

**Asian Domain Name Dispute Resolution Centre  
(Kuala Lumpur Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	AIAC/ADNDRC-632-2018
<b>Complainant:</b>	Genting International Management Limited
<b>Respondent:</b>	Jonglak W.
<b>Disputed Domain Name(s):</b>	<gentingprincess.com>

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

The Complainant is Genting International Management Limited, of International House, Castle Hill, Victoria Road, Douglas, British Isles IM2 4RB.

The Respondent is Jonglak W., of 332/5 Poipet-Arun Road, Poipet, 10500.

The domain name at issue is <gentingprincess>, registered by Respondent with Onlinenic Inc., of 3027 Teagarden St., San Leandro, CA 94577, USA.

**2. Procedural History**

The Complaint was filed in English with the Kuala Lumpur Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC) on October 24, 2018, regarding the domain name <gentingprincess.com>. On 29<sup>th</sup> October, 2018, the ANDRC verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”) and on October 31, 2018 the Respondent was notified of the Complaint. The due date of the Response was November 20, 2018. The Respondent did not file a formal Response and on 20<sup>th</sup> November, 2018 the ADNDRC informed the Respondent of its default. The ADNDRC appointed Jonathan Agmon as the sole panelist in this matter on December 12, 2018.


**3. Factual background**

The Complainant is the subsidiary of Genting Berhad and Genting Singapore PLC, all of which are part of the Genting Group of Companies (“Genting Group”). Genting Berhad is the investment holding and management company of the Genting Group. The core businesses of the Genting Group are leisure hospitality and casino business. The businesses of the Genting Group have subsequently diversified to include global investments in oil palm plantations, power generation, oil & gas, property development and etc.

The Complainant is the owner of numerous trademarks worldwide for the mark, GENTING, including:

- “GENTING” (Reg No. 3683708) registered in USA on September 15, 2009;
- “GENTING” (Reg No. T0719740H) registered in Singapore on July 22, 2008;
- “GENTING” (Reg No. T0719741F) registered in Singapore on October 2, 2007;

 **GENTING**

- “ ” (Reg No. T0302922E) registered in Singapore on March 11, 2003;

 **GENTING**

- “ ” (Reg No. KH/30593/09) registered in Cambodia on March 3, 2009;

The disputed domain name <gentingprincess.com> was registered on May 4, 2011 and the domain name resolves to an active website in English and mostly Thai language which appears to operate an online casino offering gambling services through redirecting visitors to another website <<https://www.casino21online.com/genting/>>.

The Respondent appears to be an individual living in Cambodia.

#### 4. Parties’ Contentions

##### A. Complainant

The Complainant’s contentions may be summarized as follows:

- i. The Complainant argues that the disputed domain name is confusingly similar to the Complainant’s registered mark GENTING as it incorporates the GENTING mark. The Complainant states that it has rights in the trademark through its trademark registrations worldwide.
- ii. The Complainant also argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name as the Complainant and/or its holding company owns a GENTING trademark since 1965. The Complainant also states that it has not authorized or consented to the Respondent to use or register the disputed domain name.
- iii. The Complainant further argues that the disputed domain name was registered and is being used in bad faith. The Complainant argues that the Respondent registered the disputed domain name “for unlawful financial benefits” as the Respondent would be aware that it “would be in the same business and industry” as the Complainant.

##### B. Respondent

The Respondent did not file a Response to the Complaint.

#### 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**

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant has provided evidence of its numerous trademarks' registrations of the GENTING mark in USA, Singapore and Cambodia.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The disputed domain name <gentingprincess.com> integrates the Complainant's GENTING trademark in its entirety (see *Wal-Mart Stores, Inc. v. Kuchora, Kal*, WIPO Case No. D2006-0033; *Hoffmann-La Roche Inc. v. Andrew Miller*, WIPO Case No. D2008-1345).

It is well established that the insertion of a generic descriptive term does not differentiate a disputed domain name from a complainant's mark. The insertion of the generic descriptive term "princess" does not distinguish the disputed domain name from the Complainant's GENTING mark nor does it avoid confusing similarity (see *WIPO Overview 3.0*, section 1.8; *TPI Holdings, Inc. v. Carmen Armengol*, WIPO Case No. D2009-0361.)

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

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

Once the Complainant establishes a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the Respondent to show that it has rights or legitimate interests in respect to the disputed domain name. (See *WIPO Overview of WIPO Panel Views on Selected UDRP Questions*, Third Edition ("WIPO Overview 3.0"), section 2.1.)

In this case, the Complainant provided a Whois search which has no particulars of the Respondent. The Panel thus conducted a Whois search on the Registrar's website of the disputed domain name and found that the Respondent is an individual, "Jonglak W." living in Cambodia.

Based on the above information and the Complainant's evidence that it owns various trademark registrations in USA, Singapore and Cambodia before the disputed

domain name was registered and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *Transure Enterprise Ltd, Host master*, WIPO Case No. D2010-0138), the Panel is of the view that the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and that the Respondent has failed to assert any such rights or legitimate interests.

Further, the Respondent did not submit a response to the Complaint and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name sufficient to rebut the Complainant's *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

### **C) Bad Faith**

The Complainant must also show that the Respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the Respondent registered the disputed domain name after the Complainant registered its trademarks. The Complainant's evidence has shown that it owned the trademark in the USA and Singapore since 2008 and in Cambodia since 2009 whereas the disputed domain name was registered in 2011.

The Complainant also claims that its mark is famous by providing a list of awards and accolades won over the years. However, the evidence provided to the Panel to support this assertion is internal company documents which are Genting Berhad Annual Report 2014 and Genting Singapore PLC Annual Report 2015 and are not directly related to the Complainant. These reports are not recent, and the "awards" awarded is merely a list of titles identified in a page column of the said reports. Notwithstanding that there is no actual evidence of rewards awarded to the Complainant, there is nothing else to show that the Complainant actually enjoys international fame and reputation aside from the Complainant's assertion.

Even if the Respondent defaulted in this case, panels have held that wholly unsupported self-conclusory allegations may not be sufficient to support a finding of bad faith. If the Complainant claims it has a well-known/famous mark it has the burden of showing the same by evidence.

In the present case the evidence brought to show that the GENTING trademark is well-known or famous is insufficient. In addition, and when there is no proof of fame in a trademark, registration on its own is not constitutive of bad faith. Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. (See *WIPO Overview 3.0*, paragraph 3.1)

Be that as it may, based on the Complainant's other trademark registrations in the US, Singapore and Cambodia, the Panel is prepared to draw the inference that, the Complainant's prior registered trademark is suggestive of the Respondent's bad faith (see *Sanofi-Aventis v. Abigail Wallace*, WIPO Case No. D2009-0735).

Irrespective of the failure of the Complainant to properly argue his case, the Panel is of the opinion that a number of factors indicate bad faith on the part of the Respondent. These include the fact that the Respondent has fully incorporated the Complainant's mark into the disputed domain name and the disputed domain name presently resolves to an active website that offers competing business and services, which leads the Panel to believe that the Respondent was targeting the Complainant.


In the Panel's view, there is no plausible good faith use to which the Respondent may put the disputed domain name to. Moreover, the Panel also draws an inference that the Respondent has registered and used the disputed domain name in bad faith because the Respondent failed to respond to the Complaint.

The Panel is therefore convinced that the overall circumstances of this case suggest that the Respondent's registration and use of the disputed domain name are in bad faith.

The Panel therefore finds that the disputed domain name was registered and is being used in bad faith and the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

## 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 name <gventingprincess.com> be transferred to the Complainant.



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Jonathan Agmon  
Panelist

Dated: 21 December 2018