



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.:	HK-1901234
Complainant:	Wynn Resorts Holdings, LLC
Respondent:	yanbo ou
Disputed Domain Name:	<wynnmacau.bet> <wynnchess.com>

1. The Parties and Contested Domain Name

The Complainant is Wynn Resorts Holdings, LLC, of 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109, United States of America (“USA”).

The Respondent is yanbo ou, of guangdongsheng dongyuanxian liushicun nanhuaxiaozu1#, heyuanshi, Guangdong, 517500, China.

The domain names at issue are <wynnmacau.bet> and <wynnchess.com> (the “Disputed Domains”), each registered by the Respondent with GoDaddy.com, LLC, of 14455 N. Hayden Rd., Ste. 226, Scottsdale, AZ 85260 USA.

2. Procedural History

The Complaint was received by the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (the “Centre”) on March 19, 2019. On the same day, the Centre transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On March 20, 2019, the Registrar transmitted by email to the Centre its verification response disclosing registrant information for the Disputed Domain Names which differed from the named Respondent information in the Complaint. The Centre sent an email communication to the Complainant on March 21, 2019, providing the registrant information disclosed and by the Registrar, and inviting the Complainant to submit an amended Complaint. The Complainant filed an amended Complaint by email on the same day.

The Centre has verified that the Complaint satisfies the formal requirements of the uniform Domain Name Disputes Resolution Policy (the “Policy”), the Rules of Procedure under the Policy (the “Rules”) and the Centre’s Supplemental Rules.

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint, and the proceeding commenced on April 12, 2019.

In accordance with article 5 of the Rules, the Response was due on or before May 2, 2019. The Respondent did not submit any response. The Centre gave notice of the Respondent's default by email on May 3, 2019.

The Centre appointed Sebastian Hughes as the Panelist in this matter on May 30, 2019. The Panel finds that it was properly constituted and has acted impartially in reaching its decision.

3. Factual background

A Complainant

The Complainant is a company incorporated in the State of Nevada in the USA and a member of the Wynn Resort Group that designs and develops integrated resorts including in particular casinos and gambling facilities in Macau.

The Complainant owns over 400 trade marks registered in Australia, Cambodia, China, Hong Kong, India, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Taiwan, Thailand and Vietnam that include a number of marks identified as "Wynn", "Wynn Macau" and "Wynn (stylized)" (together the "Complainant's Mark(s)").

The Complainant has since 2000 maintained websites to provide information about its resorts at the following domains: <wynnresorts.com>, <wynnlasvegas.com>, <wynnpoker.com>, <wynnpalace.com>, and <wynnmacau.com> (the "Complainant's Websites"). The Complainant's Websites provide information on hotel suites, dining and entertainment including gambling offered by the Complainant. All except <wynnpalace.com> prominently use a "Wynn (stylized)" mark.

B Respondent

The Respondent is apparently an individual with an address in Guangdong Province, China.

C. The Disputed Domain Name

The Disputed Domain Names were registered on October 27, 2018 and December 21, 2018, respectively.

D. The Website at the Disputed Domain Name

The disputed domain names have been resolved to websites which promote gambling products and services (the "Websites").

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarised as follows:

- i. The Disputed Domain Names incorporate the Complainant's Marks and are identical or confusingly similar to them;

- ii. The Respondent has no rights nor legitimate interests in respect of either of the Disputed Domain Names, and is passing off its business as being the Complainant's business;
- iii. The Disputed Domain Names have been registered and are being used in bad faith as the Respondent is aware of the Complainant's Marks and intends to cause confusion and attract internet users for commercial gain; and
- iv. The Disputed Domain Names should be transferred to the Complainant.

B. Respondent

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

5. Findings

The Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a complainant to prevail:

- i. The respondent's domain name is identical or confusingly similar to a trade mark or service mark in which the complainant has rights; and
- ii. The respondent has no rights or legitimate interests in respect of the domain name; and
- iii. The respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

The Panel finds that the Complainant has rights in the Complainant's Marks acquired through use and registration.

The Disputed Domain Names each incorporate the entirety of the Complainant's "Wynn" Mark, and the first i.e. <wynnmacau.com> incorporates the entirety of the Complainant's "Wynn Macau" Mark.

The Panel therefore finds that the Disputed Domain name is confusingly similar to the Complainant's Marks.

B) Rights and Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Names or to use the Complainant's Marks. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that the Respondent has acquired any trade mark rights in respect of the Disputed Domain Names or that the Disputed Domain Names have been used in connection with a *bona fide* offering of goods or services. To the contrary, the Disputed Domain Names have been used in respect of the Websites, to promote gambling products and services in competition with those of the Complainant.

Additionally, the Websites use replicas of the Complainant's "Wynn (stylized)" marks as their logo or center piece, below which are Chinese characters that broadly translate to "the only official direct operation".

There has been no evidence adduced to show that the Respondent has been commonly known by the Disputed Domain Names; and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Names.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Names, and therefore finds that the requirements of paragraph 4(a)(ii) of the Policy are met.

C) Bad Faith

In light of the Panel's findings under section B) above, and in light of the undisputed evidence of the Respondent's use of the Websites in the manner described above, the Panel finds the requisite element of bad faith has been satisfied, under paragraph 4(b)(iv) of the Policy.

For all the foregoing reasons, the Panel concludes that the Disputed Domain Names have been registered and are being used in bad faith.

6. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Names <wynnmacau.bet> and <wynnchess.com> be transferred to the Complainant.



Sebastian Hughes
Panelist
Dated: June 13, 2019