



# ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

— A charitable institution limited by guarantee registered in Hong Kong

**(Hong Kong Office)**

## **ADMINISTRATIVE PANEL DECISION**

**Case No. HK 1000306**

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<b>Complainant:</b>	Wynn Resorts Holdings, LLC
<b>Respondent:</b>	N. Artid Saikwao
<b>Domain Names:</b>	<wynn888.com>, <wynner888.com>
<b>Registrar:</b>	Directi Internet Solutions Pvt. Ltd. d/b/a PublicDomainRegistry.com

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### **1. Procedural History**

The complainant in this case is Wynn Resorts Holdings, LLC, a limited liability company, resident in Las Vegas, Nevada, United States of America ("Complainant").

The respondent is N. Artid Saikwao, giving an address at 225 Pichitrungsun rd., Muang Ubon Ratchathani, 34000 Thailand ("Respondent"). Complaint, Annex A(1)

The domain names in dispute are <wynn888.com> and <wynner888.com>. The Registrar of the domain name is Directi Internet Solutions Pvt. Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

On 10 August 2010, pursuant to the Uniform Domain Name Dispute Resolution Policy ("the Policy"), the Rules for the Uniform Domain Name Dispute Resolution Policy ("the Rules") and Hong Kong International Arbitration Centre Supplemental Rules ("the HKIAC Supplemental Rules"), the Complainant submitted a complaint in the English language to the Hong Kong International Arbitration Centre (the "HKIAC"), an office of the Asian Domain Name Dispute Resolution Centre and elected this case to be dealt with by a one-person panel. On 16 August 2010, Hong Kong International Arbitration Centre sent to the complainants by email an acknowledgement of the receipt of the complaint and reviewed the format of the complaint for compliance with the Policy, the Rules and the HKIAC Supplemental Rules. All correspondence to and from the HKIAC described herein was in the English language. On the same date the HKIAC sent the Registrar a request for verification. On 30 August 2010 the HKIAC resent the Registrar a request for verification. On 30 August 2010, the Registrar confirmed that it was the registrar of the domain names at issue and that Respondent was the registrant of the domain names at issue.

On 1 September 2010 HKIAC notified the Respondent of the commencement of the action.

On 27 September 2010, the HKIAC notified the Complainant that the Respondent had failed to submit a Response.

Since the Respondent did not file a response in accordance with the time specified in the Rules the HKIAC Supplemental Rules, and the Notification, the HKIAC informed Complainant and Respondent by email about the default, stating that, as Respondent did not file a response within the required time, the HKIAC would appoint the panelist to proceed to render the decision, in the absence of a response by Respondent.

On 28 September 2010 the HKIAC notified the parties that the Panel in this case had been selected, with M. Scott Donahey acting as the sole panelist. The Panel determines that the appointment was made in accordance with Rules 6 and Articles 8 and 9 of the Supplemental Rules.

On 28 September 2009, the Panel received the file from HKIAC.

## **2. Factual Background**

### *For the Complainant*

Complainant is the producer of various herbal medicines and cosmetics.

Complainant has a trademark for the mark WYNN issued by the trademark authorities of Macau, Hong Kong, Indonesia, Brunei, Darussalam, India, the Peoples Republic of China, Korea, Malaysia, New Zealand, Singapore, Taiwan Thailand, and the Philippines, and Japan, among others, the earliest of which issued on 12 September 2002. Complaint, Annex B. The Complainant's group of companies operates well known gaming and entertainment enterprises. The Complainant operates the famous Wynn Casino Las Vegas, which features 2,716 guest rooms and suites, a 111,000 square foot casino, 22 eating establishments, an 18 hole golf course, over 200,000 square feet of meeting space, and a Maserati and a Ferrari dealership. Complainant's group is listed on the NASDAQ and has been on the NASDAQ-100 list since 2004. Complainant's group operates The Wynn Macau on Macau. Complainant operates numerous web sites and has received extensive press coverage in Asia. Complaint, Annexes F and G.

On 31 March 2010, Respondent registered the domain names at issue. Complaint, Annex A(1). The domain names at issue resolve to a web site at which promotions for a casino and online sports betting were featured, services directly competitive with those of Complainant. Complaint, Annexes J and K. On 4 May 2010 and 1 June 2010 Complainant sent Respondent cease and desist letters.

Complainant has not authorized Respondent to use its mark.

### *For the respondent*

Respondent has failed to formally respond to the cease and desist letters or to file a response in this matter.

### 3. Parties' Contentions

#### *The Complainant*

Complainant asserts that the domain name at issue is confusingly similar to Complainant's WYNN mark.

Complainant further alleges that Respondent has no rights or legitimate interests in respect of the domain names, and that Respondent's domain names have been registered in bad faith and are being used in bad faith since they have been used to resolve to a web site that offers commercial services directly competitive with those offered by Complainant.

#### *The Respondent*

The respondent did not file a response within the stipulated time.

### 4. Findings

Paragraph 15(a) of the Uniform 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."

Paragraph 4(a) of the Policy directs that the Complainant must prove **each of** the following:

- 1) that the domain names registered by the Respondent are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- 2) that the Respondent has no rights or legitimate interests in respect of the domain names; and
- 3) that the domain names have been registered and are being used in bad faith.

#### *Identical or Confusing Similarity*

The Panel finds that the domain names <wynn888.com> and <wynner888.com> are confusingly similar to Complainant's WYNN trademarks and service marks. The addition of a number following a mark does not defeat confusing similarity. *Kabushiki Kaisha Hitachi Seishakusho (Japan Corporation d/b/a Hitachi, Ltd. v. Fortune International Development Ent. Co., Ltd.*, WIPO Case No. D2000-0412 (addition of number "2000" to "Hitachi" still constitutes confusing similarity). *EFG Bank European Financial Group SA v. Jacob Foundation*, D2000-0036 (addition of letters "pb" to mark does not defeat confusing similarity).

### *Rights or Legitimate Interests of the Respondent*

Complainant has in a credible way alleged that Respondent has no rights or legitimate interests in respect of the domain names at issue. Respondent has failed to show that Respondent has any rights or legitimate interests in respect of the domain name at issue. This entitles the Panel to infer that Respondent has no rights or legitimate interests in respect of the domain name at issue. *Alcoholics Anonymous World Services, Inc. v. Lauren Raymond*, WIPO Case No. D2000-0007; *Ronson Plc v. Unimetal Sanayi ve Tic. A.S.*, WIPO Case No. D2000-0011. Accordingly, the Panel finds that Respondent has no rights or legitimate interests in respect of the domain name.

### *Bad Faith*

The domains names at issue have been used to resolve to a web site at which services directly competitive with those offered by Complainant are offered. Respondent is using the domain names at issue to attract Internet users to his web site by confusing them as to Complainant's connection or involvement with the site and the goods offered, and this violates paragraph 4(b)(iv) of the Policy. *Lilly ICOS LLC vs. Dan Eccles*, WIPO Case No. D2004-0750. This is a direct violation of paragraph 4(b)(iv) of the Policy. Accordingly, the Panel finds that the domain names at issue have been registered and are being used in bad faith.

## **5. Decision**

For all of the foregoing reasons, the Panel decides that the domain names at issue, <wynn888.com> and <wynner888.com>, should be transferred to Complainant.

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M. Scott Donahey  
Sole Panelist

DATED: 7 October 2010