



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2001333
Complainant:	Bytedance Ltd.
Respondent:	Semenyuk Mikhail
Disputed Domain Name(s):	<download-tiktok-video.com>

1. The Parties and Contested Domain Name

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

The Respondent is Semenyuk Mikhail, of Moscow, Russian Federation.

The domain name at issue is <download-tiktok-video.com>, registered by Respondent with NameCheap, Inc. of Phoenix, Arizona, 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 NameCheap, Inc. (the Registrar of the disputed domain name) requesting verification in connection with the relevant information of the disputed domain name.

On April 9, 2020, the Registrar of the disputed domain name informed the Complainant that the Respondent is Semenyuk Mikhail of Moscow, Russian Federation and directed that it correct the deficiency in the Complaint by April 20, 2020.

On April 15, 2020, the Complainant submitted an amended Complaint. On April 16, 2020 the Hong Kong Office confirmed receipt of the amended Complaint.

On April 16, 2020, the ADNDRC confirmed the Complainant's compliance with the administrative requirements.

On April 16, 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 May 6, 2020.

On May 7, 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 May 8, 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 December 27, 2019. The disputed domain name resolves to a website called "TikTok Video Downloader", which purports to allow users to download an application that can download TikTok videos for free on their computers or mobile devices.

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 "video" 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 refers to the Complainant's TIK TOK mark . 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.
- vi. The Respondent is confusing Internet users by referring to the Complainant's TIK TOK mark on its website and adopting the name "TikTok Video Downloader". The Respondent thereby seeks to exploit the reputation of the Complainant's TIK TOK mark to attract Internet traffic to its website.
- vii. The disputed domain name was registered after the registration of the Complainant's TIK TOK mark and domain name <tiktok.com>.
- viii. 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 an application in violation of the Complainant's terms of service of its TIK TOK application.
- ix. Respondent more likely than not knew of and targeted the Complainant's trade mark.

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 with the Complainant that the addition of the words and hyphen “download-” and “-video” do 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. The addition of 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.)

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 has been silent in this proceeding. The reason is rather obvious. It is not at all likely for the Response to be in a position to assert any right or legitimate interest in the disputed domain name when one considers the fame of the Complainant’s TIK TOK mark, how the Respondent has incorporated the Complainant’s TIK TOK mark in the disputed domain name, and the content and nature of the Respondent’s website.

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

Following from the finding above, 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. 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”.

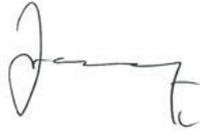
The Respondent’s use of the disputed domain name in connection with the provision of a downloadable application which leads to a violation of the Complainant’s terms of service of its TIK TOK application does not constitute a good faith use thereof.

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 <download-tiktok-video.com> be transferred to the Complainant.



Francine Tan

Dated: May 11, 2020