



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-1600894
Complainant:	Galaxy Entertainment Licensing Limited
Respondent:	Thanh Nguyen
Disputed Domain Name(s):	< GALAXYENTERTAINMENTGROUP.COM >, <galaxyentertainmentgroup.info>, <galaxyentertainmentgroup.org>

1. The Parties and Contested Domain Name

The Complainant is **Galaxy Entertainment Licensing Limited**, of Offshore Incorporations Centre, Road Town, Tortola, VIRGIN ISLANDS, BRITISH.

The Respondent is **Thanh Nguyen**, of Binh Thanh, hcm HCM 700000 Vietnam.

The domain names at issue are **GALAXYENTERTAINMENTGROUP.COM**, **galaxyentertainmentgroup.info**, and **galaxyentertainmentgroup.org** (“*Disputed Domain Names*”), registered by Respondent with GODADDY.COM LLC, of legal@godaddy.com; telephone: (852) 3050-7470.

2. Procedural History

On 31 August 2016, the Complainant filed a Complaint in this matter with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“ADNDRC-HK”). On the same day, the ADNDRC-HK confirmed receipt of the Complaint and the case filing fee.

On 31 August 2016, the ADNDRC-HK notified GODADDY.COM LLC (“Registrar”) of the Disputed Domain Names of the proceedings by email.

On 1 September 2016, the Registrar acknowledged the email of ADNDRC-HK confirming that the Disputed Domain Names are registered with the Registrar, that Thanh Nguyen is the holder of the Disputed Domain Names, that the Internet Corporation for Assigned Names and Numbers Uniform Domain Name Dispute Resolution Policy (“the Policy”) is applicable to the Disputed Domain Names, the language of the Disputed Domain Names is English as provided by the WHOIS information in relation to the Disputed Domain Names and confirmed that the Disputed Domain Names are under Registrar lock status.

On 2 September 2016, the ADNDRC-HK sent a Written Notice of Complaint (“Notification”), together with the Complaint, to the email address of the Respondent’s nominated registrant contact for the Disputed Domain Name (as recorded in the WHOIS database). The Notification gave the respondent twenty (20) calendar days to file a Response (i.e. on or before 22 September 2016).

The Panel comprising of Dr. Shahla F. Ali as a single panelist was appointed by the ADRDRC-HK on 28 September 2016. The papers pertaining to the case were delivered to the Panel by email on the same day.

3. Factual background

For the Complainant

The Complainant, Galaxy Entertainment Licensing Limited, was incorporated in 2007 as a wholly-owned subsidiary of Galaxy Entertainment Group Limited, to hold and manage most of the intellectual property rights of companies associated with the Galaxy Entertainment Group. Galaxy Entertainment Group Limited was incorporated in 1988 and is currently listed on the Hong Kong Stock Exchange (code: SEHK: 0027) and a member of the Hang Seng Index. It is a developer and operator of integrated entertainment and resort facilities. The Complainant, together with its associated companies including Galaxy Entertainment Group Limited and Galaxy Casino S.A., is ranked Macau’s second largest gaming group with 20% of its market share.

The Complainant and its related group companies have registered the “Galaxy Entertainment Group Limited” trade mark in a number of ASEAN nations including but not limited to Hong Kong, Macau, China, Taiwan, Japan and South Korea. In Hong Kong where the Complainant is based, the Complainant’s earliest registered trademark in 2005 is “Galaxy Entertainment Group Limited” (registration no. 300549090AA) covering services in Classes 39 and 43. Amongst other goods and services, the trademark has been used in respect of “Hospitality services, provision of temporary accommodations, hotel, motels, resort and guesthouse services, reservation, booking and provision of information and arranging services for hotels and guesthouses, restaurants, self service restaurants, hot pot restaurants, barbecue restaurants, canteen, snack bar, sashimi and sushi bar, fast food counter, café, cafeteria, bar and lounge service, provision of food and drink for dine in, take away and delivery, banqueting services, function rooms, meeting rooms.” in Class 43.

The Complainant has also promoted its services under the “Galaxy Entertainment Group” trade names and through its websites. In particular, the Complainant operates an official website at <https://www.galaxyentertainment.com/>.

For the Respondent

The Respondent registered the disputed domain names: <GALAXYENTERTAINMENTGROUP.COM> on 4 October 2013, <galaxyentertainmentgroup.info> on 19 May 2016, and <galaxyentertainmentgroup.org> on 19 May 2016.

4. Parties’ Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The domain names in dispute are confusingly similar to the Complainant's trademark "Galaxy Entertainment Group Limited".
- ii. Respondent has no rights or legitimate interests in the registration of the domain names in dispute.
- iii. Respondent has registered and used the domain names in bad faith.

B. Respondent

The Respondent did not file a Response to the ADNDRC-HK within the required timeframe stipulated by the ADNDRC-HK and as such has not contested the allegations of the Complaint and is in default.

5. Findings

Having considered all the documentary evidence before me, and the Respondent's non-participation in these proceedings after being afforded every opportunity to do so in accordance with Paragraph 14 of the Rules for Uniform Domain Name Dispute Resolution Policy ("the Rules") the Panel is of the view that it should proceed to decide on the Disputed Domain Names ("GALAXYENTERTAINMENTGROUP.COM, galaxyentertainmentgroup.info, and galaxyentertainmentgroup.org") based upon the Complaint and evidence submitted by the Complainant.

The Panel having reviewed the evidence, finds that the Disputed Domain Names are subject to common control and finds that consolidation would be procedurally efficient, fair and equitable to all parties.

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

Paragraph 4(a)(i) of the Policy requires the Complainant to prove that the Disputed Domain Names are identical or confusingly similar to a trademark or a service mark in which the Complainant has rights.

The Complainant has been using "Galaxy Entertainment Group" as its trade name since its incorporation, and has been using the trademark "Galaxy Entertainment

Group Limited” continuously and extensively in various countries in the ASEAN region.

The Complainant claims rights in the trademark “Galaxy Entertainment Group Limited”. As a result of the extensive and long period of use by the Complainant and its group of companies since as early as 2005, such trademarks/names have been well-recognised by the public to be distinctive of and identified with the Complainant and its services (including but not limited to hotels, casino, entertainment and rental services of various facilities including meeting facilities). Even though the Complainant operates mostly in Hong Kong and Macau, its reputation for “galaxy entertainment” in various search engines including google.vn and vn.yahoo.com is well established given that the top result is the Complainant’s web page.

The Disputed Domain Names <GALAXYENTERTAINMENTGROUP.COM>, <galaxyentertainmentgroup.info>, and <galaxyentertainmentgroup.org> incorporate the Complainant’s “Galaxy Entertainment Group Limited” trademark/name. It is well established that in making an enquiry as to whether a trade mark is identical or confusingly similar to a domain name, the domain extensions, in this case <.info>, <.org> and <.com> should be disregarded (see *Rohde & Schwarz GmbH & Co. HG v. Perthshire Marketing, Ltd*, WIPO Case No. D2006-0762).

It is the view of this Panel that the Complainant has discharged its burden of proof in establishing the element of an identical and confusingly similar mark under Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

The Complainant’s “Galaxy Entertainment Group” brand has been in use since at least 1988. According to the WHOIS search result, the Disputed Domain Names were registered on 4 October 2013 (<GALAXYENTERTAINMENTGROUP.COM>); and 19 May 2016 (<galaxyentertainmentgroup.info> and <galaxyentertainmentgroup.org>), some 35 years after the Complainant began using the brand and some 8 years after the Complainant registered the “Galaxy Entertainment Group Limited” trademark. In addition, “Galaxy Entertainment Group” has acquired meaning through the Complainant’s extensive use in marketing and promotion efforts through its website and regional advertising.

Given that the Complainant’s adoption and first use of the Galaxy Entertainment Group name and marks in 1988 and 2005 respectively predates the Respondent’s registration and use of the Disputed Domain Names, shifts to the Respondent the burden of establishing that it has legitimate rights and/or interest in the Disputed Domain Names. See, for example the WIPO decision of *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)* (Case No. D 2003-0696) as a reference to this principle.

The word “Galaxy Entertainment Group”, being the dominant part of the Disputed Domain Names, does not in any way reflect the Respondent’s name. In fact there is no connection, either in appearance, in meaning or phonetically, between the Disputed Domain Names and the Respondent’s name (Thanh Nguyen). In addition,

there is no evidence to suggest the Complainant authorized Respondents use of the name.

Given the general recognition of the Complainant and the Galaxy Entertainment Group Limited trademarks in the ASEAN region where the Respondent resides, the Respondent must have known of the existence of the Galaxy Entertainment Group Limited trademarks when registering the Disputed Domain Names.

Given the above reasons alongside a lack of response by the Respondent on its right and/or interest in the Disputed Domain Names, this Panel concludes that the Respondent has no rights and/or legitimate interests in respect of the Disputed Domain Names.

C) Bad Faith

Paragraph 4(b) of the Policy sets down four (4) factors in which the Panel will need to examine to determine whether the Respondent has registered or used the Disputed Domain Names in bad faith. The four (4) factors are as follows:

“Evidence of Registration and Use in Bad Faith. For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

The Respondent, domiciled in Vietnam, must have been aware of the Complainant's prior rights and interest in the Disputed Domain Names given the Complainant's reputation in the mark “Galaxy Entertainment Group Limited” in ASEAN as of the date that the Respondent registered that Disputed Domain Names.

The use of the Disputed Domain Names by the Respondent demonstrates that they were registered and used in bad faith, with a view to free-riding on the reputation and

goodwill enjoyed by the Complainant in the trade name/mark “Galaxy Entertainment Group Limited”. Specifically, the earliest registered Disputed Domain Name, namely “GALAXYENTERTAINMENTGROUP.COM”, was used to promote rental of residential property and meeting facilities, with the webpage entitled “Galaxy Entertainment”. As the Complainant’s business includes accommodation and rental of meeting facilities, it is likely that visitors would thus be misled into believing that the Disputed Domains are operated by the Complainant, a reputable and well established company specializing in rental facilities, when in fact this is not the case. It is clear that by registering and using the domain name “GALAXYENTERTAINMENTGROUP.COM”, the Respondent intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of his website or services offered thereon.

At present, the website “GALAXYENTERTAINMENTGROUP.COM” has been revised and there is a clear message on the top page stating “DOMAIN FOR SALE”. This indicates that the Respondent has registered the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant for valuable consideration in excess of the Respondent’s documented out-of-pocket costs directly related to the Disputed Domain Name. Such intention is further confirmed through the correspondence between the Complainant’s agents and the Respondent as will be described further below.

The remaining two Disputed Domain Names (galaxyentertainment.org; galaxyentertainment.info), which are not connected to any website, were only registered on 19 May 2016, the day on which the Respondent acknowledged receipt of the cease and desist letter issued by the Complainant’s legal representative on 12 May 2016. Despite the express warning from the Complainant, the Respondent proceeded to register these additional domain names and offered to sell the Disputed Domain Names to the Complainant for unjustified profit. The bad faith of the Respondent is apparent.

In July 2016, an agent of the Complainant was instructed to approach the Respondent on a no-name basis to negotiate for transfer of the Disputed Domain Names with the Respondent. In reply of the enquiry, the Respondent offered to sell the Disputed Domain Names for USD 21,000, substantially in excess of the Respondent’s documented out-of-pocket costs. When asked to lower the price the Respondent emphasized the importance and value of the trademark and offered a plan to take advantage of the search optimization of the trademark showing that (i) the Respondent acknowledged that the Disputed Domains are confusingly similar to a trademark of which the Complainant has rights; (ii) the Respondent was aware of the commercial value of the trademark of the Complainant; (iii) the Disputed Domains were registered with the intent to be sold.

By reason of parts (i), (ii), and (iii) above, the Complainant contends that all of the three elements as set out in paragraph 4(a) of UDRP are present and the Disputed Domain Names should be transferred to the Complainant.

Moreover, no evidence has been provided showing that the Respondent sought the permission of the Claimant to use its mark, nor any evidence showing that the Claimant gave such permission to the respondent.

Given the above findings, the Panel is of the view that the Respondent registered and used the Disputed Domain Names in bad faith.

6. Decision

The Complainant has proved its case. It has a registered trademark in the name “Galaxy Entertainment Group Limited” to which the Disputed Domain Names are confusingly similar.

The Respondent has provided no evidence showing rights or legitimate interest in the Disputed Domain Names.

The Complainant has shown that the Respondent registered and used the Disputed Domain Names in bad faith.

For the foregoing reasons and in accordance with Paragraph 4 of the Policy, the Panel concludes that the relief requested by the Complainant be granted and orders that the Disputed Domain Names “**GALAXYENTERTAINMENTGROUP.COM**”; “**galaxyentertainmentgroup.info**” and “**galaxyentertainmentgroup.org**”, be transferred to the Complainant **Galaxy Entertainment Licensing Limited**.

/s/ Shahla F. Ali

Dr. Shahla F. Ali
Panelist

Dated: 4 October, 2016