



(Kuala Lumpur Office)

ADMINISTRATIVE PANEL DECISION

Case No.	KLRCA/ADNDRC-396-2016
Complainant:	Genting Berhad
Respondent:	Jevri Kurnia
Disputed Domain Name(s):	<awana.xyz>

1. The Parties and Contested Domain Name

The Complainant is Genting Berhad of 24th Floor, Wisma Genting, Jalan Sultan Ismail, 50250 Kuala Lumpur, Malaysia.

The Respondent is Jevri Kurnia of JL. Sucipto, Malang, Jatim 16281, Indonesia.

The domain name at issue is <awana.xyz>, registered by Respondent with Uniregistrar Corp.

2. Procedural History

On 19 July 2016, the Complainant submitted a Complaint to the Kuala Lumpur Office of the Asian Domain Name Dispute Resolution Center (“Center”), pursuant to the Uniform Domain Name Dispute Resolution Policy (“Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on 24 October 1999. The Center confirmed receipt of the Complaint that same day. The Complainant elected that this case be decided by a single panelist.

Also on 19 July 2016, the Center transmitted by e-mail to the Registrar, Uniregistrar Corp., a request for registrar verification of the disputed domain name. The Registrar transmitted by e-mail to the center its verification response, confirming that the Respondent is listed as the Registrant and providing contact details as: telephone +62.0813247681902 and e-mail jevri.kurnia@gmail.com. The Center transmitted the Complaint and evidence to the Respondent, by e-mail addressed to jevri.kurnia@gmail.com, notifying the Respondent of the commencement of the action, and requesting that the Respondent submit a Response within 20 calendar days.



Since the Respondent defaulted and did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the Center informed the Complainant and Respondent that the Center would appoint a single-member to proceed to render the decision.

On 15 August 2016, having received a Declaration of Impartiality and Independence and a Statement of Acceptance, the Center notified the parties that the Panel in this case had been selected, with Ms. Christina NG acting as sole panelist. The Panel determines that the appointment was made in accordance with Rule 6 and Articles 8 and 9 of the Supplemental Rules. The Panel received the file from the Center on the same day.

3. Factual Background

A. Complainant

The Complainant and Genting International Management Limited all of which are part of the Genting Group of Companies (“**Genting Group**”).

The Complainant is the investment holding and management company of Genting Group. It is also the registered proprietor and/or owner and/or beneficial owner of the Mark “AWANA” (the “**Mark**”) and/or marks consisting of “AWANA” in various classes in Malaysia while Genting International Management Limited is the registered proprietor and/or owner and/or beneficial owner of the Marks and/or marks consisting of “AWANA” in various classes and various jurisdictions including but not limited to Singapore and Indonesia. The Complainant is also authorized to use the Mark which is owned by Genting International Management Limited.

Based on the Annual Reports, it is clear that the Complainant and/or Genting Group have strong international business presence. The core businesses of the Complainant and/or Genting Group are leisure hospitality and casino business. The products and/or services being the Mark involving the leisure hospitality and casino business have been used and provided extensively by the Complainant and/or Genting Group in Singapore, Malaysia, and in various other jurisdictions.

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 had been voted as Asia’s leading casino resort for 6 consecutive years (2005-2010). It was also voted as the World’s and Asia’s Leading Themed Resort by World Travel Awards 2015. Further, it was awarded as



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Asia's Best companies 2015 by Finance Asia and Top 100 Malaysia Brands 2015 by Brand Finance in 2015.

The Complainant and/or Genting Group own a hotel named AWANA Hotel. This hotel has been operating for over 30 years, that is since 1985. Aside from the Complainant's own website, AWANA Hotel is also featured on numerous other independent hotel booking websites including but not limited to:

- (i) www.agoda.com
- (ii) www.booking.com
- (iii) www.expedia.com

AWANA Hotel has been consistently given high ratings by independent parties including but not limited to:

- (i) TripAdvisor
- (ii) Booking.com
- (iii) Agoda
- (iv) Trivago

The websites listed hereinabove are accessible internationally. As such, the public will naturally associate the word "AWANA" to the Complainant and/or Genting Group due to its extensive usage throughout the years, and no other.

The Complainant and/or Genting Group had organized numerous events using the Mark "AWANA" together with their well-known marks "RESORT WORLD" and "GENTING". The events include a pool side party and Ramadhan buffet at AWANA Hotel which is owned by the Complainant and/or Genting Group. There were also numerous promotional materials in relation to deals for stays and trip to AWANA Hotel.

The name of AWANA Hotel has extended its presence to China as well. The Complainant and/or Genting Group have published a guidebook in Chinese for trips to Genting Highland in Malaysia for tourists from China. In addition, a China video produced by a famous China blogger, Liu Xu has mentioned the Mark "AWANA".

AWANA Hotel was also mentioned by a famous blogger from Indonesia, Cerita EKA.

B. Respondent

The Respondent is the registered proprietor of the dispute domain name.



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4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:-

i) The Disputed Domain Name is identical and/or confusingly similar to trade or service marks in which the complainant has rights

The Complainant is clearly the registered proprietor and/or owner 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 leisure hospitality and casino services.

The Respondent has wrongfully and/or illegally and/or unlawfully registered the Disputed Domain which consists of the words "awana" of the TLD name (.xyz). This is likely to mislead the public into believing that the Disputed Domain belongs to or is related to the Complainant and/or Genting Group and/or associated with the Complainant or Genting Group as the word "AWANA" forms part of the Disputed Domain. The modus operandi of the Respondent is obvious, namely to mislead the public and thereafter to take unfair advantage.

The Disputed Domain incorporating the mark "AWANA" is identical and/or nearly resemble and/or confusingly similar to the Mark and the public would likely to be deceived and confused as to the origins of the goods and/or services provided in the Disputed Domain.

ii) The Respondent has no right or legitimate interest in respect of the disputed Domain Name

The Complainant and/or Genting Group have used the Mark since as early as 1985. This was the official opening of Awana Genting Highlands Golf & Country Resort. The Complainant and/or Genting Group have used the Mark since 1985 and the Mark has acquired substantial and extensive reputation in various jurisdictions including but not limited to Singapore and Malaysia. The Complainant and/or Genting Group clearly have prior rights in the Mark (since 1985) which precede the registration of the Disputed Domain by over 3 decades.



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The Complainant and Genting Group did not authorize and/or consent to the Respondent to use the Mark, “AWANA” and/or for the Respondent to use or register the Disputed Domain.

(iii) The Disputed Domain Name has been registered and is being used by the Respondent in Bad Faith

The registration by the Respondent is clearly tainted with *male fide* intention, knowing very well (due to its extensive and substantial use at various jurisdictions including but not limited to Singapore and Malaysia) that the Complainant owns the Mark “AWANA” and that the Respondent clearly registered this domain names for unlawful financial benefits, and/or whether immediately and/or in the new future.

This domain name dispute proceedings is initiated as a pre-emptive step to prevent further damages suffered by the Complainant and/or the public being deceived into believing that the Disputed Domain provide goods and/or services originated from the Complainant and/or Genting Group when this is clearly not the case.

B. Respondent

Respondent has defaulted and has not submitted 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.

The Panel will address these three requirements *seriatim*:



A) Identical / Confusingly Similar

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, which the law permits to guard against all manners of misappropriation and infringement. The Mark, "AWANA" 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, "AWANA."

Seeing that the whole of the Complainant's trademark has been incorporated into the disputed domain name, the Panel finds that the disputed domain name is identical and/or confusingly similar, to the Complainant's registered trademarks and trade names.

B) Rights and Legitimate Interests

The wrongful registration of the Disputed Domain infringed the intellectual property rights of the Complainant and/or Genting Group and violates the legal rights of the Complainant and/or Genting Group. In this respect, the Disputed Domain in the name of the Respondent will cause confusion to the public and that public may be misrepresented by such unlawful registration that the Respondent is somewhat associated with the complainant and/or Genting Group.

The Respondent has, without the Complainant's consent or authority used and/or registered the Disputed Domain 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 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 damages the Complainant's business, goodwill and reputation and also amounts to the false designations of origin and/or false description and/or dilution.

The Panel finds on the evidence adduced by the Complainant that the Respondent who has filed no response and has defaulted in these proceedings, has no rights or legitimate interests in respect of the disputed domain name.



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- a charitable institution limited by guarantee registered in Hong Kong

C) Bad Faith

The Panel agrees that the Respondent should have known of the Complainant's business. It is inconceivable that at the time of registration, the Respondent was not aware of the Complainant's business and their "AWANA" trade mark.

The Disputed Domain Name is likely to mislead users into believing that the Disputed Domain Name and Website is the website for the Complainant's operations and/or associated with the Complainant and their "AWANA" trade mark, and that the Respondent is an authorized partner of the Complainant (which is false), in order to increase the number of Internet users that access the Website for commercial gain.

The Panel finds that the disputed domain name was registered and is being used by the Respondent in bad faith.

6. Decision

Having established all three elements required under Art. 4(a) of the ICANN Policy, the Panel concludes that relief should be granted. Accordingly it is ordered that the domain name <http://awana.xyz> be TRANSFERRED from the Respondent to the Complainant.

A handwritten signature in blue ink, appearing to read "Cw", is positioned above the printed name of the panelist.

CHRISTINA NG
Sole Panelist

Dated: 28 August 2016