

ADMINISTRATIVE PANEL DECISION

Wynn Resorts Holdings, LLC v. yang shuqing
Case No. D2024-2714

1. The Parties

The Complainant is Wynn Resorts Holdings, LLC, United States of America (“United States”), represented by Mayer Brown LLP, China.

The Respondent is yang shuqing, China.

2. The Domain Name and Registrar

The disputed domain name <wynnmacauweb.live> (“Disputed Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 3, 2024. On July 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 3, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 4, 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 amended Complaint on July 9, 2024.

The Center verified that the Complaint together with the amended 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 July 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 5, 2024. The Respondent did not file a formal response but sent email communications to the Center on July 11, 17, and 18, 2024. Accordingly, the Center commenced the Panel Appointment process on August 14, 2024, pursuant to paragraph 6 of the Rules.

The Center appointed Kar Liang Soh as the sole panelist in this matter on August 23, 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 Nevada-based limited liability company and a wholly-owned subsidiary of Wynn Resorts, Limited (“Wynn Resorts”). Together with its affiliates, including Wynn Resorts and its other subsidiaries (collectively referred to as the “Complainant Group”), the Complainant Group designs, develops, and operates resorts integrating luxury hotel rooms, high-end retail, dining and entertainment options, meeting spaces, and gaming. Wynn Resorts has been listed on the Nasdaq Stock Exchange since 2002 and included as part of the NASDAQ-100 Index since 2004.

The Complainant Group’s primarily operates in the United States and China, including Macao, China. The Complainant Group has been active in the China market for over a decade, operating integrated resort projects in Macao, China, including “Wynn Macau” (opened in September 2006), “Encore Tower at Wynn Macau” (opened in April 2010), and “Wynn Palace” (opened in August 2016).

The Complainant holds numerous trademark registrations around the world incorporating the word “WYNN” in various forms (the “WYNN Trademark”), including:

Jurisdiction	Registration No.	Registration Date
China	5304535	July 28, 2009
China	5516996	September 14, 2009

The Complainant also holds trademark registrations for the words “WYNN MACAU” (the “WYNN MACAU Trademark”), including:

Jurisdiction	Registration No.	Registration Date
United States	3382681	February 12, 2008
Hong Kong	300134126	May 10, 2004
Singapore	T0320729H	August 11, 2004

The Complainant Group also offers products under the WYNN Trademarks on its website, such as bath robes, towels, and pillowcases.

The Complainant also registers and maintains various domain names incorporating the WYNN Trademarks, including <wynnmacau.com> which was registered on July 11, 2002. The <wynnmacau.com> domain name currently redirects to the website of the Complainant Group’s “Wynn Macau” resort.

The Respondent appears to be an individual based in China. Beyond the Whols information of the Disputed Domain Name and Registrar verification, very little information about the Respondent is available. The Disputed Domain Name was registered on June 18, 2024. On or around June 19, 2024, the Disputed Domain Name resolved to an e-commerce website listing clothing from other brands, along with their prices. A Facebook page which emulated the Complainant Group’s own Facebook page also listed the URL of the website resolved from the Disputed Domain Name. The emulative Facebook page incorporated the WYNN Trademark, WYNN MACAU Trademark, content of the Complainant Group’s collaborative event with Omega watches, and photographs from the Complainant Group’s Facebook page.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

- a) The Disputed Domain Name is identical or confusingly similar to the WYNN Trademark and WYNN MACAU Trademark, as it fully incorporates them. The addition of the generic term "web" does nothing to eliminate or lessen the degree of confusing similarity of the Disputed Domain Name to the WYNN MACAU Trademark. The generic Top-Level Domain extension <.live> may be disregarded.
- b) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Complainant has not licensed, consented to or otherwise authorized the Respondent to use the WYNN Trademark and WYNN MACAU Trademark for the Disputed Domain Name or for any reason whatsoever, nor is the Respondent an authorized representative or partner of the Complainant. There is no evidence to suggest that the Respondent has been commonly known by the Disputed Domain Name, WYNN Trademark or WYNN MACAU Trademark. The Respondent's true motive behind registering the Disputed Domain Name derives from a desire to obtain commercial benefits by using the Complainant's WYNN Trademark and WYNN MACAU Trademark to drive traffic to the website for commercial gain. The Respondent cannot claim to be making noncommercial or fair use of the Disputed Domain Name. The Disputed Domain Name has also been listed as the website link on a Facebook business page copying the Complainant Group.
- c) The Disputed Domain Name has been registered and is being used in bad faith. The Respondent's registration was motivated solely to take advantage of the Complainant Group's reputation in the WYNN Trademark and WYNN MACAU Trademark, and thereby make undue profits by encouraging users to purchase items on the Respondent's website. The Respondent is unfairly and intentionally taking advantage of, and exploiting without authorization, the reputation and distinctiveness of the WYNN Trademark and WYNN MACAU Trademark to attract users who are the Complainant's customers or potential customers for commercial gain to the Disputed Domain Name.

B. Respondent

The Respondent did not file a formal Response. The Respondent wrote to the Center on July 18, 2024, claiming that the Respondent was not personally using the Disputed Domain Name and suggesting the existence of an actual holder who may be contacted on the matter. ¹

6. Discussion and Findings

The Complainant must establish all three limbs of paragraph 4(a) of the Policy on the facts in order to succeed in this proceeding:

- a) The Disputed Domain Name is identical or confusingly similar to a trademark in which the Complainant has rights;
- b) The Respondent has no rights or legitimate interests in the Disputed Domain Name; and
- c) The Disputed Domain Name was registered and used in bad faith.

¹ As addressed in Section 6.C, the Panel will consider the Respondent as disclosed by the Registrar, which is in congruence with paragraph 1 of the UDRP Rules, which defines a respondent as "the holder of a domain name registration against which a complaint is initiated". Further, to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, section 4.4.6, "panels have also made reference to paragraph 3.7.7.3 of the ICANN Registrar Accreditation Agreement which states that a WhoIs-listed registrant (referred to as the 'Registered Name Holder') accepts liability for any use of the relevant domain name unless it timely discloses the contact information of any underlying beneficial registrant."

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the WYNN Trademark by virtue of trademark registration. The Disputed Domain Name incorporates the WYNN Trademark entirely, followed by the terms “macauweb”, and the generic Top-Level Domain (“gTLD”) “.live”.

The Panel also recognizes that the Complainant has rights in the WYNN MACAU Trademark by virtue of trademark registration. Similarly, the Disputed Domain Name incorporates the WYNN MACAU Trademark entirely, followed by the term “web” and the gTLD “.live”.

According to sections 1.7 and 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), UDRP panels have established that, in cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for the purposes of UDRP standing and the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The present case does not present any unusual circumstances which require the Panel to depart from this guideline. The Panel is of the view that the addition of the term “macauweb” to the WYNN Trademark does not prevent a finding of confusing similarity between the Disputed Domain Name and the WYNN Trademark. Similarly, the Panel is of the view that the addition of the term “web” to the WYNN MACAU Trademark does not prevent a finding of confusing similarity between the Disputed Domain Name and the WYNN MACAU Trademark.

Regarding the gTLD, according to section 1.11.1 of the [WIPO Overview 3.0](#), UDRP panels have established that the gTLD is disregarded under the first element of the confusing similarity test, with the principle applying irrespective of the particular gTLD. Accordingly, the “.live” gTLD in the present case will not impact the assessment of the first element of confusing similarity.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the WYNN Trademark, as well as the WYNN MACAU Trademark. The first limb of paragraph 4(a) of the Policy is thus established.

B. Rights or Legitimate Interests

The Complainant has confirmed that the Respondent is neither licensed, consented to or otherwise authorized by the Complainant to the WYNN Trademark or the WYNN MACAU Trademark for the Disputed Domain Name or for any reason, nor is the Respondent an authorized representative or partner of the Complainant. There is no evidence before the Panel to suggest that the Respondent is commonly known by the Disputed Domain Name, the WYNN Trademark or the WYNN MACAU Trademark. There is also no indication that the Disputed Domain Name is being used in a noncommercial or fair manner. On the contrary, the Disputed Domain Name resolves to an e-commerce website purporting to promote the sale of clothing, including clothing of other brands which clearly speaks of an intent for commercial gain. In view of the above, the Panel is satisfied that the facts present a prima facie case that the Respondent does not have rights or legitimate interests in the Disputed Domain Name.

Further, the reference to the Disputed Domain Name on an emulative Facebook page directly connects the Disputed Domain Name to a questionable online social resource patently designed to potentially divert Internet users to the website resolved from the Disputed Domain Name. This corroborates the prima facie finding that the Respondent does not have rights or legitimate interests in the Disputed Domain Name.

The Respondent’s lack of response to demonstrate any rights or legitimate interests in respect of the Disputed Domain Name has left the prima facie case unrebutted. Therefore, the Complainant has successfully established the second limb of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. In particular, paragraph 4(b)(iv) of the Policy states:

“by using the domain, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] website or other online source, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location.”

The Disputed Domain Name was registered around 15 years after the first registration of the WYNN Trademark and WYNN MACAU Trademark in China. The website resolved from the Disputed Domain Name is demonstrative of the Respondent’s intention for commercial gain. The Panel is satisfied from the evidence that the WYNN Trademark and WYNN MACAU Trademark are reputable in the integrated resort market. Given the circumstances, including the association between the Disputed Domain Name and the emulative Facebook page, the Panel is convinced that the Respondent was well aware of the WYNN Trademark and WYNN MACAU Trademark, and has deliberately selected the Disputed Domain Name to attract Internet users to the website resolved from the Disputed Domain Name by creating a likelihood of confusion to the WYNN Trademark and WYNN MACAU Trademark. Accordingly, the Panel finds that the Disputed Domain Name was indeed registered and is being used in bad faith in accordance with the circumstances outlined in paragraph 4(b)(iv) of the Policy.

The Panel finds the Respondent’s claim that he was not using the Disputed Domain Name and that a third party was involved to be hard to believe. The Respondent is after all the registrant of the Disputed Domain Name and must have full control over its administration and usage. Paragraph 2 of the Policy states that an applicant for the registration of a domain name represents and warrants, among others, that its contact details are complete and accurate. The deliberate use of incorrect information in relation to a domain name is contrary to the Policy. Even if the Respondent were not the true registrant, then whoever that person might be must clearly be going to some length to hide his/her identity. The Respondent, in allowing incorrect information to be maintained against the Disputed Domain Name would not comply with paragraph 2 of the Policy. The circumstances smell odiously of surreptitious undertakings which point irresistibly to a situation of highly sophisticated cybersquatting, and further support the finding of bad faith in the present case.

In light of the above, the Panel holds that the Disputed Domain Name was registered and is being used in bad faith. Therefore, the Complainant has successfully established the third limb of paragraph 4(a) 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 Name <wynnmacauweb.live> be transferred to the Complainant.

/Kar Liang Soh/

Kar Liang Soh

Sole Panelist

Date: September 11, 2024