



Asian Domain Name Dispute Resolution Centre

(Kuala Lumpur Office)

ADMINISTRATIVE PANEL DECISION

Complainant:	Genting International Management Limited
Respondent:	Yi Xu
Case No.	KLRCA/ADNDRC-386-2016
Disputed Domain Name(S):	genting.bet
Panel Member:	Eugene Ito Low

1. The Parties and Disputed Domain Name

The Complainant in these proceedings is Genting International Management Limited whose address is International House, Castle Hill, Victoria Road Douglas, Isle of Man, IM2 4 RB, British Isles. The Complainant's authorised representative is Bahari Yelow Tien Hong.

The Respondent is Yi Xu, whose address is 102, Unit 4th, Building 6th, HaiDianLu District, Beijing CN-11 100000, China.

The Disputed Domain Name is <genting.bet>, registered by the Respondent with 101 domain, Inc. on 7 March 2016.

2. Procedural History

On 18 August 2016, the Complainant submitted a Complaint to the Kuala Lumpur Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC) pursuant to the Uniform Domain Name Dispute Resolution Policy (the Policy). On 16 May 2016, ADNDRC confirmed the commencement of administrative proceedings.

The Respondent submitted a Response which was received by ADNDRC on 4 June 2016.

On 10 June 2016, ADNDRC appointed Mr. Eugene Ito Low as the Sole Panelist.

2.1 Procedural issues

Language of the proceedings

As per ADNDRC's notification dated 10 June 2016, the language of the present proceedings is English. By an email to ADNDRC and the parties on 11 June 2016, the Respondent appeared to raise a question about the language of the proceedings, as follows:

"if the Language of Proceedings is about domain name, may I apply for adding mandarin [sic] on the language list."

It is not clear to the Panelist if the Respondent was applying for a change of the language of the proceedings. However, in any event, the Panelist considers that there are no justifications for ordering a change of language.

According to Paragraph 11 of the Rules for Uniform Domain Name Dispute Resolution Policy ("Rules"):-

11. Language of Proceedings

(a) Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Registration Agreement in this case is in English. Both the Complaint and the Response were filed in English. There is nothing before the Panelist which justifies a departure from Paragraph 11 of the Rules. Hence, the language of these proceedings will remain to be English language.

3. Factual Background

For the Complainant

The Complaint can be summarised as follows:-

- i) The Disputed Domain Name is 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 and Genting Singapore PLC, all of which are part of the Genting Group of Companies ("Genting Group").
 - (b) Genting Berhad is the investment holiday and management company of Genting Group while the Complainant is the registered proprietor and/or owner and/or beneficial owner of the Mark "GENTING" (the "Mark") and/or marks consisting of "GENTING" in various classes mentioned above in United States, China, Singapore, and globally. The Complainant is also authorized to use the Mark which is owned by Genting Berhad in Malaysia.
 - (c) The core businesses of the Complainant and/or Genting Group are leisure hospitality and casino business. The businesses of the Complainant and/or Genting Group have later diversified to include global investments in oil palm plantations, power generation, oil and gas, property development, cruise, biotechnology and other industries.
 - (d) The Complainant and/or Genting Group had 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 6 consecutive years (2005-2010). It cannot be disputed that the Complainant and/or Genting Group have acquired substantial reputation and goodwill in the Mark for the products and/or services. The reputation and goodwill acquired are proprietary rights by statutory and common law rights. The Mark, "GENTING" owned by the Complainant is clearly a well-known mark. The Complainant and/or its respective group of companies including Genting Group are the lawful Proprietors and owners and/or common law owners of the well-known Mark, "GENTING".

- (e) Based on the above, the Complainant is clearly the registered proprietor and/or owner and/or beneficial owner of the Mark and the Complainant has acquired substantial goodwill and reputation throughout the years over the Mark including but not limited to casino services.
- (f) Further, Genting Group provides casino services via www.gentingcasino.com.

This top level domain ("TLD") name (.bet) is a new extension designed specifically for online gaming platforms, specifically those that let users place bets or play with each other which includes anything where betting is involved.

- (g) The Respondent has wrongfully and/or illegally and/or unlawfully registered the Disputed Domain Name which consists of the words "genting" of the TLD name (.bet). This is likely to mislead the public into believing that the Disputed Domain Name belongs to or is related to the Complainant and/or Genting Group and/or associated with the Complainant or Genting Group as the TLD name (.bet) is commonly used for betting which is similar to the gambling or casino services provided by the Complainant and/or Genting Group.

ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name:

- (a) The Complainant and/or Genting Group have used the Mark since as early as 1965. The earliest registration belonging to the Complainant or the Genting Group would be the Trade Mark No. 10197 in Brunei on 3 March 1981. The Complainant and/or Genting Group have used the Mark since its inception and the Mark has acquired substantial and extensive reputation in worldwide.
- (b) The Complainant and Genting Group did not authorize and/or consent to the Respondent to use the Mark, "GENTING" and/or for the Respondent to use or register the Disputed Domain Name.
- (c) The Respondent has, without the Complainant's consent or authority used and/or registered the Disputed Domain Name which clearly incorporates the Mark and/or is identical and/or so nearly resembles the Mark. The unlawful and/or illegal and/or wrongful act of the Respondent in using and/or registering the Disputed Domain has deceived and confused and/or is likely to deceive and confuse member of the trade and public into believing that the Disputed Domain Name is that of the Complainant and/or associated to the Complainant, when this is clearly not the case. Such misrepresentation or erroneous claim on the Disputed Domain Name damages the Complainant's business, goodwill and reputation and also amounts to the false designations of origin and/or false description and/or dilution.

- iii) The Disputed Domain Name has been registered and is being used in bad faith:
 - (a) The registration by the Respondent is clearly tainted with mala fide intention, knowing very well (due to its extensive and substantial use at international level) that the Complainant owns the Mark "Genting" and that the Respondent clearly registered this domain names for unlawful financial benefits, and/or whether immediately and/or in the new future;
 - (b) as the Respondent has registered the ".bet" TLD name, the mala fide intention and lack of good faith of the Respondent can clearly be inferred as the Respondent would know very well it would be in the same business and industry of the Complainant.

For the Respondent

The Response can be summarised as follows:

- i) When the Respondent registered this GenTing.bet, the Respondent just considered that this domain fit for its new developing porker and mahjong game. The Respondent claimed to be a small team who develop mobile games and web games, with teammates from China, Hong Kong and Taiwan.
- ii) The Respondent registered GenTing.bet because Gen (跟 follow) and Ting (听 prepare for win) are natural PinYin words in Mandarin and for Chinese people playing poker and mahjong games, Gen and Tin are part of the rules. The Respondent was designing web and mobile poker games.
- iii) All the attached files offered by the Complainant only proved that the Genting group owned the trade mark – Genting, and that "TM – Genting" was applied to their hotel, casino, online casino and tours business, but it could not prove that each of GenTing and GenTing.bet has only one meaning which belongs to Genting Group.
 - (a) According to wiki – <https://en.wikipedia.org/wiki/Genting> - There are 2 places named Genting in Malaysia.
 - (b) "Gen", "Ting" and "GenTing" are all PinYin in Mandarin.
 - (c) The Disputed Domain Name means genting.bet on Genting Group side, but means GenTing.bet on the Respondent's side.

4. 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 Complaint to prevail:

- i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and

iii) The Disputed Domain Name has been registered and is being used in bad faith.

Element (1) Identical/confusingly similar

From the Complainant's exhibited trade mark certificates, the Panelist notices that the Complainant holds trade mark registrations for the mark "GENTING" in a number of jurisdictions, all of which having a registration date earlier than the registration of the Disputed Domain Name. The Panelist is satisfied that the Complainant has rights to the mark "GENTING" for the purpose of Paragraph 4(a)(i) of the Policy.

The Dispute Domain Name consists of two parts: "genting" and ".bet". While the top-level suffix in a domain name (*e.g.*, ".com") would usually be disregarded under the confusing similarity consideration, in the present case because the Complainant has shown to the Panelist that it has a considerable reputation in the casino and related businesses, the Panelist is of the view that the ".bet" extension is not irrelevant to this case. Given the similarity between "bet" and the nature of the Complainant's business, the Panelist considers that the top-level suffix ".bet" increases the likelihood of confusion. See *Bloomberg Finance, L.P.V. v. Huang Wei* (WIPO Case no. D2015-1378). Indeed, with the increasing number of new gTLDs which may very often carry meanings of their own or be associated with a particular trade or business, the Panelist considers that it is increasingly likely that panelists may take into account the top-level suffix in a disputed domain name when assessing confusing similarity and bad faith under the Policy.

The Panelist considers that Element (1) is satisfied.

Element (2) Respondent has no rights or legitimate interest

The Respondent asserted in its Response that it has legitimate reasons for registering the Disputed Domain Name. The Respondent argued that "gen" means (follow) and "ting" means (prepare for win) in Mandarin and that the Dispute Domain Name would be used for its developing poker and mahjong game.

The Panelist rejects the Respondent's contentions. While the Panelist accepts that a mark or word may have multiple meanings, the Panelist is unable to accept pure assertions by the Respondent which attempt to retrospectively justify the choice of the Disputed Domain Name. Here the Respondent has not produced any evidence which supports the alleged choice of words and/or the alleged proposed use of the Disputed Domain Name for the game.

The Respondent also contended that "Genting" is a geographical name in Malaysia. However, this is neither here nor there, given that the Complainant has demonstrated to the Panelist that it has protectable rights in the mark "Genting" under Element (1).

The Panelist considers that Element (2) is satisfied.

Element (3) Registration and use in bad faith

The Panelist considers that the Complainant has satisfied this Element. The reasons are as follows:-

- (a) The Disputed Domain Name was registered on 7 March 2016 whereas the Complainant has proved and shown use and/or registration of the Mark dating back to 1965. It is reasonable to infer that the Respondent, who has indicated knowledge and interest in

gambling/gaming products, would have been aware of the Complainant's mark "GENTING" when registering the Disputed Domain Name. In any event, shortly after the registration of the 7 March 2016, the Complainant, through its legal representatives, sent a demand letter to the Respondent on 30 March 2016 putting the Respondent on notice of the Complainant's rights in the mark "GENTING". The Respondent refused to accede to the Complainant's demand letter.

- (b) The Panelist finds that the Disputed Domain Name is directed to a parking website which indicates passive use and which further contradicts the Respondent's alleged proposed use in the Response.
- (c) Given the high level of similarity between the Disputed Domain Name and the Complainant's mark "GENTING" and its business, and given the Complainant's considerable reputation in the relevant industry, the Panelist considers that there exists a high degree of likelihood of confusion between the Disputed Domain Name and the Complainant's mark.

The Panelist is satisfied that the registration and use of the Disputed Domain Name is in bad faith.

5. Decision

The Complainant has proved all three elements. In accordance with the Complainant's request, the Panelist orders the Disputed Domain Name to be cancelled.

E Low

Eugene Ito Low
Panelist

Dated: 22 June 2016