

ADMINISTRATIVE PANEL DECISION

Bayerische Motoren Werke AG v. Ace Spade and Thanakrit
Chatchadanukrun
Case No. D2025-1083

1. The Parties

The Complainant is Bayerische Motoren Werke AG, Germany, represented by Kelly IP, LLP, United States of America (“United States”).

The Respondents are Ace Spade, Philippines, and Thanakrit Chatchadanukrun, Thailand.

2. The Domain Names and Registrars

The disputed domain name <bmw.game> is registered with NameSilo, LLC.

The disputed domain name <bmwonling.com> is registered with Gname.com Pte. Ltd. (the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2025. On March 17, 2025, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On March 17, 2025, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Privacy Protected) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 18, 2025, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 20, 2025.

The Center sent an email communication to the Complainant on March 18, 2025 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on March 20, 2025.

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 Respondents of the Complaint, and the proceedings commenced on March 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 14, 2025. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on April 15, 2025.

The Center appointed James Wang as the sole panelist in this matter on April 17, 2025. 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 leading manufacturer of automobiles and motorcycles.

Under its BMW mark, the Complainant manufactures, sells, and distributes an array of automobiles and motorcycles, and provides numerous services, including maintenance and repair services and financing, among others. The Complainant has manufactured, marketed, and sold millions of vehicles under BMW mark in each year from 2019 through 2023.

The Complainant also uses and licenses the BMW mark on a wide variety of automotive parts, accessories, and collateral products, including but not limited to video games.

The Complainant is the registrant of multiple registered trademarks consisting of or containing BMW, including but not limited to:

- German trademark registration No. 410579, registered on November 15, 1929; and
- United States trademark registration No. 611710, registered on September 6, 1955.

The disputed domain name <bmw.game> was registered on May 26, 2023, and resolved to a webpage purporting to provide online gaming services.

The disputed domain name <bmwonling.com> was registered on January 21, 2024, and also previously resolved to a webpage purporting to provide online gaming services, at the time of filing the Complaint, the disputed domain name <bmwonling.com> resolved to an inactive webpage.

5. Parties’ Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain names are identical or confusingly similar to the trademark in which the Complainant has rights. The Respondent has no rights or legitimate interests in respect of the disputed domain names. The disputed domain names were registered and are being used in bad faith.

The Complainant requested that the disputed domain names be transferred to the Complainant.

B. Respondents

The Respondents did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1 Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names both resolved to similar webpages purporting to provide online gaming services and displaying “宝马 国际集团 BMW.GAME”.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party, especially given the lack of response from the registrants of the disputed domain names to the present proceeding.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

6.2 Substantive Elements

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the registrant of multiple registered trademarks consisting of or containing BMW mark.

The applicable generic Top-Level Domain (“gTLD”) in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Therefore, the gTLDs “.game” and “.com” of the disputed domain names shall be disregarded under the confusing similarity test in this case. See [WIPO Overview 3.0](#), section 1.11.1.

The disputed domain names incorporate the entirety of the Complainant’s BMW trademark. As the BMW trademark is recognizable within the disputed domain names, they are confusingly similar to the Complainant’s trademark. The addition of “onling” into the disputed domain name <bmwonling.com> does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

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

B. Rights or Legitimate Interests

Proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

The Complainant alleges that it has not authorized the Respondent to use or register the BMW mark in any manner, nor is the Respondent a current or former licensee of the Complainant or the BMW mark. There is no evidence that the Respondent has been commonly known by the disputed domain names.

The Panel finds that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests, and the Respondent failed to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain names.

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

C. Registered and Used in Bad Faith

Given the long history and high reputation of the Complainant’s BMW trademark, it would be inconceivable that the Respondent registered the disputed domain names without knowledge of the Complainant’s trademark at the time of the registration. The Panel finds that the disputed domain names were registered in bad faith.

The Panel noticed that each of the disputed domain names resolved to webpages purporting to provide online gaming services, which indicates that the Respondent had an intent to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark. Such conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy.

The Panel further noticed that at the time of the Panel’s review of this case, the disputed domain names no longer resolve to active webpages. However, this does not prevent a finding of bad faith.

Having reviewed the record and also given the Respondent’s lack of response to the present proceeding, the Panel finds the Respondent’s registration and use of the disputed domain names constitutes bad faith under the Policy.

The Panel therefore finds that the Complainant has established the third element 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 names <bmw.game> and <bmwonling.com> be transferred to the Complainant.

/James Wang/

James Wang

Sole Panelist

Date: May 1, 2025