



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101485
Complainant:	Maxim's Caterers Limited.
Respondent:	bulinco bulinco
Disputed Domain Name(s):	<maxims-hk.com>

1. The Parties and Contested Domain Name

1. The Complainant is Maxim's Caterers Limited of 18/F, Maxim's Centre, No. 17 Cheung Shun Street, Cheung Sha Wan, Kowloon, Hong Kong.
2. The Respondent is known as bulinco bulinco.
3. The domain name at issue is <maxims-hk.com>, registered by WebNic.cc of 410 North Bridge Road, Singapore, 188726.

2. Procedural History

4. The Complainant filed this complaint with the Asian Domain Name Dispute Resolution Centre (ADNDRC) (Hong Kong Office) on 02 July 2021.
5. A copy of the Complaint was sent to the Respondent on 07 July 2021.
6. The Respondent failed to respond within 20 calendar days as required under paragraph 5 of the UDRP Rules and on 28 July 2021 was held as being in default.
7. On 29 July 2021, after confirming that he was able to act independently and impartially between the parties, the ADNDRC appointed David Allison as the sole Panelist in this matter.

3. Factual background

8. The Complainant is an extremely famous Hong Kong based food and beverage company established in 1956 in Hong Kong. The Complainant is now the largest and most diversified quality catering conglomerate in Hong Kong, owning and running a diverse range of restaurants, cake shops, bakery shops, Japanese restaurants, etc. The Complainant is also the licensee of renowned brands including Starbucks Coffee,

Genki Sushi, IPPUDO Ramen, The Cheesecake Factory and Shake Shack in various territories. Altogether, it has over 1,700 outlets in Hong Kong and Macau regions, Mainland China, Vietnam, Cambodia, Thailand, Singapore and Malaysia.

9. The Complainant has filed and registered the trademark “MAXIM’S” and large number of related “MAXIMS” trademarks in Hong Kong. The earliest “MAXIM’S” trademark was registered by the Complainant in Hong Kong in 1984. The MAXIM’S trademark is widely used and is very well known in Hong Kong by the public.
10. The Complainant also owns a number of domain names featuring the distinctive “MAXIMS” element. Of most relevance to this matter, the Complainant owns the domain name <www.maxims.com.hk> . This domain name was first registered by the Complainant on 04 October 1996.
11. The Respondent failed to file a Response within the deadline. Accordingly, little is known about the Respondent besides the fact that the disputed domain name was registered on 09 May 2021. The disputed domain name does not resolve to any active website. However, as will be discussed below, spoofing emails featuring email addresses purportedly linked to the disputed domain name were sent to the Complainant on 11 May 2021.

4. Parties’ Contentions

12. Complainant:

The Complainant’s contentions may be summarized as follows:

- i. The disputed domain name is confusingly similar to the MAXIMS trademarks owned by the Complainant.
- ii. The Respondent has registered and used the disputed domain name in bad faith, most clearly illustrated by the issuing of spoofing emails which feature emails purportedly issued from the disputed domain name. the spoofing emails were designed to fool recipients into believing the emails came from the Complainant.

13. Respondent:

The Respondent did not file a submission within the deadline.

5. Findings

14. 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

15. The Complainant has adduced sufficient evidence to demonstrate that it has clear trademark rights to the mark “MAXIMS” Hong Kong. The Complainant has also provided abundant relevant evidence, some of which dates back over several decades, to clearly establish that the trademark MAXIMS is extremely well known and has a relatively high reputation among the relevant public. As such, the Panel finds that the Complainant has sufficient rights and interests in the MAXIMS mark.
16. When comparing the Complainant’s marks and the disputed domain name, it is clear that they are confusingly similar in that the “MAXIMS” element in the Complainant’s mark and the disputed domain name are identical
17. The Complainant argues that the “-hk” element after the “MAXIMS” element is a clear geographical indicator which indicates “Hong Kong” and as such should be ignored when making the comparison. The Complainant supports its argument with reference to *Nutricia International B.V. v. Peter Chan* WIPO Case No. D2017-1826 which held that “...*The incorporation of the letters “hk” does not avoid the confusion. [On] the contrary, the incorporation of these letters contributes to the likelihood of confusion, as consumers will believe that the products offered originate from a Hong Kong based affiliate of the Complainant.*”
18. The Panel agrees that the incorporation of the “-hk” element into the disputed domain increases rather than decreases the likelihood of confusion in this case, particularly due to the reputation of the Complainant in Hong Kong. Accordingly, and when the distinctive element of the Disputed Domain name (ie MAXIMS) is compared with the Complainant’s trademarks, it is obvious that they are confusingly similar.
19. Accordingly, the Complainant has made out the first element.

B) Rights and Legitimate Interests

20. The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name. Indeed, the Claimant contends that since the Complainant’s adoption and first use of the Complainant’s trademarks significantly predates the Respondent’s registration and use of the disputed domain name, the burden shifts to the Respondent to prove that it has legitimate rights and/or interests in the Disputed Domain Name.
21. The Panel does not agree that the mere fact that the Respondent recently registered the disputed domain name shifts the burden of proof to the Respondent. There may in some cases be perfectly legitimate reasons why a disputed domain name has been recently registered and not yet used.
22. Nevertheless, in this case, it is difficult to see any legitimate interest that the Respondent could have in the disputed domain name. The Respondent has chosen a domain name which is deceptively similar to the Complainant’s extremely well-known trademarks and the disputed domain name has no relationship with the Respondent’s business name whatsoever.

23. As the Respondent has not responded to the Complaint, there is no evidence to counter the Complainant's claim and there is also no obvious legitimate reason for the Respondent to use the "MAXIMS" element in relation to its business. Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and thus, the second element is satisfied.


C) Bad Faith

24. To establish the third element, the Complainant must establish that the Respondent both registered and used the disputed domain name in bad faith. In this case, and as discussed above, the Respondent has used the disputed domain name as a vehicle to send 'spoof' emails to third parties to deceive them that they were receiving emails from the Complainant. Further, these emails discussed matters including orders and related banking details. If third parties had been deceived by these spoof emails, this could have caused significant financial harm and damage to the third party and caused significant reputational damage to the Complainant.

25. The use of the disputed domain name as part of fraudulent spoof emails is a clear act of bad faith. As such, the Panel has no hesitation in deciding that the disputed domain name has been registered and used in bad faith. Thus the third element is clearly satisfied.

6. Decision

26. The Panel finds that the Complainant has satisfied all three elements of UDRP paragraph 4(a). Accordingly, the Panel orders that the disputed domain name <maxims-hk.com > be transferred to the Complainant.



David Allison
Panelist

Dated: 12 August 2021