



Asian Domain Name Dispute Resolution Centre

hong kong

**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-2201705</b>
<b>Complainant:</b>	<b>Tencent Holdings Limited</b>
<b>Respondent:</b>	<b>Shujie Bai</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;tenpayglobal.com&gt;</b>

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**1. The Parties and Contested Domain Name**

The Complainant is Tencent Holdings Limited, of P.O. Box 2681 GT, Century Yard, Cricket Square, Hutchins Drive, George Town, Grand Cayman, Cayman Islands.

The Respondent is Shujie Bai, of 3041 Monterey St, San Mateo, CA 94403, US.

The domain name at issue is <tenpayglobal.com>, registered by Respondent with Ionos SE, of Ernst-Frey-Strasse 9, Karlsruhe 76135, Germany on 25 February 2017.

**2. Procedural History**

On 21 December 2022, the Complainant submitted a Complaint to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (ADNDRC) by email and elected this case to be dealt with by a single-member Panel, in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy) and the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules) approved by the ADNDRC.

On 22 December 2022, the ADNDRC Hong Kong Office sent to the Complainant by email an acknowledgement of the receipt of the Complaint. On the same day, the ADNDRC Hong Kong Office sent to the Registrar by email a request for registrar verification in connection with the Disputed Domain Name. The Registrar responded to the ADNDRC Hong Kong Office on 10 January 2023 its verification response, confirming the information of the Respondent; and further confirming the language of the registration agreement for the Disputed Domain Name is English.

On 11 January 2023, the ADNDRC Hong Kong Office notified the Complainant to revise its Complaint based on the information provided by the Registrar. On 16 January 2023, the Complainant submitted a revised Complaint to the ADNDRC Hong Kong Office.

On 17 January 2023, the ADNDRC notified the Complainant that the Complaint has been confirmed and the case officially commenced. On the same day, the ADNDRC Hong Kong Office transmitted by email to the Respondent a Written Notice of the Complaint, which informed the Respondent that the Complainant had filed a Complaint against the Disputed Domain Name, together with the Complaint and its attachments according to the Rules and the ADNDRC Supplemental Rules. On the same day, the ADNDRC Hong Kong Office notified ICANN and the Registrar of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time. The ADNDRC Hong Kong Office declared the Respondent's default on 7 February 2023. Since the Respondent did not mention Panel selection in accordance within the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC Hong Kong Office informed the Complainant and the Respondent that the ADNDRC Hong Kong Office would appoint a single-member Panel to proceed to render the decision.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Ms. Hongbo (Julia) ZHONG, the ADNDRC Hong Kong Office notified the parties on 9 February 2023 that a Panel in this case had been selected, with Ms. Hongbo (Julia) ZHONG acting as the sole panelist. On the same day, the Panel received the file from the ADNDRC Hong Kong Office and that within 14 days a Decision should be rendered, i.e., on or before 23 February 2023.

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceedings shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceedings. The language of the current Disputed Domain Name Registration Agreement is English; thus, the Panel determined English as the language of the proceedings.

### **3. Factual background**

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

The Complainant in this case is Tencent Holdings Limited. The registered address is P.O. Box 2681 GT, Century Yard, Cricket Square, Hutchins Drive, George Town, Grand Cayman, Cayman Islands. The authorized representative in this case is Paddy Tam of CSC Digital Brand Services Group AB.

#### **B. The Respondent**

The Respondent in this case is Shujie Bai. The registered address is 3041 Monterey St, San Mateo, CA 94403, US.

The Respondent is the current registrant of the Disputed Domain Name <tenpayglobal.com>. The Registrar of the Disputed Domain Name is Ionos SE.

### **4. Parties' Contentions**

#### **A. Complainant**

The Complainant's contentions may be summarized as follows:

The Complainant - Tencent Holdings Limited (“Tencent”), founded in November 1998, is a leading provider of Internet value added services. Since its establishment, Tencent has maintained steady growth under its user-oriented operating strategies. On 16 June 2004, Tencent Holdings Limited (SEHK 700) went public on the main board of the Hong Kong Stock Exchange. In addition, the Complainant is one of the largest financial companies providing payment gates via different famous brands.

Tenpay is one of the Complainant’s brands. It is a one-stop payment management system designed for B2B e-commerce platforms and offers a highly secure, compliant and flexible corporate account management system for e-commerce platforms, which integrates payment, financial management and intelligent risk management capabilities in one place. It helps e-commerce platforms to establish a financial management system that streamlines money, transaction and logistics flows, ensuring its competitiveness in the industry.

The Complainant registered the domain name <tenpay.com> on 5 August 2005 as its official website and has continuously used it to promote its services under the TENPAY brand since then. It had received more than 4 million visitors between September and November 2022 according to Similarweb.com.

- i. The Disputed Domain Name is similar to the trademark owned by the Complainant, which is likely to cause confusion.

The Complainant - Tencent Holdings Limited - holds trademark rights of TENPAY in various jurisdictions, such as in the U.S., the E.U., China and Hong Kong.

The Disputed Domain Name <tenpayglobal.com> is confusingly similar to the Complainant’s trademark “TENPAY”. The part <.com> in the Disputed Domain Name is a standard registration requirement which should not be taken into account when comparing it to the Complainant’s trademark. Thus, the main part of the Disputed Domain Name <tenpayglobal.com> is "tenpayglobal", which merely consists of the Complainant’s trademark “TENPAY” and a generic and descriptive term “global”. Since the Complainant provides global financial services and a global payment gateway, the additional term “global” closely relating to the Complainant’s business will enhance confusing similarity between the Disputed Domain Name and the Complainant’s trademarks.

- ii. The Respondent has no rights to or legitimate interests in respect of the domain name.

The Respondent is not sponsored by or affiliated with the Complainant in any way, and has not been permitted, authorized or licensed by the Complainant to use the Complainant’s trademarks in any manner, including domain names. The Respondent’s name - “Shujie Bai”, identified by the Hong Kong Office of the ADNDRC in this case, does not resemble the Disputed Domain Name in any manner; and thus cannot give any right or legitimate interest to the Respondent.

The Respondent has been using a private WHOIS service to hide its name. That is to say, the registrant’s identity is unknowable to the public.

Therefore, the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

- iii. The Disputed Domain Name has been registered and used in bad faith.

The Complainant has held TENPAY trademark rights in various jurisdictions and has marketed and sold its goods and services worldwide under this trademark before the Respondent's registration of the Disputed Domain Name. In addition, the Complainant has continuously used the domain name <tenpay.com> to provide services of payment and financial management globally since 5 August 2005. The Complainant and its trademark "TENPAY" are known internationally. As such, the Respondent had or should have knowledge of and familiarity with the Complainant's brand and business when registering the Disputed Domain Name.

The Disputed Domain Name was used by Respondent to redirect to the Complainant's official website. It indicates that the Disputed Domain Name's website has purposely been designed to deceive internet users into believing that the Disputed Domain Name is associated with the Complainant. Furthermore, it also proves that the Respondent is targeting the Complainant and its business.

Therefore, the Respondent should be found to have registered and used the Disputed Domain Name in bad faith.

In accordance with the relevant provisions and for the above reasons, the Complainant requests that the Disputed Domain Name <tenpayglobal.com> should be transferred to the Complainant.

B. Respondent

The Respondent did not submit 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**

Pursuant to Paragraph 4(a)(i) of the Policy, the Complainant must prove its rights on a trademark or service mark and the Disputed Domain Name is identical or confusingly similar to its trademark and service mark.

The Complainant claims its trademark rights of "TENPAY" in various jurisdictions, and submitted evidence of a list of trademarks and copies of relevant trademark registrations in

**Annex 1 of Complaint.** The Complainant sets out that it has made significant investment to advertise and promote this trademark worldwide in media and on the internet, and provided information about the Complainant and its brand in **Annexes 4, 6 and 7 of Complaint.** In addition, the Complainant states that it registered the domain name <tenpay.com> on 5 August 2005 as its official website, and from then on, the Complainant has continuously used it to provide financial services and payment services globally under the TENPAY brand. The Complainant and its TENPAY brand are well recognized and respected worldwide.

The Respondent did not make any objection to the Complainant's evidence and its claims.

Having reviewed the evidence provided by the Complainant, the Panel finds that:

- ① In China, the trademark "TENPAY" was registered in Class 36 on 7 September 2010, and in Class 42 on 28 October 2010.
- ② In the E.U., the trademark "TENPAY" was registered with the EUIPO in Classes 9, 35, 36, 38, 39, 41 and 42 on 27 November 2012.
- ③ In Hong Kong, the trademark "TENPAY" was registered on 14 May 2012 in Classes 9, 35, 36, 38, 39, 41 and 42.

It is evident that the Complainant's trademark "TENPAY" was successfully registered in China, the E.U. and Hong Kong between 2010 and 2012, which are earlier than the registration date of the Disputed Domain Name, i.e., 25 February 2017. In this regard, the Panel confirmed that the Complainant has prior rights to the trademark "TENPAY" acquired through registration in China, the E.U. and Hong Kong.

The Disputed Domain Name <tenpayglobal.com> is composed of "tenpayglobal" and ".com". As a generic top-level domain suffix, ".com" is technically required to operate a domain name and thus should be disregarded in the determination of confusing similarity. The distinctive part of the Disputed Domain Name <tenpayglobal.com> is "tenpayglobal". In light of the fact that "global" is a generic term and the Complainant provides financial and payment services globally under its brand TENPAY, the Panel discovers that, by adding the term "global", the Disputed Domain Name becomes more confusingly similar to Complainant's trademark "TENPAY", instead of being distinguishable.

The Panel therefore holds that the Disputed Domain Name <tenpayglobal.com> is confusingly similar to the Complainant's trademark "TENPAY". Accordingly, the Complainant has proven the element required by Paragraph 4(a)(i) of the Policy.

## **B) Rights and Legitimate Interests**

Paragraph 4(c) of the Policy states that the following circumstances in particular, but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate the rights or legitimate interests to the domain name:

- (i) Before any notice to the Respondent of a dispute, the use of, or demonstrable preparations to use, a domain name or a name corresponding to said domain name in connection with a bona fide offering of goods or services; or
- (ii) The Respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or

- (iii) The Respondent has made legitimate noncommercial or fair use of a domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect to the Disputed Domain Name because: 1) the Complainant has no relationship with the Respondent; 2) the Complainant never permitted, authorized or licensed the Respondent to use Complainant's trademark "TENPAY" in any manner, including domain name. The Complainant further contends that the Respondent is not commonly known by the domain name due to Respondent using a private WHOIS service to hide its name. See *Annex 2 of Complaint*. The Complainant has submitted *prima facie* evidence required by Paragraph 4(a)(ii) of the Policy and the burden of proof was transferred to the Respondent.

The Respondent did not submit any Response in this case. Therefore, the Respondent failed to prove its rights and legitimate interests under Paragraph 4(c) of the Policy. Accordingly, the Panel finds that the Complainant has satisfied the second element as provided under Paragraph 4(a) of the Policy.

### **C) Bad Faith**

Under the third element of the Policy, the Complainant must establish that the Disputed Domain Name has been registered and is being used in bad faith by the Respondent.

Under Paragraph 4(b) of the Policy, the following circumstances in particular, but without limitation, are evidence of registration and use of a Disputed Domain Name in bad faith:

- i. Circumstances indicating that the Respondent has registered or has acquired a domain name primarily for the purpose of selling, renting, or otherwise transferring said domain name registration to a Complainant who is the owner of the trademark or service mark or to a competitor of said Complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- ii. The Respondent has registered a domain name in order to prevent an owner of a trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- iii. The Respondent has registered a domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to their website or other on-line location, by creating a likelihood of confusion over a Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

The Complainant alleges that the Respondent has acted in bad faith by registering and using the Disputed Domain Name on the following grounds : ① The Respondent was aware of the existence of the Complainant and its trademark "TENPAY" at the time of registering the Disputed Domain Name because of its high reputation and extensive use of the Complainant's trademark, see *Annexes 4, 5, 6 and 7 of Complaint*; and ② The Respondent redirected the Disputed Domain Name to the Complainant's official website, see *Annexes 3 and 5 of Complaint*, which illustrated that the Respondent had been targeting the Complainant and its business to improperly increase traffic to the Respondent's website for commercial gain.

The Respondent did not respond to the Complainant's contentions and evidence.

According to the evidence provided by the Complainant, the Panel finds that the Complainant and its trademark "TENPAY" are known internationally before the Respondent's registration of the Disputed Domain Name and the Complainant's website <tenpay.com> has been continuously used to provide global services since 2005. Given that the Respondent has failed to prove any right or legitimate interest to the word "tenpay" or "tenpayglobal" but chose a word that is confusingly similar to Complainant's trademark "TENPAY" to register the Disputed Domain Name, the Panel is of the view that the Disputed Domain Name was registered in bad faith.

In addition, the Respondent's conduct of redirecting the Disputed Domain Name to the Complainant's official website proves that the Respondent has intentionally attempted to seek illegitimate benefits by misleading consumers to believe that the website of the Disputed Domain Name belongs to the Complainant or is associated with the Complainant. The Panel is of the view that the Disputed Domain Name was used in bad faith.

In light of the above, the Panel holds that this is sufficient to establish bad faith under Paragraph 4(b) of the Policy. Accordingly, the third element as provided under Paragraph 4(a) of the Policy is satisfied.

✧ *The above-mentioned Annexes to the Complaint are not attached to this Decision.*

## **6. Decision**

For all the foregoing reasons, in accordance with Paragraphs 4(a) of the Policy and 15 of the Rules, the Panel decides that the Disputed Domain Name <tenpayglobal.com> should be transferred to the Complainant - Tencent Holdings Limited.



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Ms. Hongbo ZHONG (Julia)  
Panelist

Dated: 23 February 2023