



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2001336
Complainant:	Bytedance Ltd.
Respondent:	Pavel Udovenko
Disputed Domain Name(s):	<tiktokdownloadvideos.com>

1. The Parties and Contested Domain Name

The Complainant is Bytedance Ltd. of Grand Cayman, Cayman Islands.

The Respondent is Pavel Udovenko of the Ukraine.

The domain name at issue is <tiktokdownloadvideos.com>, registered by Respondent with Dynadot, LLC, of San Mateo, CA 94401, United States of America.

2. Procedural History

The Complainant filed the Complaint with the Hong Kong Office of Asian Domain Name Dispute Resolution Centre (ADNDRC) on April 9, 2020, in accordance with the Uniform Policy for Domain Name Dispute Resolution, approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999 (the Policy), the Rules for Uniform Domain Name Dispute Resolution Policy, approved by ICANN Board of Directors on 28 September 2013 (the Rules) and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy effective from 31 July 2015 (the Supplemental Rules).

On April 9, 2020, the Hong Kong Office confirmed receipt of the Complaint. On the same date, the Hong Kong Office sent an email to Dynadot, LLC (the Registrar of the disputed domain name) requesting verification in connection with the relevant information of the disputed domain name.

On June 17, 2020, the Registrar of the disputed domain name informed the Hong Kong Office that the Respondent is Pavel Udovenko of the Ukraine. On June 18, 2020, the Hong Kong Office notified the Complainant to rectify the deficiencies in the Complaint by June 23, 2020.

On June 19, 2020, the Complainant submitted an amended Complaint. On June 22, 2020 the Hong Kong Office confirmed receipt of the amended Complaint which it found to be in administrative compliance with the Policy and the Rules.

On June 22, 2020 the Hong Kong Office served a written notice of Complaint to the Respondent. The due date for submission of a response by the Respondent was July 12, 2020.

On July 13, 2020, the Hong Kong Office confirmed that it did not receive a Response from the Respondent in respect of the Complaint concerning the disputed domain name within the required period.

On July 13, 2020, the Hong Kong Office appointed Ms Francine Tan as the sole Panelist for this domain name dispute.

3. Factual background

The Complainant is the owner of trademark registrations across various jurisdictions for “TIK TOK”/ “TIKTOK” (the “TIK TOK mark”), including in Hong Kong, Japan, the United States and Australia.

The Complainant is an Internet technology company that runs a series of content platforms that enable people to connect with consuming and creating content through machine learning technology, one of which is TikTok. The TikTok application for video-sharing social networking was launched outside of China in May 2017 and became the most downloaded application in the United States in October 2018. TikTok is available in more than 150 different markets, in 755 languages, and is a leading destination for short-form mobile video.

TikTok has global offices including in Los Angeles, New York, London, Paris, Berlin, Dubai, Singapore, Seoul, Tokyo and Dubai.

More than 500 million users have downloaded the TikTok application, which has been ranked as “#1 in Entertainment” in the Apple Store and “#3 in Social” in Amazon.

The Complainant has invested significantly in advertising and promoting its trade mark worldwide in media and the Internet. The Complainant’s primary website is www.tiktok.com, which attracted a monthly average of 157.08 million visitors between September 2019 and February 2020.

The Complainant’s TIK TOK mark was first used in commerce in 2017. The <tiktok.com> domain name was registered in 2018.

The disputed domain name was registered on January 3, 2020. The disputed domain name resolves to a website called “TikTok Video Downloader”, which purports to allow users to download TikTok videos without any watermark.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name is confusingly similar to the Complainant's TIK TOK mark.
- ii. The addition of the descriptive terms "download" and "videos" to the Complainant's TIK TOK mark has made the disputed domain name confusingly similar to the Complainant's TIK TOK mark, as these terms are closely linked and associated with the Complainant's mark.
- iii. The Respondent's use of the disputed domain name contributes to the confusion. Respondent's website is called "TikTok video downloader". The Respondent also reproduced the Complainant's music note logo and TIK TOK mark on the webpage. It shows that the Respondent intended the disputed domain name to be confusingly similar to the Complainant's TIK TOK mark.
- iv. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not sponsored by or affiliated with the Complainant; the Respondent has not been permitted or licensed by the Complainant to use the TIK TOK mark; Respondent is not commonly known by the disputed domain name; and no actual or contemplated *bona fide* or legitimate use of the disputed domain name could reasonably be claimed.
- v. The Respondent is not making a *bona fide* offering of goods or services or legitimate, noncommercial fair use of the disputed domain name. The Respondent's inclusion of the Complainant's music note logo and TIK TOK mark shows a direct effort to take advantage of the fame and goodwill that the Complainant has built up in the TIK TOK brand and logo, and thereby confuse Internet users.
- vi. The disputed domain name was registered after the registration of the Complainant's TIK TOK mark and domain name <tiktok.com>.
- vii. The Respondent's use of the disputed domain name disrupts the Complainant's business and qualifies as bad faith registration and use as the Respondent's website enables visitors to download Tik Tok videos without watermark, in violation of the Complainant's terms of service of its TIK TOK application.
- viii. The Respondent has demonstrated a familiarity with the Complainant's TIK TOK mark and business. The only feasible explanation for the Respondent's registration of the disputed domain name comprising the phrase "Tiktok download videos" is that it intended to cause confusion, mistake and deception and thereby increase traffic to its webpage.
- ix. The Respondent sought to hide its identity by employing a privacy service, which is further evidence of bad faith.

B. Respondent

The Respondent did not file any Response.

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:

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

A) Identical / Confusingly Similar

The Complainant has established it has trademark rights in TIK TOK/ TIKTOK.

The Panel agrees that the addition of the generic, descriptive words "download" and "videos" does not remove the confusing similarity with the Complainant's TIK TOK mark but adds to the confusion. The Complainant's TIK TOK/TIKTOK mark is recognizable within the disputed domain name, it being the first word that appears therein. The addition of the other terms (which are descriptive in nature) therefore would not prevent a finding of confusing similarity under the first element. (See paragraph 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition.) The ".com" element is a technical requirement of domain name registrations and is not a relevant feature when considering the issue of identity or confusing similarity under paragraph 4(a)(i) of the Policy.

Accordingly, the Complainant has proven the element required by the Policy, Paragraph 4(a)(i).

B) Rights and Legitimate Interests

The Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant did not authorize the Respondent to use the TIK TOK mark or to register the disputed domain name. There is no evidence that the Respondent has been known by the name "tik tok" or the like. In fact, it is evident that the Respondent knows of and is very familiar with the Complainant's TIK TOK mark and its social networking and video-sharing application.

The Respondent did not file any rebuttal in response to the Complainant's assertions. Seeing that it is not at all likely for the Respondent to be in a position to assert any right or legitimate interest in the disputed domain name when one considers (i) the fame of the Complainant's TIK TOK mark, (ii) how the Respondent has incorporated the Complainant's TIK TOK mark in the disputed domain name, and (iii) the contents and features of the Respondent's website, there is no real surprise why the Respondent has remained silent throughout the proceeding. The Panel is persuaded that the Respondent deliberately targeted the Complainant's TIK TOK mark and would not be in any position to show any independent rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant has proven the element required by Paragraph 4(a)(ii) of the Policy.

C) Bad Faith

The Panel also concludes that the disputed domain name was registered and is being used in bad faith. The Respondent is clearly well-acquainted with the Complainant and its TIK TOK application and has sought to pass off its website as being that of the Complainant or as being associated with the Complainant. The Panel finds that:

“by using the domain name, the [R]espondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the [C]omplainant’s mark as to the source, sponsorship, affiliation, or endorsement of the [R]espondent’s website or location or of a product or service on the [R]espondent’s website or location”.

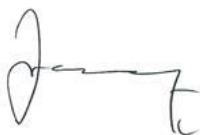
The Respondent’s use of the disputed domain name in connection with the provision of an application which facilitates the unauthorized download of TikTok videos in violation of the Complainant’s terms of service does not constitute a good faith use thereof.

Accordingly, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith.

The Complainant has proven the element required by Paragraph 4(a)(iii) of the Policy.

6. 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 <tiktokdownloadvideos.com> be transferred to the Complainant.



Francine Tan
Panelist

Dated: July 14, 2020