

## **ADMINISTRATIVE PANEL DECISION**

Cwi Keys Hotel, LLC v. ping ping wang  
Case No. D2022-1627

### **1. The Parties**

The Complainant is Cwi Keys Hotel, LLC, United States of America (“United States”), represented by Paul Hastings LLP, United States.

The Respondent is ping ping wang, China.

### **2. The Domain Name and Registrar**

The disputed domain name <hawkcayresort.com> is registered with NamePal.com #8011, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 5, 2022. On May 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 6, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 3, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on June 10, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant is a corporation registered in Delaware, United States. It is an operator of hotel and resort facilities, including a resort named HAWK'S CAY, located in Florida, United States.

The Complainant is the owner of United States trademark registration number 2410460 for the word mark HAWK'S CAY, registered on December 5, 2020, for services including "resort hotel services" in International Class 42.

The Complainant operates an official website for the HAWK'S CAY resort at "www.hawkscay.com".

The disputed domain name was registered on April 14, 2022.

At the date of this Decision, the disputed domain name resolved to a Chinese-language website offering pornographic content.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant submits that the HAWK'S CAY name commands valuable commercial goodwill, following in particular a USD 50 million renovation of the resort and positive coverage in leading trade publications.

The Complainant submits that the disputed domain name is identical to its HAWK'S CAY trademark, but for the removal of the letter "s" and the addition of the term "resort".

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It contends that it has never authorized the Respondent to use its HAWK'S CAY mark, that the Respondent has not commonly been known by the disputed domain name and that it is clearly using the disputed domain name to divert customers looking for the Complainant.

The Complainant submits that, for similar reasons, the disputed domain name has been registered and is being used in bad faith. It characterizes the disputed domain name as an example of "typosquatting" linked to the term "resort", which is descriptive of the Complainant's own services.

The Complainant also exhibits a "reverse Whois lookup" against the Respondent's email address, which includes domain names such as <pokemomn.com> and <rewardstyl.com>. The Complainant contends that the Respondent has engaged in a pattern of registering domain names similar to well-known trademarks.

The Complainant requests the transfer of the disputed domain name.

##### **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

#### **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

#### **A. Identical or Confusingly Similar**

The Complainant has established that it is the owner of registered trademark rights for the mark HAWK'S CAY. The disputed domain name is identical to that mark but for the omission of the letter "s" (and the apostrophe) and the addition of the term "resort", which does not prevent the Complainant's trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

#### **B. Rights or Legitimate Interests**

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file any Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. As further discussed below, the Panel finds that the disputed domain name is inherently misleading and can only have been intended to divert Internet users looking for the Complainant's own website. Such use by the Respondent cannot give rise to rights or legitimate interests on the part of the Respondent and the Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

#### **C. Registered and Used in Bad Faith**

The Complainant is the owner of the trademark HAWK'S CAY and the operator of the HAWK'S CAY resort and an official website at "www.hawkscay.com". In these circumstances, it is inconceivable to the Panel that the Respondent could have registered and used the disputed domain name for any purpose other than deliberately to mislead Internet users into believing the disputed domain name was owned or operated by, or otherwise legitimately affiliated with, the Complainant. The Panel finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy) or has otherwise engaged in behavior detrimental to the Complainant.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

### **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <hawkcayresort.com>, be transferred to the Complainant.

*Steven A. Maier*

**Steven A. Maier**

Sole Panelist

Date: June 23, 2022