

## **ADMINISTRATIVE PANEL DECISION**

Anywhere Real Estate Inc. v. miao wen bin  
Case No. D2024-2022

### **1. The Parties**

The Complainant is Anywhere Real Estate Inc., United States of America, represented by ZeroFox, United States of America.

The Respondent is miao wen bin, Cambodia.

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

The disputed domain name <brazensothebysrealty.com> (the “Domain Name”) is registered with Gname 009 Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 14, 2024. On May 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 22, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 23, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on May 29, 2024.

The Center verified that the Complaint together with the amendment to 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 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 28, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on July 8, 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 a real estate services company that owns and franchises real estate brands and brokerages, with over 20,000 offices and approximately 337,000 independent sales associates in 118 countries and territories around the world.

Sotheby's International Realty is a subsidiary brand wholly owned by the Complainant with registered trademarks for SOTHEBY'S INTERNATIONAL REALTY, such as United States Patent and Trademark Office Registration no. 1248613, registered on August 16, 1983.

The Complainant brand also has online presence through its domain name <sothebysrealty.com>, registered in 1997.

The Domain Name was registered on August 8, 2023. The Domain Name has resolved to a web page with advertisements in Chinese for gambling and pornography sites. At the time of drafting the Decision, the Domain Name resolved to an error page.

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

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

The Complainant contends that the Complainant's brand has a strong, global reach. The Complainant provides evidence of trademark registrations that pre-date the Respondent's registration of the Domain Name. The Complainant argues that the Domain Name incorporates the dominant part of its trademark, dropping the "international" and adding "brazen" to the beginning. The Complainant believes the changes do not prevent confusing similarity.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent has not used of the Domain Name in connection with a bona fide offering of goods or services. While the Respondent has the right to register a domain name for a fair use or noncommercial purpose, there is no presence of content that would qualify as fair use considering the nature of the ads.

Considering the strength and global reach of the Complainant, along with the composition of the Domain Name, the Respondent was likely aware of the Complainant's trademark and intends to disrupt the Complainant's business by diverting traffic to the Respondent's site. Moreover, the use of privacy service points to bad faith.

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

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

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

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

The first element functions primarily as a standing requirement. The standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the

Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has established that it has rights in the trademark SOTHEBY’S INTERNATIONAL REALTY. The Domain Name incorporates the dominant part of the Complainant’s trademark, dropping the “international” and adding “brazen”. The changes do not prevent a finding of confusing similarity between the Domain Name and the trademark. [WIPO Overview 3.0](#), section 1.8. When assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which a respondent may demonstrate rights or legitimate interests in a disputed domain name. While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. Finally, the Panel notes that the composition of the Domain Name clearly reproduces the Complainant’s famous trademark, while its composition has no clear connection with a website displaying advertisements in Chinese for gambling and pornography sites.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Respondent most likely knew of the Complainant when he registered the Domain Name. It follows from the composition of the Domain Name and the fame of the Complainant. The use of the Domain Name to link to gambling and pornographic content is evidence of bad faith use. Moreover, the Respondent has not provided any evidence of actual or contemplated good faith use of the Domain Name. Under the circumstances of this case, the use of privacy service also affirms a finding of bad faith.

Based on the available record, 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 the Domain Name <brazensothebysrealty.com> transferred to the Complainant.

*/Mathias Lilleengen/*

**Mathias Lilleengen**

Sole Panelist

Date: July 19, 2024