

## **ADMINISTRATIVE PANEL DECISION**

**PJ Yakiniku Inc. and PJ Restaurant Group Inc. v. Mina Ro, Perfect Galaxy,  
and Khuong Dinh Van, Apecsoft**  
Case No. D2024-1778

### **1. The Parties**

The Complainants are PJ Yakiniku Inc. and PJ Restaurant Group Inc. (referred to collectively as the “Complainant”), United States of America (“United States”), represented by Gile Law Group Ltd., United States.

The Respondents are Mina Ro, Perfect Galaxy, and Khuong Dinh Van, Apecsoft (referred to collectively as the “Respondent”), Viet Nam.

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

The disputed domain names <888japanesebbq.net>, <888koreanbbq.net>, and <888koreanbbq.org> are registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed against the disputed domain name <888japanesebbq.net> with the WIPO Arbitration and Mediation Center (the “Center”) on April 26, 2024. On April 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <888japanesebbq.net>. On April 29, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint.

On May 2, 2024, the Complainant submitted an amended Complaint adding two disputed domain names <888koreanbbq.net> and <888koreanbbq.org>. On May 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the additional disputed domain names <888koreanbbq.net> and <888koreanbbq.org>. On May 8, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the additional disputed domain names <888koreanbbq.net> and <888koreanbbq.org> which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email communication to the Complainant on May 16, 2024, with the registrant and contact information of nominally-distinct multiple underlying registrants, as revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on May 20, 2024.

On May 17, 2024, the Respondent, Mina Ro, Perfect Galaxy, sent an informal email to the Center. On the same day, the Respondent, Khuong Dinh Van, Apecsoft, also sent an informal email to the Center.

The Center verified that the Complaint together with the amended Complaints 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 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2024. No formal Response was received. Accordingly, the Center notified the Parties on June 21, 2024 that it would proceed to Panel Appointment.

The Center appointed Jane Seager as the sole panelist in this matter on June 28, 2024. 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 composed of two United States-based companies operating restaurants in Las Vegas, Nevada. The Complainant, PJ Yakiniku Inc., runs a Japanese-style barbeque restaurant named "888 Japanese BBQ", while the Complainant, PJ Restaurant Group Inc. runs a Korean-style barbeque restaurant named "888 Korean BBQ".

The Complainant is the registrant of the domain names <888japanesebbq.com> and <888koreanbbq.com>, which resolve to websites displaying information about the Complainant's restaurants.

The disputed domain name <888japanesebbq.net> was registered on August 8, 2023. The disputed domain name <888koreanbbq.net> was registered on October 10, 2023. The disputed domain name <888koreanbbq.org> was registered on November 22, 2023.

At the time of submission of the Complaint to the Center, the disputed domain names resolved to websites providing information about the Complainant's restaurants, including the Complainant's contact information, opening hours, and menus (the "Respondent's websites"). All three websites displayed banner advertising to unrelated third-party products. In addition, the home page of the Respondent's restaurant at "www.888japanesebbq.net" contained a link for Internet users to make reservations at the Complainant's restaurant, 888 Japanese BBQ.

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

The Complainant asserts that its 888 Japanese BBQ restaurant has been operating continuously since December 2021, is open seven days per week, and serves some 2,800 customers each week. The Complainant claims to have a substantial online presence and notes that its restaurant 888 Japanese BBQ has been reviewed over 4,700 times on Yelp.com. The Complainant further asserts that its 888 Korean BBQ restaurant has been operating since 2018, is open seven days per week, and serves some 3,000 customers each week. The Complainant asserts that its 888 Korean BBQ also has substantial online presence across social media, and has received over 4,000 reviews on Yelp.com. The Complainant contends that as a result of its years of continuous operation under the names “888 Japanese BBQ” and “888 Korean BBQ”, that such names have become associated in the minds of consumers with the Complainant’s respective restaurants, and that it has therefore established common law trademark rights in 888 JAPANESE BBQ and 888 KOREAN BBQ. The Complainant submits that the disputed domain name <888japanesebbq.net> is confusingly similar to its 888 JAPANESE BBQ trademark, and that the disputed domain names <888koreanbbq.net> and <888koreanbbq.org> are confusingly similar to its 888 KOREAN BBQ trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Complainant asserts that the disputed domain names resolve to websites that hold themselves out as being official websites of the Complainant, and that the Respondent does so in order to generate advertising revenue from Internet users attracted to the Respondent’s websites. The Complainant submits that such use of the disputed domain names does not represent a bona fide offering of goods or services. Nor is the Respondent making any legitimate noncommercial or fair use of the disputed domain names.

The Complainant submits that the disputed domain names were registered and are being used in bad faith. The Complainant asserts that there is no relationship between the Parties, nor has the Respondent been authorized to use the Complainant’s name or marks in a domain name or otherwise. The Complainant notes that the disputed domain names were registered after the Complainant had commenced trading and had made use of its trademarks. The Complainant submits that it is clear from the Respondent’s websites that the Respondent was aware of the Complainant’s existing rights when registering the disputed domain names. The Complainant notes the presence of third-party advertising on the Respondent’s websites, and further notes the link for Internet users to make a reservation via the website at the domain name <888japanesebbq.net>, having received reports from Internet users that had attempted to make reservations via the Respondent’s website and were subsequently informed that they needed to pay a reservation fee to a PayPal account that had no connection with the Complainant. The Complainant submits that the Respondent is trying to trade on the Complainant’s trademarks to drive Internet users to the Respondent’s websites in order to generate advertising revenue and to collect illegitimate “reservation fees”, in bad faith.

The Complainant requests transfer of the disputed domain names.

## **B. Respondent**

The Respondent did not submit a formal Response. In two informal communications to the Center, dated May 17, 2024, the Respondent stated:

“Tell me who is suing, the reason for the lawsuit, what information your company has to establish its reputation, while the 2 domains are not ours, where did you get the information, don’t use it. trick [sic]”

“Hello, we have now stopped the website 888koreanbbq.net. We are just reviewing the website, aiming to bring useful information to users, and have no other intentions.”

## **6. Discussion and Findings**

### **6.1. Consolidation: Multiple Complainants**

The present dispute involves two Complainants. In assessing whether a complaint filed by multiple complainants may be brought, UDRP panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \(“WIPO Overview 3.0”\)](#), section 4.11.1.

The Panel notes that both Complainant companies are owned by the same individual. The Panel further notes that the Respondent has engaged in activity that has targeted each Complainant company in a similar fashion, as described in the factual background section above.

In the circumstances, the Panel is of the view that it would be equitable and procedurally efficient to permit consolidation of the Complainant in the present proceeding.

Accordingly, the Panel has determined to allow the filing of the Complaint by multiple Complainants, (referred to throughout as the “Complainant”).

### **6.2. Consolidation: Multiple Respondents**

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

In addressing the Complainant’s request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#), section 4.11.2.

As regards common control, notwithstanding the Respondent’s assertion that “2 domains are not ours”, the Panel notes that all three disputed domain names were registered via the same Registrar by Vietnamese registrants, using the same phone number in each Whois record; all three disputed domain names follow the same naming pattern, comprising the names of the Complainant’s restaurants, i.e., “888japanesebbq” or “888koreanbbq”, mirroring the composition of the Complainant’s official domain names; and all three disputed domain names have been used in connection with websites that provide information about the Complainant’s restaurants, effectively holding themselves out as the Complainant’s websites, while also displaying banner advertising to third-party products.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally-distinct disputed domain name registrants (referred to throughout as “the Respondent”) in a single proceeding.

### **6.3. Substantive Matters**

In order to prevail, a complainant must demonstrate on the balance of probabilities that it has satisfied the requirements of paragraph 4(a) of the Policy:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

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

As noted above, the Complainant asserts common law trademark rights in 888 JAPANESE BBQ and 888 KOREAN BBQ.

To establish unregistered or common law trademark rights for purposes of the UDRP, a complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services. See [WIPO Overview 3.0](#), section 1.3.

The Panel notes that the Complainant has produced evidence demonstrating that the Complainant's restaurants have operated under the names "888 Japanese BBQ" and "888 Korean BBQ" since 2018 and 2021 respectively, each serving 2,000-3,000 customers per week, and have received thousands of reviews from customers on independent online platforms. The Panel finds that as a result of its continuous use of "888 Japanese BBQ" and "888 Korean BBQ" in connection with its restaurant operations, the Complainant has established common law trademark rights in the same for purposes of the present UDRP proceeding.

The disputed domain name <888japanesebbq.net> comprises the Complainant's 888 JAPANESE BBQ mark in its entirety, simply omitting the spaces between the elements making up the Complainant's mark, under the generic Top-Level Domain ("gTLD") ".net". Similarly, the disputed domain names <888koreanbbq.net> and <888koreanbbq.org> comprise the Complainant's 888 KOREAN BBQ mark in its entirety, again omitting the spaces, under the gTLDs ".net" and ".org". The Complainant's marks are immediately recognizable in the disputed domain names. See [WIPO Overview 3.0](#), section 1.7. The Panel finds that the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

As noted above, the disputed domain names have been used in connection with websites that include information about the Complainant's restaurants, display the Complainant's menus, and list the addresses of the Complainant's restaurants. The Respondent's websites also include banner advertising, and the website available at "www.888japanesebbq.net" displayed a link for Internet users to make reservations at the Complainant's restaurant, 888 Japanese BBQ.

The website to which the disputed domain name <888koreanbbq.net> resolved included in its footer the text: "This is not the official website. Content is updated by the community. If you are the owner, please [sic]".

The Panel considers that such a statement neither accurately nor prominently describes the website's non-affiliation with the Complainant. The Panel does not accept the Respondent's assertion that "[w]e are just reviewing the website, aiming to bring useful information to users, and have no other intentions." Rather, Internet users viewing the Respondent's websites are likely to be misled into believing that the Respondent's websites are the Complainant's official websites.

By using the disputed domain names in such a manner, the Respondent has effectively sought to impersonate the Complainant. Prior UDRP panels have held that the use of a domain name for illegal activity including for impersonation can never confer rights or legitimate interests on a respondent. See [WIPO Overview 3.0](#), section 2.13.1.

The Panel further notes the presence of banner advertising on the Respondent's websites. It is more likely than not that the Respondent derives revenue from such advertising, and as such the Respondent appears to be making unauthorized use of the Complainant's marks for commercial gain. Indeed, the Respondent may even be going as far as soliciting reservation fees for tables in the Complainant's restaurants, which the Respondent has no ability or intention to provide. Such use of the disputed domain names does not support any reasonable claim of rights or legitimate interests in respect of the disputed domain names.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise. The Panel finds the second element of the Policy has been established.

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

By registering three domain names that comprise the Complainant's marks, and by using the disputed domain names to point to websites that give the outward appearance of being official websites of the Complainant, the Panel finds that the Respondent has engaged in a bad faith pattern of registration aimed at preventing the Complainant from reflecting its marks in corresponding domain names, in bad faith as contemplated by paragraph 4(b)(ii) of the Policy.

The Panel further finds that by using the disputed domain names to resolve to websites that display information about the Complainant, the Complainant's menus, as well as banner advertising, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's websites by creating a likelihood of confusion with the Complainant's marks as to the source of the Respondent's websites, in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The apparent solicitation of reservation fees for the Complainant's restaurants without any authority or intention to provide such services suggests harms the Complainant's reputation and exploits the Complainant's trademarks for illegitimate commercial gain, further indicating bad faith registration and use under the Policy. See [WIPO Overview 3.0](#), section 3.1.4.

The disclaimer on the Respondent's website to which the disputed domain name <888koreanbbq.net> resolved, stating, "This is not the official website. Content is updated by the community. If you are the owner, please [sic]," is insufficient to dispel any confusion caused by the disputed domain name itself, and does not prominently clarify the lack of affiliation with the Complainant. The composition of the disputed domain names themselves, which mimics that of the Complainant's official domain names, coupled with the nature of the Respondent's websites is such that Internet users are likely to be misled into believing that the disputed domain names and associated websites are officially associated with the Complainant, further supporting the conclusion that the Respondent has registered and is using the disputed domain names in bad faith.

For reasons set out above, the Panel finds that the Respondent registered and is using the disputed domain names in bad faith. The Panel finds that the Complainant has established the third element of the Policy.

## **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 names, <888japanesebbq.net>, <888koreanbbq.net>, and <888koreanbbq.org>, be transferred to the Complainant.

*/Jane Seager/*

**Jane Seager**

Sole Panelist

Date: July 22, 2024