

## **ADMINISTRATIVE PANEL DECISION**

Merryvale Limited v. Yansheng Zhang, Gname.com Pte. Ltd  
Case No. D2022-0722

### **1. The Parties**

The Complainant is Merryvale Limited, United Kingdom, represented by Herzog, Fox & Neeman, Israel.

The Respondent is Yansheng Zhang, Gname.com Pte. Ltd, Singapore.

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

The disputed domain name <betway-group.com> is registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 2, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 4, 2022, 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on March 11, 2022 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 March 15, 2022.

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 March 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 6, 2022.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on April 8, 2022. 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 member of the Betway Group of companies which provides services in the field of online gaming and sport betting under the brand name Betway since 2006. The Complainant operates a website at “www.betway.com”.

The Complainant is the proprietor of BETWAY trademark registrations in various jurisdictions, *inter alia*, the United Kingdom trademark No. 00003234076, registered on August 18, 2017; the China trademark No. 14428000, registered on May 28, 2015; and the New Zealand trademark No. 1036086, registered on July 27, 2016.

The disputed domain name was registered on October 5, 2021 and it resolved to a website in Chinese that advertised adult entertainment services. The disputed domain name is currently inactive.

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

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

The Complainant contends that the disputed domain name is confusingly similar to the BETWAY trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that 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.

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

In order for the Complainant to obtain the transfer of the disputed domain name, paragraphs 4(a)(i)-(iii) of the Policy require that the Complainant must demonstrate to the Panel that:

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

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

The Complainant has established rights in the BETWAY trademark.

The disputed domain name contains the Complainant's BETWAY trademark with the addition of the term “-group” and the generic Top-Level Domain “.com”.

The addition in the disputed domain name of the term “-group” does obviously not prevent a finding of confusing similarity with the BETWAY trademark.

Therefore, the Panel finds the disputed domain name to be confusingly similar to the BETWAY trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

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

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register the disputed domain name or otherwise make use of its trademark.

There is no evidence that the Respondent has registered the disputed domain name as a trademark or acquired unregistered trademark rights. The Panel finds no indication that the Respondent has been commonly known by the disputed domain name.

The Respondent has not offered any explanation as to the registration of the disputed domain name, and has not provided any evidence of good faith use. The Respondent's use of the disputed domain name is not *bona fide*.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

Previous panels have found that the Complainant's BETWAY trademark is well-known and distinctive. See, for example, *Merryvale Limited v. Sg Group*, WIPO Case No. [D2020-3008](#), *Merryvale Limited v. reza biabangard*, WIPO Case No. [D2021-2691](#) and *Merryvale Limited v. Privacy service provided by Withheld for Privacy ehf / WorldWide 360, 360 Blogger*, WIPO Case No. [D2021-4205](#).

Therefore, the Panel agrees with the Complainant that the Respondent must have been aware of the Complainant when the Respondent registered the disputed domain name. The Complainant's well-known trademark predates the registration of the disputed domain name, and the Respondent's registration of the disputed domain name clearly indicates that the Respondent knew of the Complainant and its business.

With respect to bad faith use, the Panel notes that the disputed domain name resolved to a website in Chinese that advertised adult entertainment services and is currently inactive. The Respondent had intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. In addition, the fact that the disputed domain name is currently inactive does not prevent a finding of bad faith registration and use. See, e.g. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). Indeed, in the case of an famous trademark such as BETWAY, the incorporation of such a trademark "into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith". See *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#).

Moreover, another factor proving the Respondent's registration and use of the disputed domain name falls within the concept of bad faith is its involvement in at least four WIPO Administrative Panel Decisions. The Respondent "Yansheng Zhang, Gname.com Pte. Ltd" has been found to infringe other complainants' trademarks to have registered and used those domain names in bad faith.

Furthermore, the Respondent has not replied to the Complainant's contentions. This circumstance may further indicate bad faith.

For the reasons set out above, the Panel concludes that the disputed domain name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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 <betway-group.com> be transferred to the Complainant.

***/Pablo A. Palazzi/***  
**Pablo A. Palazzi**  
Sole Panelist  
Date: April 22, 2022