



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

## ADMINISTRATIVE PANEL DECISION

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<b>Case No.</b>	<b>HK-1801075</b>
<b>Complainant:</b>	<b>Marquee Holdings Ltd.</b>
<b>First Respondent:</b>	<b>wangtong liang</b>
<b>Second Respondent:</b>	<b>haoren ou</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;w83.com&gt;; &lt;w83tyj.com&gt;; &lt;w83yh.com&gt;; &lt;w83yxb.com&gt;; &lt;w83zf.com&gt;; &lt;w83zxd.com&gt;; &lt;18000yl.com&gt;; &lt;19000yl.com&gt;; &lt;lebo391.com&gt;; &lt;lebo864.com&gt;; &lt;ydw000.com &gt;; &lt;ydw00.com &gt;; &lt;ydw008.com &gt;; &lt;ydw28.com&gt;; &lt;ydw48.com &gt;; &lt;ydw68.com &gt;; &lt;ydw86.com &gt;; &lt;ydw98.com &gt;; &lt;ydw111.com&gt; &amp; &lt;ydw297.com &gt;</b>

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### 1. The Parties and Contested Domain Names

The Complainant is Marquee Holdings Ltd., of Akara Bldg, 24 De Castro Street, Wickhams Cay 1, Road Town, Tortola, British Virgin Islands. The Complainant is represented in these administrative proceedings by Messrs. Pinsent Masons MPillay LLP and Mr Bryan Tan, whose address is 16 Collyer Quay #22-00, Singapore 049318.

The First Respondent is wangtong liang, of LuChunXianDaXingZhenLuoDeCun MinWeiYuanHuiDongLongCun, hong he zhou, yun nan 661100 CN.

The Second Respondent is haoren ou, of xinjiapo, jlpa, yyhuuy 100861 KH.

The domain names at issue are <w83.com>; <w83tyj.com>; <w83yh.com>; <w83yxb.com>; <w83zf.com>; <w83zxd.com>; <18000yl.com>; <19000yl.com>; <lebo391.com>; <lebo864.com>; <ydw000.com >; <ydw00.com >; <ydw008.com >; <ydw28.com>; <ydw48.com >; <ydw68.com >; <ydw86.com >; <ydw98.com >; <ydw111.com> & <ydw297.com >, registered by Respondents with GoDaddy.com, LLC, of 14455 North Hayden Road, Suite 219, Scottsdale, AZ 85260.

### 2. Procedural History

On 28 February 2018, the Complainant submitted a Complaint to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“ADNDRC”), pursuant to the Uniform Domain Name Dispute Resolution Policy (“Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on 24 October 1999. On 28

February 2018, the ADNDRC confirmed receipt of the Complaint. The Complainant elected that this case to be dealt with by a three-person panel.

On 28 February 2018, the ADNDRC transmitted by email to the Registrar, GoDaddy.com, LLC, a request for registrar verification in connection with the disputed domain names. On 28 February 2018, the Registrar transmitted by email to the ADNDRC its verification response, confirming that the First Respondent, wangtong liang, is the holder of the domain name <w83.com>, and that the Second Respondent, haoren ou, is the holder of the domain names <w83tyj.com>; <w83yh.com>; <w83yxb.com>; <w83zf.com>; <w83zxd.com>; <18000yl.com>; <19000yl.com>; <lebo391.com>; <lebo864.com>; <ydw000.com >; <ydw00.com >; <ydw008.com >;<ydw28.com>; <ydw48.com >; <ydw68.com >; <ydw86.com >; <ydw98.com >; <ydw111.com> & <ydw297.com >, and that the language of the registration agreements is the English language.

On 15 March 2018, the ADNDRC transmitted a Written Notice of Complaint, forwarding the Complaint along with annexures to the First Respondent and the Second Respondent, requesting that the Respondents submit their Responses within 20 calendar days. The Notice specified the due date for the Response as being on or before 4 April 2018.

On 9 April 2019, the ADNDRC confirmed in an email to the parties that it had not received a Response from either the First Respondent or the Second Respondent within the required period of time.

The ADNDRC, having received on 13 April 2018, Declarations of Impartiality and Independence and Statements of Acceptance, from Mr. David L. Kreider, Mr. Douglas Clark, and on 17 April 2018, from Professor Yun Zhao, respectively, notified the parties on 24 April 2018 that the panel in this case had been selected, with Mr. David L. Kreider as the Presiding Panelist, and Mr. Douglas Clark and Professor Yun Zhao as Co-Panelists. The Panel determines that the appointments were made in accordance with Rules 6 and Articles 8 and 9 of the Supplemental Rules. The Panel received the file from the ADNDRC and should render the Decision on or before 8 May 2018, if there are no exceptional circumstances.

### **Preliminary Issue: Consolidation of Complaints**

The Complainant has requested to consolidate the complaint against < w83.com > which is held by the First Respondent, “wang tong liang”, and the other complaint against < w83tyj.com >; < w83yh.com >;< w83yxb.com >;< w83zf.com >;< w83zxd.com >;< 18000yl.com >;< 19000yl.com >;< lebo391.com >;< lebo864.com >;< ydw000.com >;< ydw00.com >;< ydw008.com >; < ydw28.com >;< ydw48.com >;< ydw68.com >;< ydw86.com >;< ydw98.com >;< ydw111.com >& < ydw297.com >, held by the Second Respondent, “haoren ou”, into a single proceeding. In support of its application, the Complainant avers as follows:

“[ ] ‘wangtong liang’ is the registrant of <http://w83.com> (‘the Main Site’) (through Domains By Proxy, LLC), while ‘haoren ou’ is the registrant of <http://w83tyj.com>, <http://w83yh.com>, <http://w83yxb.com>, <http://w83zf.com>, <http://w83zxd.com>, <http://18000yl.com>, <http://19000yl.com>, <http://lebo391.com>, <http://lebo864.com>, <http://ydw000.com>, <http://ydw00.com>, <http://ydw008.com>, <http://ydw28.com>, <http://ydw48.com>, <http://ydw68.com>,

<http://ydw86.com>, <http://ydw98.com>, <http://ydw111.com>, and <http://ydw297.com> (collectively, the ‘Other Sites’).

We have identified both ‘wangtong liang’ and ‘haoren ou’ as Respondents to this Complaint as we believe that the disputed domain names are under the collective control of both Respondents and/or both Respondents are the same entity. Our reasons are as follows:

(a) The Main Site located at <http://w83.com> (for which ‘wangtong liang’ is the registrant) automatically redirects to a page on <http://19000yl.com> (for which ‘haoren ou’ is the registrant). The web site at <http://19000yl.com> is identical to <http://18000yl.com>. The headers of these two websites use the same prominent design, which reads ‘w83.com’. The sole content of the landing page on both <http://18000yl.com> and <http://19000yl.com> in turn contains hyperlinked references to many of the other disputed domain names. The auto-redirect and the existence of many hyperlinked references are indicative of a strong connection between the Main Site and the Other Sites, despite seemingly having been registered by different entities.

(b) On all but two of the Other Sites, there is always a prominent reference on the landing page to ‘w83.com’, which is the Main Site. [ ] These references to ‘w83.com’ are described on the Other Sites as a ‘易记域名’, which translates approximately to ‘easy-to-remember domain name’ in English. This suggests that there are strong business and operational links between the Main Site and the Other Sites, notwithstanding the different registrants used.

(c) As stated in section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, naming patterns are also relevant in the consideration of whether the consolidation of respondents is appropriate. The disputed domain names are of similar naming conventions – e.g. ‘w83<letters>’, ‘lebo<numbers>’, ‘ydw<numbers>’ (*recte*). Of particular significance is the series of marks bearing ‘w83<letters>’ domain names, which indicates a connection with the Main Site at <http://w83.com>.

(d) The Main Site adopts in its header a stylized ‘w’ in gold. Notably, this stylized ‘w’ in gold is also the mark that the Complainant is relying on in this Complaint. The same stylized ‘w’ (in blue) can be found in the headers of all the Other Sites. The prominent use of the stylized ‘w’ across all the disputed domain names also suggests that the registrants of these websites are targeting the Complainant's marks specifically.

(e) The web sites of the disputed domain names adopt the same look and feel.

(f) The web sites of the disputed domain names offer identical services.

[ ] For the reasons set out above, we believe that these disputed domain names are owned or under the control of one or both of the Respondents.”

Having considered Complainant’s arguments and reviewed the screenshots of the Respondents’ websites, the Panel has no difficulty in concluding that the similar look and feel of all twenty (20) websites to which the Disputed Domain Names resolve, all of which

offer on-line gaming services to customers and all of which prominently use a stylized “W” logo in yellow or in blue; the Chinese characters “优德” or the English “YOUDE”, or both; and, significantly, all of which are hyperlinked or make reference to the Main Site at “w83.com”, is that the Disputed Domain Names are subject to common control and that Respondents are a single person or entity, or are individuals or entities working in concert to further a common scheme. Further, as the First Respondent and the Second Respondents have each defaulted and have not submitted Responses in these administrative proceedings, procedural efficiency will be promoted by the consolidation of the complaints and no unfairness will result to the defaulting Respondents.

Complainant’s application that the complaints be consolidated in these proceedings is GRANTED.

### 3. Factual background

The Complainant is the exclusive licensee of, and therefore has rights in, Singapore Trademark No. T1319876C, Singapore Trademark No. T40201512153Y and Singapore Trademark No. T40201615474P, all of which are trademarks that have been registered in Singapore in respect of gaming services (including sports betting) (the “Marks”). The Marks comprise a stylized “W” logo in gold, combined with “w88”, as shown here:



The Marks are owned by Powermight Technology Limited. Powermight Technology Limited has granted to Marquee Holdings Ltd an exclusive license to use such trademarks for its business.

### 4. Parties’ Contentions

Complainant

The Complainant’s contentions may be summarized as follows:

**i) The disputed domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights:**

The domain name of the Respondent's Main Site ("http://w83.com") contains "w83", which is only a single-digit modification from the "w88" that forms a dominant part of the aforementioned trade marks. "w83" is also visually similar to "w88". Some of the disputed domain names also include "w83" in their domain names (http://w83tyj.com, http://w83yh.com, http://w83yxb.com, http://w83zf.com, http://w83zxd.com).

As mentioned in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, the content of the website associated with a domain name can also be used to confirm confusing similarity where it appears *prima facie* that the respondent seeks to target a trademark through the disputed domain name. In the current matter, the header of the Respondent's main web site ("http://w83.com") comprises a stylized "w" in gold, together with "w83" in white, situated against a black background. This is confusingly similar to the Complainant's registered trade marks (Singapore Trademark No. T1319876C and Singapore Trademark No. T40201512153Y), which both contain a stylized "w" in gold, together with "w88" in white, situated against a black background. The sole observable content on the main web site then links to other websites at the other disputed domain names, most of which have identical content, and bear a similar look and feel to the Complainant's website. The header of these other websites contains a blue "w" that is designed in the same way as one of the Complainant's registered trademarks (Singapore Trademark No. T40201512153Y), next to the words "优德", which are set out in the same font and design as another of the Complainant's registered trademarks (Singapore Trademark No. T1319876C). The side panels in the websites at some of the disputed domain names also contain a similar design, with the same blue "w" situated atop the words "优德". A similar format is used in the Complainant's trademark (Singapore Trademark No. T40201512153Y). Finally, the footer of the website also uses an image that is confusingly similar to another of the Complainant's trademarks (Singapore Trademark No. T40201615474P). Given the similar look and feel of the Respondent's websites to the Complainant's website, the use of images in the website design that are confusingly similar to the Complainant's registered trademarks, the multiplicity of websites at similar domain names that bear confusingly similar images to the Complainant's registered trademarks, it is clear that the Respondents have targeted the Complainant's trademarks through the disputed domain names.

**ii) The Respondent has no rights or legitimate interests in respect of the domain name(s):**

Although the Respondents are offering services on its web site, such offering of services is not bona fide for the following reasons:

(a) The Respondents' web sites at the disputed domain names are confusingly similar to the Complainant's web site.

(b) The Respondents have stated on their web sites at the disputed domain names that their web sites are operated by "优德" and "YOUDE" (which is the English transliteration of the Chinese characters "优德"). "优德" is also a prominent component of the registered trade mark Singapore Trademark No. T1319876C. Such activities have been conducted despite the Respondents having no relationship with the Complainant. This is particularly damaging to the Complainant because it will strengthen an individual's belief that the Respondents are related to the Complainant.

(c) The Respondents are providing on their web sites at the disputed domain names, online gambling and sports betting services, which are services that compete with those provided by the Complainant, under trade marks which are confusingly similar to the Complainant's trade marks.

(d) The Respondents have used the ® symbol on their websites in connection with the images that are confusingly similar to the Complainant's registered trademarks, despite not having registered those images as trademarks.

(e) The Respondents do not have any trademark registration for "w83" and are also not commonly known by the name "w83". This is evident in the significantly lower page views that the Respondents' main web site (at <http://w83.com>) has, as compared to the page views for the Complainant's web site. According to StatShow (<http://statshow.com>), a publicly available web site statistic tool, the Respondents' web site at <http://w83.com> has approximately 30 page views a month, while the Complainant's web site has approximately 350,000 page views a month.

**iii) The disputed domain name(s) has/have been registered and is/are being used in bad faith:**

The following grounds support the Complainant's allegation of bad faith registration and use, and expose a premeditated attempt by the Respondents which falls within the circumstance outlined in paragraph 4(b)(iv) of the UDRP Policy:

(a) The services provided on the web sites of the Complainant and the Respondents are identical.

(b) The Respondents have given the impression that the services that they offered are provided by the Complainant when they are not. This is damaging to the Complainant.

(c) The domain name information of the Respondents' main web site, at <http://w83.com>, was updated on 2 September 2017. This coincides with the period when most of the other infringing domain names were first created. The fact that the only observable content on the Respondent's main web site serves to redirect individuals to the other disputed domain names is also crucial. The web sites at these other disputed domain names bear confusing similarity to the Complainant's web site. The web sites at the disputed domain names also offer the same services as the Complainant's web site and have similar content, with many being completely identical to each other. Each of the other infringing domain names also contain prominent links to the Respondent's main web site at <http://w83.com>.

(d) The Respondent has registered multiple domain names using similar naming patterns – roman letters, followed by an assortment of random letters or numbers (e.g. "<http://ydw00.com>" vs. "<http://ydw000.com>" vs. "<http://ydw28.com>"). There are three major series of disputed names - "w83<letters>", "lebo<numbers>", "ydw<letters>". These domain names have identical content, and bear a similar look and feel to the Complainant's website. All the infringing domain names also contain prominent pictorial references to the Main Site at [w83.com](http://w83.com), which serves to highlight the connection amongst them.

(e) The Respondents have diverted individuals looking for the Complainant's web site to their web sites, thereby improperly benefiting from the goodwill that the Complainant has developed in its marks and web sites. In fact, the Complainant first found out about the Respondents' web site on 21 September 2017 when they were informed by their affiliates, resulting in the Complainant performing searches on the Internet Archive and coming to a conclusion that the Respondent's websites at the disputed domain names resemble the Complainant's websites.

(f) The content of the Respondents' web site is confusingly similar to the Complainant's web site.

Viewing the above collectively, there is a strong argument that the Respondents had registered the disputed domain names in bad faith, as part of a concerted effort to improperly benefit from the goodwill that the Complainant has developed in its marks and websites.

Respondent

The Respondents' contentions may be summarized as follows:

The Respondents have both defaulted and have not submitted responses.

## 5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

Respondent has no rights or legitimate interests in respect of the domain name; and

Respondent's domain name has been registered and is being used in bad faith.

### A) Identical / Confusingly Similar

The Disputed Domain Name <w83.com>, which resolves to Respondents' Main Site, differs by a single digit from the "w88" component of Complainant's Marks and is confusingly similar to Complainant's registered Marks. Likewise, the Disputed Domain Names, <w83tyj.com>; <w83yh.com>; <w83yxb.com>; <w83zf.com> and <w83zxd.com>, each of which incorporates "w83" as the first 3 characters, may be said to be confusingly similar to Complainant's "w88" Mark.

The same cannot be said, however, for the other Disputed Domain Names, <18000yl.com>; <19000yl.com>; <lebo391.com>; <lebo864.com>; <ydw000.com>; <ydw00.com>; <ydw008.com>; <ydw28.com>; <ydw48.com>; <ydw68.com>; <ydw86.com>; <ydw98.com>; <ydw111.com>; <ydw297.com>. The panel notes that applicable disputes under the policy are stated in paragraph 4(a) of the Policy to be those where a "domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights". There must be a comparison between the disputed domain name and the asserted right, and not a comparison of words or trademarks used on a website to which the disputed domain name resolves. None of the Disputed Domain Names listed in this paragraph are sufficiently similar to the trademarks relied upon by the Complainant.

The Panel notes the Complainant's observation that all twenty (20) Disputed Domain Names employ similar naming conventions, each comprising either "w83" along with several letters; or the letters "lebo" followed by a series of numbers; or the letters "ydw" followed by numbers. The Disputed Domain Names are, thus, similar one to another, and differ pursuant to and in accordance with an apparent convention, logic or rationale, which signals an intention on the part of Respondents to confuse Internet users seeking or expecting the Complainant.

All twenty (20) of the websites to which the Disputed Domain Names resolve have a similar look and feel. The content and images appearing in most of the websites are identical or are closely similar. All offer on-line gaming services to customers, in competition to those offered by Complainant, and all prominently use a stylized “W” logo in yellow or in blue; the Chinese characters “优德” or the English “YOUDE”, or both; and, significantly, all are hyperlinked or make reference to the Main Site at “w83.com”, or both. It is permissible to assess the content of a website when considering whether a disputed domain name is similar to a right asserted where it appears *prima facie* that the respondent seeks to target a trademark through the disputed domain name. (See paragraph 1.15 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition). The way in which the sites are being used is likely to cause consumers to be confused and to erroneously conclude that the Disputed Domain Names incorporating w83 are in some way related to the Complainant.

The Panel finds that the Disputed Domain Name, <w83.com>, standing alone, is confusingly similar to Complainant’s Marks and that the Disputed Domain Names <w83tyj.com>; <w83yh.com>; <w83yxb.com>; <w83zf.com> and <w83zxd.com> are also confusingly similar. When viewed in conjunction with the Respondents’ websites, moreover, the Panel finds inescapable the conclusion that Respondents intentionally targeted Complainant’s Marks through a scheme of interrelated and interconnected Disputed Domain Names.

The Complainant has satisfied the first element at Paragraph 4(a)(i) of the Policy in relation to the Disputed Domain Names <w83.com>, <w83tyj.com>; <w83yh.com>; <w83yxb.com>; <w83zf.com> and <w83zxd.com>.

The Complainant has not satisfied the first element of Paragraph 4(a)(i) of the Policy in relation to <18000yl.com>; <19000yl.com>; <lebo391.com>; <lebo864.com>; <ydw000.com>; <ydw00.com>; <ydw008.com>; <ydw28.com>; <ydw48.com>; <ydw68.com>; <ydw86.com>; <ydw98.com>; <ydw111.com>; <ydw297.com>.

The remainder of this decision, therefore, deals only with the Disputed Domain Names <w83.com>, <w83tyj.com>; <w83yh.com>; <w83yxb.com>; <w83zf.com> and <w83zxd.com>.

## B) Rights and Legitimate Interests

Complainant has demonstrated, *prima facie*, that Respondents have targeted the Complainant by intentionally infringing upon Complainant’s Marks for their own unfair commercial advantage and that Respondents have no rights or legitimate interests in respect of the Disputed Domain Names <w83.com>, <w83tyj.com>; <w83yh.com>; <w83yxb.com>; <w83zf.com> and <w83zxd.com>. Under the Policy, the burden thereupon shifts to Respondents to come forward with rebuttal evidence. The Respondents have each defaulted, however, and have not submitted responses.

The Panel finds that Complainant has satisfied the second element at Paragraph 4(a)(ii) of the Policy.

## C) Bad Faith

By assembling a latticework of identical or closely similar on-line gaming websites, and diverting Internet users to their sites via the Disputed Domain Names, which are themselves



similar one to another in accordance with an apparent convention, logic or rationale, Respondents intentionally targeted Complainant's business and infringed upon the Marks to divert individuals looking for the Complainant's web site to their web sites, thereby improperly benefiting from the goodwill that the Complainant has developed in its marks and web sites.

This case falls within paragraph 4(b)(iv) of the Policy, which provides that a registrant has registered and is using a domain name in bad faith where:

“[B]y using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The use of w83 as the initial part of the Disputed Domain Names is clearly designed to attract consumers to the website.

Nevertheless, with regard to the domain name <w83.com>, on the evidence before it, the Panel is unable to make a finding that the disputed domain name was registered in bad faith. <w83.com> was registered on 6 June 2004, well before the Complainant applied to register its trade marks on 15 July 2015. The initial registration of <w83.com> cannot be said to be in bad faith. The Complainant has asserted in its complaint that the domain name information of the <w83.com> was updated on 2 September 2017 and that this coincided with the period when most of the other Disputed Domain Names were first created. The Complainant did not, however, provide any evidence as to how the domain name information was updated. The Panel is not in position to speculate whether this was a transfer of the domain name (which may, in appropriate circumstances, be considered a new registration), or some other type of update. On the evidence before it, the Panel is not prepared to find that the change made is evidence of bad faith registration.<sup>1</sup>

The Panel finds that the third element at Paragraph 4(a)(iii) of the Policy is satisfied in relation to <w83tyj.com>; <w83yh.com>; <w83yxb.com>; <w83zf.com> and <w83zxd.com>.

The Panel finds that the third element at Paragraph 4(a)(iii) of the Policy is not satisfied in relation to <w83.com>. This finding is without prejudice to the Complainant filing a new complaint if it obtains evidence that would support a finding of bad faith registration.

## 6. Decision

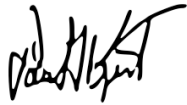
Complainant having established all three elements under the ICANN Policy, the Panel concludes that relief shall be GRANTED in part and DENIED in part.

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<sup>1</sup> See *eBay Inc., PayPal Inc. v. Bao Zheng, Two Stooges LLC / Ni Hao, Two Stooges LLC*, WIPO Case No. D2014-1478, where one member of this Panel emphasised that complainants have a duty under Article 4(a) of the UDRP to prove their case and should put forward all the available evidence they can locate.

Accordingly, it is ORDERED that the <w83tyj.com>; <w83yh.com>; <w83yxb.com>; <w83zf.com> and <w83zxd.com> domain names be TRANSFERRED to the Complainant; and,

That relief shall be DENIED in relation to <w83.com>; <18000yl.com>; <19000yl.com>; <lebo391.com>; <lebo864.com>; <ydw000.com>; <ydw00.com>; <ydw008.com>; <ydw28.com>; <ydw48.com>; <ydw68.com>; <ydw86.com>; <ydw98.com>; <ydw111.com> and <ydw297.com>.



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David L. Kreider as the Presiding Panelist, along with Mr. Douglas Clark and Professor Yun Zhao, Panelists.

Dated: 30 April 2018