

ADMINISTRATIVE PANEL DECISION

**MGM Resorts International v. Laurence Bartell, Sustin Bartell
Waldman & Fitzgerald
Case No. D2024-4620**

1. The Parties

Complainant is MGM Resorts International, United States of America ("United States"), represented by Demys Limited, United Kingdom.

Respondent is Laurence Bartell, Sustin Bartell Waldman & Fitzgerald, United States.

2. The Domain Name and Registrar

The disputed domain name <mgm-osaka.com> is registered with GoDaddy.com, LLC ("Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center ("Center") on November 11, 2024. On November 11, 2024, the Center transmitted by email to Registrar a request for registrar verification in connection with the disputed domain name. The same day, Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from that in the Complaint (e.g., the Complaint identified "Registration Private, Domains By Proxy, LLC"). The Center sent an email communication to Complainant on November 13, 2024, providing the registrant and contact information disclosed by Registrar and inviting Complainant to amend the Complaint. Complainant filed an amended Complaint on November 18, 2024, naming "Laurence Bartell, Sustin Bartell Waldman & Fitzgerald" as Respondent.

The Center verified that the Complaint and amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy ("Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy ("Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy ("Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on November 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 10, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on December 11, 2024.

The Center appointed Debra J. Stanek as the sole panelist in this matter on December 16, 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

Complainant is a gaming and entertainment company with operations throughout the world, including hotels, casinos, meeting and conference spaces and related activities.

Complainant provides evidence of three trademark registrations for the mark MGM, including:

- United States Reg. No. 1060489 (registered March 1, 1977) for hotel, restaurant, and entertainment services.
- Japan Reg. No. 4247805 (registered March 12, 1999) for entertainment related services, among others.
- European Union Trade Mark No. 016251613 (registered July 12, 2017) for hotel, resort, and conference services, among others.

In an August 2017 press release, Complainant announced its intention of establishing an office in Osaka, Japan. In 2019, it did so. One of Complainant's subsidiaries registered the domain name <mgmosaka.com> in 2014.

The disputed domain name was created on May 1, 2019. At the time the Complaint was filed, it resolved to a page on the Registrar's website that indicated that the disputed domain name was available for sale and led to another page listing the disputed domain name for sale for USD 50,000. Complainant attempted to contact Respondent using the Registrar's online tool but received no response.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

In particular:

- Complainant's United States registration of its MGM mark predates creation of the disputed domain name by over 40 years.
- The disputed domain name was registered shortly after Complainant's establishment of an office in Osaka.
- Complainant has located no evidence that Respondent is known by or has any rights in a mark that includes "MGM" or consists of "MGM OSAKA". Further, in light of Complainant's rights and use of its mark in connection with its activities in Osaka, Respondent cannot make any legitimate or fair use of the disputed domain name.
- Details of Respondent's registration appear to be false.

- The fictitious name of Respondent's organization (based in Cleveland, Ohio) was cancelled by Ohio authorities in 2022 for failure to renew.
- The email address supplied by Respondent uses the domain name that was registered to the named Respondent organization at least through December 3, 2020; however, it was more recently registered using a privacy service in February 2024.
- Screenshots from the Internet Archive suggest the domain name in the registration email address has not been active for many years.
- An asking price of USD 50,000 exceeds any reasonable out-of-pocket costs of registering or renewing the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under the Policy a complainant must prove, as to the domain name at issue, that: (a) it is identical or confusingly similar to a mark in which the complainant has rights, (b) respondent has no rights or legitimate interests in respect to it, and (c) it has been registered and is being used in bad faith. Policy, paragraph 4(a). A respondent's failure to respond does not automatically result in a finding for the complainant; the complainant continues to have the burden of establishing each element. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.3. The Panel may, however, draw appropriate inferences from the default. See Rules, paragraph 14(b).

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the MGM mark is reproduced – and is clearly recognizable -- in the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of "-osaka" may bear on assessment of the second and third elements, the Panel finds the addition does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. See, e.g., [WIPO Overview 3.0](#), section 1.8 (where the relevant mark is recognizable within disputed domain name, the addition of geographical or other terms does not prevent a finding of confusing similarity).

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof remains on the complainant). 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.

The Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

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.

In the present case: (1) the disputed domain name includes Complainant’s well-known MGM mark – registered for over 40 years in the United States; (2) the disputed domain name was created following public announcements about Complainant’s activities in Osaka; (3) Respondent apparently used false information in connection with the registration details; (4) the disputed domain name is offered for sale for USD 50,000; and (5) Respondent has not responded to the Complaint. Taking these factors into account, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The Panel finds the third element of the Policy has been established.

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 <mgm-osaka.com> be transferred to Complainant.

/Debra J. Stanek/

Debra J. Stanek

Sole Panelist

Date: December 30, 2024