

**ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE**

**(Kuala Lumpur Office)**

**ADMINISTRATIVE PANEL DECISION**

**AIAC/ADNDRC-802-2020**

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**Complainant: Genting International Management Limited**

**Respondent: Maduro Fenty**

**Domain Name: <WWW.GENTINGCASINO1.NET>**

**Registrar: NameCheap, Inc**

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**1. PROCEDURAL HISTORY**

The Complaint was filed with the Kuala Lumpur office of the Asian Domain Name Dispute Resolution Centre (the "Centre") on January 7, 2020. On January 9, 2020 the Centre transmitted to the Registrar a request for registrar verification in connection with the disputed domain name. On January 9, 2020, the Registrar transmitted to the Centre its verification response disclosing registrant information for the disputed domain name.

The Centre has verified that the Complaint satisfies the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules of Procedure under the Policy (the "Rules") and the Centre's Supplemental Rules.

In accordance with the Rules, the Centre formally notified the Respondent of the Complaint and the proceeding commenced on January 9, 2020. In accordance with the Rules, the due date for the Response was January 29, 2020.

No Response was received by the Centre.

The Centre appointed Sebastian Hughes as the Panelist in this matter on January 30, 2020. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion.

**2. FACTUAL BACKGROUND**

**A. Complainant**

The Complainant is a company incorporated in the Isle of Man and part of the Genting Group of Companies (the "Genting Group").

The Genting Group has used the trade mark GENTING (the “Trade Mark”) continuously since 1965 in respect of casino, leisure and hospitality services.

The Complainant is the owner of numerous registrations in jurisdictions worldwide for the Trade Mark, including United Kingdom registration No. UK00002360561, with a registration date of November 5, 2004.

### **B. Respondent**

The Respondent is apparently an individual resident in London, England, the United Kingdom.

### **C. The Disputed Domain Name**

The disputed domain name was registered on March 11, 2019.

### **D. Use of the Disputed Domain Name**

The disputed domain name is resolved to a website containing various representations, contrary to the fact, that it is owned and operated by the Genting Group and that it offers *bona fide*, licensed online gaming services under the Trade Mark (the “Website”). It also appears to provide a function for the taking of deposits and withdrawal of funds to enable users to play the casino games offered on the Website.

## **3. PARTIES’ CONTENTIONS**

### **A. Complainant**

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

### **B. Respondent**

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

## **4. FINDINGS**

### **A. Identical / Confusingly Similar**

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

The disputed domain name incorporates the entirety of the Trade Mark together with the word “casino” and the numeral “1”.

Where a relevant trade mark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative,

meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element.

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

Accordingly, the first condition under paragraph 4(a) of the Policy has been established.

## **B) Rights and Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

There is no evidence that the Complainant has authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Complainant and the Genting Group have prior rights in the Trade Mark which precede the Respondent's registration of the disputed domain name by decades. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services. To the contrary, the Respondent has used the disputed domain name to deliberately impersonate the Complainant and the Genting Group and falsely claim to be licensed to offer online gaming services to consumers under the Trade Mark.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name.

There has been no evidence adduced to show that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to establish rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the Complaint fulfils the second condition of paragraph 4(a) of the Policy.

### **C) Bad Faith**

Given the notoriety of the Complainant and of its Trade Mark in respect of casino services; the close similarity between the disputed domain name and the Trade Mark; the lack of any explanation from the Respondent; and the use of the disputed domain name in the manner set out above, the Panel finds, in all the circumstances, that the requisite element of bad faith has been made out. The Panel considers it is inconceivable the Respondent was not aware of the Complainant's Trade Mark at the time he registered the disputed domain name.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith. Accordingly, the third condition of paragraph 4(a) of the Policy has been fulfilled.

## **5. 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 <www.gentingcasino1.net> be transferred to the Complainant.



Sebastian Hughes

Sole Panelist

February 11, 2020