficial owner of the Mark and the Genting Group and/or its individual members including the Complainant has acquired substantial goodwill and reputation throughout the years over the Mark.
 - f) The words forming the Disputed Domain. "Bimini Resort World" is a direct



reference to the Genting Group's world-class and world-famous resort and casino in Bimini, Bahamas named Resorts World Bimini which has been in operation since 2013. The Respondent's choice of words forming the Disputed Domain is clearly no coincidence and mala fide.

- g) In addition, the Disputed Domain, which consists of "BIMINI", "RESORT" and "WORLD", amounts to a misrepresentation that the Disputed Domain belongs to and/or is associated with the Genting Group and/or the Complainant as a whole. This exacerbates and amplifies the misrepresentation or erroneous claim on the Disputed Domain which damages the Genting Group's and/or the Complainant's business, goodwill and reputation and also amounts to the false designation of origin and/or false description and/or dilution. The Respondent's wrongful usage of the Disputed Domain will lead members of the trade and public into believing that the Disputed Domain is connected with the Genting Group and/or the Complainant when this is not the case.

ii) *The Respondent has no rights or legitimate interests in respect of the domain name(s):*

- a) The Genting Group and/or its members have used the Mark since as early as 2006. The earliest registration belonging to the Genting Group and/or its members would be Trade Mark No: 06019111 registered in Malaysia on 18th October 2006. The Genting Group and/or its members have used this Mark since its inception and the Mark has acquired substantial and extensive reputation worldwide including but not limited to the United States. The Genting Group clearly has prior rights in the Mark (since 2006) which precede the registration of the Disputed Domain on 4th June 2019.
- b) The Genting Group and/or the mark "RESORTS WORLD" is known the world over, including in the Americas where the Genting Group has presence, goodwill, reputation and recognition;
- c) The Respondent ought not to be allowed, in fact and in law, to register the Disputed Domain. The Complainant respectfully highlights that the mere registration of the Disputed Domain by the Respondent is not sufficient to establish its rights or legitimate interests in it. In *Educational Testing Service v. TOEFL (Case No. D2000-0044)*, the learned Panel held that "if mere registration of the domain name were sufficient to establish rights or legitimate interests...then all registrants would have such rights or interest, and no Complainant could succeed on a claim of abusive registration."
- d) At all material times, the Genting Group and/or its members have not authorized and/or consented to the Respondent to use the Mark and/or for the Respondent to use or register the Disputed Domain. The use of the Mark and the purported registration of the Disputed Domain are unlawful, illegal and/or mala fide on the part of the Respondent. Thus, the Disputed Domain has deceived and confused and/or is likely to deceive and confuse members of trade and public into believing that the Disputed Domain is in some way affiliated and/or associated and/or connected to the Genting Group and/or its members when that is contrary



to reality. Such misrepresentation or erroneous claim via the Disputed Domain damages the Genting Group's business, goodwill and reputation and also amounts to false designation of origin and/or false description and/or dilution of the Mark.

iii) *The disputed domain name(s) has/have been registered and is/are being used in bad faith:*

- a) The acts of the Respondent in registering, selling and/or preventing the Genting Group and/or its members from using the Disputed Domain are clearly tainted with *mala fide* intention, knowing very well (due to its extensive and substantial use) that the Genting Group and/or its members owns the Mark. The Respondent's acts were clearly to not only gain unlawful financial benefits, whether immediately and/or in the future but to also disrupt the business, goodwill and reputation of the Genting Group and/or its members.
- b) As the Respondent has registered the Disputed Domain which clearly incorporates the Mark and has disrupted Genting Group and/or its members' business, goodwill and reputation, the *mala fide* intention and lack of good faith of the Respondent can clearly be inferred as the Respondent would have been aware of the Genting Group's Mark. This is clear evidence of bad faith: and
- c) This domain name dispute proceedings is initiated to preemptively prevent further damages suffered by the Genting Group and/or the public from being deceived into believing that the Disputed Domain provides goods and/or services originating from and/or associated with the Genting Group and/or its members when this is clearly not the case.

B. Respondent

The Respondent did not submit a Response.

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 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

The Panel finds the Complainant owns the trademarks incorporating the words "RESORTS WORLD", including "RESORTS WORLD BIMINI BAHAMAS" and "RESORTS WORLD BIMINI" duly registered in various countries including but not



limited in the USA. The registrations are all valid and effective. The Panel finds that the Disputed Domain Name is substantially similar to most of the Complainant's trademark. The Panel agrees that the words forming the Disputed Domain Name, "Bimini Resort World" is a direct reference to the Complainant's resort located in Bimini. Therefore, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademarks and it is very likely to cause confusion to the public. The Complainant has fulfilled the first condition.

B) Rights and Legitimate Interests

The Panel accepts the confirmation by the Complainant that it has no connection with the Respondent, nor has authorized or consented to the Respondent to use the Complainant's trademarks or register the Disputed Domain Name. The Panel is of the view that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Complainant has fulfilled the second condition.

C) Bad Faith

The Panel finds that the Respondent is taking unfair advantage of the goodwill and reputation associated with the Complainant's resort and other Intellectual Property rights, and intentionally attempting to mislead consumers into believing that the Disputed Domain Name, the websites associated with it, and/or its business are licensed by, have an association with or are otherwise endorsed by the Complainant. The Panel finds that the Respondent has registered the Disputed Domain Name in bad faith. The Complainant has fulfilled the third condition.

6. Decision

The Panel orders that the Disputed Domain Name <biminiresortworld.com> be transferred to the Complainant.



Panelist: Dr. Lewis Luk JP

Dated: 13th January 2020