



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101522
Complainants:	1. Right Achieve Limited 2. Emperor Entertainment Hotel Investment Ltd
Respondent:	Jack Liberman
Disputed Domain Name(s):	<grandemperor.com>

1. The Parties and Contested Domain Name

The Complainants are Right Achieve Limited and Emperor Entertainment Hotel Investment Ltd, of Emperor Group Centre, 288 Hennessy Road, Wan Chai, Hong Kong, China.

The Respondent is Jack Liberman, of Stresemannstr. 72, Beckingen, Hessen, Germany.

The domain name at issue is <grandemperor.com>, registered by Respondent with Public Domain Registry, of Mumbai, India.

2. Procedural History

On August 13, 2021, pursuant to the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”) and the Rules for the Uniform Domain Name Dispute Resolution Policy (the “Rules”), the Complainants submitted a Complaint to the Hong Kong Office (“HK Office”) of the ADNDRC (“ADNDRC”). On August 16, 2021, the HK Office sent to the Complainants by email an acknowledgment of the receipt of the Complaint and reviewed the format of the Complaint for compliance with the Policy, the Rules and the HK Office Supplemental Rules. The HK Office also notified the Registrar of the Complaint by email. The Registrar replied to the HK Office on the same day.

On August 20, 2021, the HK Office informed the Complainants that the information of the Respondent and Registrar in the Complaint were different from the WHOIS information provided by the Registrar.

On August 23, 2021, the Complainants submitted a revised Complaint to the HK Office.

On August 31, 2021, the HK Office informed the Complainants that the earlier information provided to them by the Registrar on August 16, 2021, was incorrect and requested the information of the Respondent to be corrected.

On September 1, 2021, the Complainants submitted a further revised Complaint to the HK Office, for the correction of the Respondent's information. On September 2, 2021, the HK Office confirmed receipt and forwarded the further revised Complaint to the Respondent. The due date of the Response was September 22, 2021.

The Respondent did not file a Response and on September 23, 2021, the HK Office informed the Respondent of its default. On the same day, the HK Office appointed Francine Tan as the sole panelist in this matter.

3. Factual background

The first Complainant, Right Achieve Limited, was incorporated on September 28, 2004, and is a subsidiary of the second Complainant, Emperor Entertainment Hotel Limited. The Complainants are in the business of providing gaming and hospitality services and operate in Macau and Hong Kong the Grand Emperor Hotel, the Emperor Hotel, Inn Hotel, The Unit Serviced Apartments and MORI MORI Serviced Apartments.

The Second Complainant is the registered proprietor of, *inter alia*, the following trade marks in Macau:

- Trade Mark No. N/020408 for "Grand Emperor", registered on September 13, 2007; and



- Trade Mark No. N/20409 for “ ” registered on October 23, 2007;

The disputed domain name <grandemperor.com> was originally registered by the first Complainant on September 8, 2005. It used to resolve to an active website which the Complainants used in relation to their Grand Emperor Hotel business. The Registrar for the disputed domain name was previously Network Solutions, LLC. Unbeknownst to the Complainants, the disputed domain name was transferred to Public Domain Registry on August 4, 2021, and the Respondent obtained a transfer of the disputed domain name. At the time of the writing of this Decision, the disputed domain name did not resolve to any website.

4. Parties' Contentions

A. Complainants

The Complainants' contentions may be summarized as follows:

- i. The disputed domain name is identical and/or confusingly similar to the Complainants' GRAND EMPEROR mark in which they have rights;
- ii. The Respondent has no rights or legitimate interests in respect of the disputed domain name as the Complainants. The disputed domain name was owned since 2005 by the first Complainant but on August 9, 2021, it was discovered that there

were unauthorized changes made by the Respondent to the configuration so that the name resolution for the disputed domain name was no longer performed by a name server operated by the first Complainant. The hijacking of the disputed domain name by the Respondent resulted in the Complainants losing control of the disputed domain name. This resulted in significant disruption to the Complainants' hotel operations and their inability to access emails under the domain <grandemperor.com>. Reports on this incident were filed with Network Solutions, ICANN and with the Hong Kong Police;

- iii. The Respondent registered and is using the disputed domain name in bad faith by his fraudulent acts in hijacking the disputed domain name.

The Complainant requests that the disputed domain name be transferred to the first Complainant.

B. Respondent

The Respondent did not file 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 trade mark 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

In the present case, the Complainants have provided evidence of their registrations for, and rights in, the GRAND EMPEROR trade mark.

The Complainant's GRAND EMPEROR mark is reproduced in the disputed domain name. The Panel therefore finds that the disputed domain name is identical to the Complainants' GRAND EMPEROR mark. The inclusion of the generic Top-Level Domain ".com", does not serve to remove the identity with the disputed domain name as it is a technical requirement for domain name registrations.

The first element of paragraph 4(a) the Policy has been satisfied.

B) Rights and Legitimate Interests

In the present case, the Complainants have demonstrated a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. The Complainants have provided evidence that they own trademark registrations for GRAND EMPEROR and have been using the mark for many years. The Complainants

also provided evidence that they were the original owners of the disputed domain name, ever since September 8, 2005, and that the disputed domain name was effectively stolen by the Respondent.

Once a complainant has established a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect of the disputed domain name. (See *WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition*, section 2.1.) The Respondent has not submitted a Response to the Complaint, nor has he provided any explanation or evidence to show he has rights or legitimate interests in the disputed domain name. The Respondent has therefore failed to rebut the Complainants' *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The second element of paragraph 4(a) the Policy has been satisfied.

C) Bad Faith

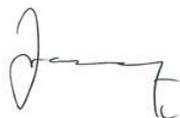
It is evident from the facts presented that the Respondent acted in bad faith in surreptitiously taking the disputed domain name. We do not know, in fact, what the Respondent's ultimate intention is in stealing the disputed domain name, e.g. whether he means to disrupt the Complainants' business because he is in a competing business or whether he means to hold the disputed domain name hostage to extort a sum of money from the Complainants or to sell it to a competitor. In any event, the circumstances described in paragraph 4(b) of the Policy are not exhaustive. What is undisputed is that disruption has been caused to the Complainants' business; and seeing the manner by which the Respondent obtained the domain name registration, any purported use by the Respondent for any website or profiting from a sale of the disputed domain name can by no means be considered to be other than being tainted and in bad faith. The Panel also draws a negative inference from the Respondent's failure to respond to the proceedings.

The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) the Policy has been satisfied.

6. Decision

For the foregoing reasons, in accordance with paragraphs 4(a) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <grandemperor.com> be transferred to the first Complainant, Right Achieve Limited.



Francine Tan
Panelist

Dated: September 28, 2021