



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1500692
Complainant:	Wynn Resorts Holdings, LLC
Respondent:	wynn wynn
Disputed Domain Name(s):	<wynn24.com>

1. The Parties and Contested Domain Name

The Complainant is Wynn Resorts Holdings, LLC, of 3131 Las Vegas Boulevard, South Las Vegas, Nevada 89109, U.S.A. The Complainant is represented in these administrative proceedings by Ms. Rosita Y.M. Li, Partner, Messrs. Mayer Brown JSM, 16-19 Floors, Prince's Building, 10 Chater Road, Central, Hong Kong.

The Respondent is wynn wynn, of Wynn, ffff, ffffff, 222244, Philippines.

The domain name at issue is <wynn24.com>, registered by Respondent with GoDaddy.com, LLC, of 14455 N Hayden Road Suite 219, Scottsdale, Arizona 85260, U.S.A.

2. Procedural History

On 16 January 2015, the Complainant submitted a Complaint to the Hong Kong 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 Rules for Uniform Domain Name Dispute Resolution Policy, approved by ICANN Board of directors on 30 October 2009 ("Rules"), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy ("Supplemental Rules"). The Center confirmed receipt of the Complaint on 19 January 2015. The Complainant elected that a single panelist would decide this case.

On 19 January 2015, the Center transmitted by email to the Registrar GoDaddy.com, LLC, a request for registrar verification of the disputed domain name. On 21 January 2015, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the Registrant and providing contact details as: telephone 635588669 and email wynnwynn@usa.com.

On 28 January 2015, the Center notified the Complainant by email that the Complaint as originally submitted did not name the Respondent as the Registrant. On 2 February 2015, the Complainant submitted timely, in accordance with paragraph 4 (b) of the Rules, the revised Complaint, with exhibits.

On 2 February 2015, the Center transmitted the Complaint and evidence to the Respondent by email to Respondent's registered email addresses, requesting that the Respondent submit a Response within 20 calendar days, further specifying the due date as being on or before 22 February 2015. A "read" notification email from "wynn wynn", confirming the Respondent's receipt of the Center's transmission, was received by the Center at 5:43AM on 3 February 2015.

Since the Respondent defaulted and did not mention the Panel selection in accordance with the time specified in the Rules, the Supplemental Rules, and the Notification, the Center informed the Complainant and Respondent by email on 23 February 2015, that the Center would appoint a single-member panel to proceed to render the decision.

On 23 February 2015, 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 Mr. David KREIDER acting as the sole panelist. The Panel determines that the appointment was made in accordance with Rule 6 and Articles 8 and 9 of the Supplemental Rules. Also on 23 February 2015, the Panel received the file from the Center.

3. Factual Background

The Complainant's Group is a famous American-based international gaming entertainment company and hotel gaming resorts developer, founded by veteran Las Vegas gaming mogul Mr. Steve Wynn, who was the Chairman of the Board, President and Chief Executive Officer of Mirage Resorts Incorporated and its predecessor from 1973 to 2000. In that role, Mr. Wynn was responsible for the development of a number of very successful hotel gaming resorts including "The Bellagio", "The Mirage", and "Treasure Island" in Las Vegas, among others. Mr. Wynn is now the Chairman of the Board and Chief Executive Officer of Wynn Resorts, Ltd, the parent company of the Complainant. The Complainant's Group has been listed on the Nasdaq Stock Exchange since 2002 and included as part of the NASDAQ-100 Index since 2004.

Amongst its various projects, the Complainant's Group has developed and operates the renowned "Wynn Las Vegas", a \$2.7 billion luxury hotel and destination casino resort located on the Las Vegas Strip, which features 2,716 luxurious guest rooms and suites; an 111,000 square foot casino; 22 food and beverage outlets; an on-site 18-hole golf course; approximately 223,000 square feet of meeting space; an on-site Ferrari and Maserati dealership; and approximately 76,000 square feet of retail space.

The Complainant's Group entered the China markets in 2006 and successfully obtained a concession to operate one or more casino gaming properties in Macau (which is the only place in China where casinos are legal). By way of background, for 40 years the gaming industry in Macau was monopolised by local casino tycoon Stanley Ho's company, which

obtained an exclusive gaming concession to operate gaming business in the territory. This monopolization ended in early 2002 when the Macau government opened the gaming industry market in Macau to new players and granted casino licences to a few players, including the Complainant's Group. The new casinos established in Macau attracted big crowds and revenue. Since end of 2006, Macau has replaced Las Vegas to become the world's biggest gaming centre by revenue.

The luxury hotel and destination casino resort developed and operated by the Complainant's Group in Macau is called "Wynn Macau" in English and "永利澳门" and "永利澳門" in simplified and traditional Chinese characters, respectively. The resort features 1014 deluxe hotel rooms and suites, approximately 500 table games and 380 slot machines in approximately 205,000 square feet of casino gaming space, eight restaurants, approximately 26,000 square feet of retail space, a spa, a salon, entertainment lounges and meeting facilities.

To assist its guests with the planning of their vacations or corporate meetings at Wynn Macau, the Complainant's Group has opened representative offices in major cities in China including Beijing, Shanghai and Guangzhou, as well as in Hong Kong. The Complainant's Group has also launched major promotional campaigns to promote Wynn Macau.

On its part, the Respondent in these administrative proceedings has defaulted and failed to submit timely, or at all, a Response to the Complaint.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

The Complainant's Rights

The Complaint is based on the Complainant's rights in the Trade Marks and the Complainant's common law rights generated as a result of use of the Trade Marks by the Complainant. The Complainant has obtained registrations of the Trade Marks in respect of various goods and services in the United States, China, Hong Kong, Macau, India, Indonesia, Japan, Korea, Malaysia, New Zealand, Philippines, Singapore, Taiwan and Thailand, among other jurisdictions.

Apart from the Complainant's trademark rights and common law rights generated as a result of use of the Trade Marks by the Complainant, the Complainant has also registered domain names including, without limitation, "wynnresorts.com"; "wynnlasvegas.com"; and "wynnmacau.com", respectively, on 2 May 2000, 23 July 2000 and 11 July 2002. The registration dates of the Complainant's registered domain names all predate the registration of the Disputed Domain Name, i.e., 27 November 2013, and the Complainant's registered domain names are all being actively used for *bona fide* business purposes in connection with the Complainant's business.

As a result of the facts stated above, the public will associate the Trade Marks exclusively with the Complainant's Group.

The Disputed Domain Name is Identical or Confusingly Similar to Complainant's Trade Marks

Visual Similarity

The Disputed Domain Name is <wynn24.com>. The prominent and distinctive part of the Disputed Domain Name is the word "wynn", which is identical to the mark "WYNN". Since "wynn" forms the beginning of the Disputed Domain Name, it has a strong visual impact. The Disputed Domain Name is therefore visually confusingly similar to the mark "WYNN".

Conceptual Similarity

As mentioned above, the Complainant owns and operates the world famous "Wynn Las Vegas" and "Wynn Macau" casino resorts. Moreover, the Complainant has registered domain names, including "wynnresorts.com"; "wynnlasvegas.com" and "wynnmacau.com" since 2000. A distinctive conceptual element in the Complainant's trademarks, domain names and the names of the Complainant's resorts is the inclusion of the distinctive mark "WYNN". The Disputed Domain Name <wynn24.com> uses the same concept and therefore is conceptually confusingly similar to the Complainant's mark "WYNN" and trade name. The "24" ending in the Disputed Domain Name achieves little to lessen the confusion of online visitors, other than perhaps giving an indication that the Disputed Domain Name operates 24 hours a day. The Disputed Domain Name will undoubtedly cause confusion.

Moreover, the Disputed Domain Name currently operates an online casino business, a business in which the Complainant has a strong reputation. From these facts, it is apparent that the Respondent intended to, and is currently, riding on the reputation of the Complainant's business.

The Respondent has no Rights or Legitimate Interests in the Disputed Domain Name

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because:

Unauthorized Use

The Complainant and its Group companies have not authorized, licensed or otherwise permitted the Respondent to use the Trade Marks or any other name/mark of the Complainant's Group.

Meaning of "WYNN" in Ordinary Language

"WYNN" is not a common term in usage, and has no meaning except as a well-known registered Mark. The Respondent does not have any rights or legitimate interests in registering or using part or the whole of the Disputed Domain Name.

The Respondent Registered and is Using The Disputed Domain Name in Bad Faith

The Complainant submits that the Respondent has registered and is using the Disputed Domain Name in bad faith because:

The Complainant's Reputation in Asia

The Complainant has a strong presence in Asia and has registered trademarks in the United States, China, Hong Kong, Macau and other jurisdictions all around Asia. Given the substantial fame of the Complainant's Group throughout the world, and given that the Respondent runs a casino website, it is most unlikely that the Respondent is unaware of the Complainant's rights in the Trade Marks. It cannot be mere coincidence that the Respondent has chosen the Disputed Domain Name, which is confusingly similar to the Trade Marks, the Complainant's registered and actively used domain names, and trade name. Furthermore, the web page to which the Disputed Domain Name resolves prominently displays the "WYNN MACAU" Trade Mark.

Intention to Cause Confusion

The Respondent has deliberately registered the Disputed Domain Name with the intention to cause confusion to the public that the Respondent and/or the Respondent's web pages are related to the Complainant or are authorized by the Complainant.

The Disputed Domain Name, as illustrated above, is confusingly similar, from a visual and conceptual aspect, to the Trade Marks, the Complainant's registered and actively used domain names, and trade name.

Furthermore, the Respondent used "永利會" and "WYNN (stylised)" on its website under the Disputed Domain Name. The Complainant has registered the marks "永利會" and "WYNN (stylised)" and therefore owns the rights to these marks. That the Respondent blatantly copied the Complainant's registered marks on its website is compelling evidence of the Respondent's bad faith.

False Claims by Respondent

The Respondent claimed on its website under the Disputed Domain Name that wynn24.com was named after Wynn's founder, Steven Wynn.

In addition, when enquiries were made through the online help chat system on the website <wynn24.com> in relation to whether the Disputed Domain Name is owned by Wynn Macau Group, the authorized representative of the Respondent replied affirmatively. This is a blatantly false claim, which serves to underscore the deceitful manner in which the Respondent's business is conducted and the bad faith associated with the operation of the business.

As submitted above, the Respondent is engaged in no legitimate or *bona fide* use of the Disputed Domain Name and must have been aware of the Complainant's rights in the Trade Marks, registered domain names and trade name. Therefore, the registration and use of the Disputed Domain Name are necessarily in bad faith.

B. Respondent

The Respondent's contentions may be summarized as follows:

The Respondent defaulted and failed to submit timely, or at all, 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

The prominent and distinctive part of the Disputed Domain Name is the word "wynn", which is identical to the Complainant's registered Trade Mark "WYNN". "WYNN" is not a common term in usage, and has no meaning except as the Complainant's well known registered Mark. The "24" ending in the Disputed Domain Name achieves little to lessen the confusion of online visitors, other than perhaps giving an indication that the Disputed Domain Name operates 24 hours a day. The Panel readily finds that the Disputed Domain Name is identical or confusingly similar to Complainant's registered Trade Marks.

B) Rights and Legitimate Interests

The Panel finds that the Complainant and its Group companies have not authorized, licensed or otherwise permitted the Respondent to use the Trade Marks or any other name/mark of the Complainant's Group and that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

C) Bad Faith

The Disputed Domain Name resolves to a website that is operating as an online casino business, a business in which the Complainant has a strong reputation. The web page to which the Disputed Domain Name resolves prominently displays the Complainant's "WYNN MACAU", "永利會" and "WYNN (stylised)" registered Trade Marks. The evidence is compelling, and this Panel finds, that the Respondent intended to, and is, riding on the reputation of the Complainant's business.

To eliminate any remaining doubt as to the Respondent's bad faith registration and use of the Disputed Domain Name, the Complainant has produced in evidence printouts of "chat" enquiries and responses made through the online help chat system on the website at <wynn24.com> in the Chinese language, wherein the Respondent's representative "Echo" misrepresents in response to an enquiry that the Disputed Domain Name is owned by the Wynn Macau Group.

The Respondent deliberately registered the Disputed Domain Name with the intention of confusing the public into believing that the Respondent and/or the Respondent's web pages are related to the Complainant or are authorized by the Complainant, which is untrue. Furthermore, the Respondent, its agents, or both, are making false and deceitful claims and misrepresentations on the <wynn24.com> website to this same effect, to intentionally mislead the public for its own unearned and undeserved financial gain.

The Panel has no difficulty in finding that the Disputed Domain Name was registered and is being used in bad faith.

6. Decision

It is ORDERED that the <wynn24.com> domain name be TRANSFERRED to the Complainant.

David L. Kreider, Esq.
Panelist

Dated: 24 February 2015