



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-1901277</b>
<b>Complainant:</b>	<b>Marquee Holdings Ltd</b>
<b>Respondent:</b>	<b>winner harry</b>
<b>Disputed Domain Names:</b>	<b>&lt;w88w1.com&gt; &lt;w88w2.com&gt; &lt;w88w3.com&gt; &lt;w88w4.com&gt; &lt;w88w5.com&gt; &lt;w88w6.com&gt; &lt;w88w7.com&gt; &lt;w88w8.com&gt; &lt;w88w9.com&gt; &lt;w88w10.com&gt; &lt;w88f.com&gt; &lt;w88f2.com&gt; &lt;w88f3.com&gt; &lt;w88f4.com&gt; &lt;w88f5.com&gt; &lt;w88f6.com&gt; &lt;w88f7.com&gt; &lt;w88f8.com&gt; &lt;w88f9.com&gt; &lt;w88ff.com&gt; &lt;w88qwe.com&gt; &lt;w88cn8.com&gt; &lt;w881d.com&gt;</b>

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

The Complainant is Marquee Holdings Ltd, of Akara Bldg, 24 De Castro Street, Wickhams Cay 1, Road Town, Tortola, British Virgin Islands.

The Respondent is winner harry, of pravity.pravity.pravity999, manila, Makati, 9988 PH.

The domain names at issue are <w88w1.com> <w88w2.com> <w88w3.com> <w88w4.com> <w88w5.com> <w88w6.com> <w88w7.com> <w88w8.com> <w88w9.com> <w88w10.com> <w88f.com> <w88f2.com> <w88f3.com> <w88f4.com> <w88f5.com> <w88f6.com> <w88f7.com> <w88f8.com> <w88f9.com> <w88ff.com> <w88qwe.com> <w88cn8.com> <w881d.com>, registered by Respondent with GoDaddy.com, LLC, of 14455 N. Hayden Rd #219, Scottsdale, AZ 85260, USA.

**2. Procedural History**

The Complaint was filed with the Hong Kong office of the Asian Domain Name Dispute Resolution Centre (the "Centre") on July 31, 2019. On August 6, 2019 the Centre transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 7, 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 August 12, 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 August 13, 2019.

The Centre has verified that the Complaint satisfies the formal requirements of the Uniform Domain Name Dispute 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 August 26, 2019. In accordance with the Rules, the due date for the Response was September 16, 2019. No Response was received by the Centre.

The Centre appointed Sebastian Hughes (Presiding), Matthew Murphy and Douglas Clark as the Panelists in this matter on December 16, 2019. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion.

### **3. Factual background**

#### **A. Complainant**

The Complainant is a company incorporated in the British Virgin Islands and the exclusive licensee of Singapore trade mark registration Nos. T1319876C for the word and device trade mark 优德 W88, with a registration date of December 9, 2013; and T40201512153Y for the word and device trade mark W88, with a registration date of July 15, 2015 (the “Trade Marks”), both registered in respect of, amongst other goods and services, gaming, lotteries and bookmaking services.

#### **B. Respondent**

The Respondent is apparently an individual based in the Philippines.

#### **C. The Disputed Domain Name**

The disputed domain names were registered on March 22, 2019; March 23, 2019; March 29, 2019; April 21, 2019; May 22, 2019 and/or June 4, 2019.

#### **D. The Website at the Disputed Domain Names**

The disputed domain names resolve to the same website, which copies the look and feel of the Complainant’s website, reproduces the Trade Marks (together with the ® sign), and offers gambling and sports betting services.

### **4. Parties’ Contentions**

#### **A. Complainant**

The Complainant contends that the disputed domain names are identical or confusingly similar to the Trade Marks; the Respondent has no rights or legitimate interests in respect of the disputed domain names; and the disputed domain names have been registered and are being used in bad faith.

#### **B. Respondent**

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

## 5. Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.”

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 that the Complainant (as licensee) has rights in the Trade Marks acquired through use and registration.

The disputed domain names incorporate the entirety of the Complainant’s W88 Trade Mark, followed by (apparently meaningless) letters and/or numbers.

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element.

The Panel therefore finds that the disputed domain names are confusingly similar to the Trade 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 the 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 non-commercial 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 Trade 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 names, 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 connection with the Website, in order to pass off the Website as a website of, or a website otherwise sponsored, authorised or approved by, the Complainant.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain names.

There has been no evidence adduced to show that the Respondent is making a legitimate non-commercial or fair use of the disputed domain names.

In all the circumstances, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

### C) Bad Faith

In all the circumstances, including the close similarity between the disputed domain names and the Trade Marks, and the manner of use of the disputed domain names highlighted in Section B. above, the Panel finds that the requisite element of registration and use in bad faith has been made out.

The Panel therefore finds that the disputed domain names have been registered and are being used in bad faith.

### 6. Decision

Having established all three elements required under the ICANN Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the Disputed Domain Names <w88w1.com> <w88w2.com> <w88w3.com> <w88w4.com> <w88w5.com> <w88w6.com> <w88w7.com> <w88w8.com> <w88w9.com> <w88w10.com> <w88f.com> <w88f2.com> <w88f3.com> <w88f4.com> <w88f5.com> <w88f6.com> <w88f7.com> <w88f8.com> <w88f9.com> <w88ff.com> <w88qwe.com> <w88cn8.com> <w881d.com> should be transferred from the Respondent to the Complainant.



Sebastian Hughes, Presiding Panelist



Matthew Murphy, Co-Panelist



Douglas Clark, Co-Panelist

Dated: December 30, 2019