



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101537
Complainant:	Television Broadcasts Limited
Respondent:	pdeel/ daifei kailun
Disputed Domain Name(s):	<SOTVB.COM>

1. The Parties and Contested Domain Name

The Complainant is Television Broadcasts Limited, of 77 Chun Choi Street, Tseung Kwan O Industrial Estate, Kowloon, Hong Kong.

The Respondent is pdeel/ daifei kailun, of 3116 Doctors Drive Los Angeles, CA 90017 US.

The domain name at issue is SOTVB.COM, registered by the Respondent with NameSilo, LLC, of 8825 N. 23rd Ave Suite 100, Phoenix, Arizona, 85021 USA.

2. Procedural History

On 8 September 2021, pursuant to the Uniform Domain Name Dispute Resolution Policy (“the Policy”), the Rules for the Uniform Domain Name Dispute Resolution Policy (“the Rules”) and Asian Domain Name Dispute Resolution Supplemental Rules (“the ADNDRC Supplemental Rules”), the Complainant submitted a complaint to the Hong Kong Office of the ADNDRC (“the Centre”) and elected this case to be dealt with by a single-member panel. On the same day, the Centre acknowledged receipt of the complaint and conducted a format review against the same for compliance with the Policy, the Rules and the ADNDRC Supplemental Rules. On 8 September 2021, the Centre notified the registrar of the disputed domain name and received a reply from the registrar on the same day.

On 9 September 2021, the Centre notified the Complainant of the deficiency of the complaint and requested Complainant to rectify, within 5 calendar days, the deficiency by changing the name of the Respondent to “pdeel/ daifei kailun” according to the Whois information provided by the registrar. On the same day, the Centre received a revised complaint submitted by the Complainant. After reviewing the revised complaint, the Centre confirmed the complaint is in administrative compliance with the Policy and the Rules.

On 9 September 2021, the Centre sent a Written Notice of Complaint to the Respondent, notifying the Respondent that a complaint had been filed against the Respondent by the

Complainant and the deadline for submitting a response was 29 September 2021. The Respondent did not file a response with the Centre within the prescribed period.

On 30 September 2021, the Centre listed Prof. Jyh-An Lee as a candidate of the sole panelist. Prof. Jyh-An Lee confirmed his availability and position to act independently and impartially between the parties on 4 October 2021, and was appointed as the sole Panelist for the captioned case on the same day. Both parties have been informed of the appointment on 4 October 2021.

3. Factual background

A. For Complainant

The Complainant is the first wireless commercial television station in Hong Kong. It was established in 1967 with only about 200 staff and has now grown to a size of over 3,600 staff and artistes worldwide. Shares of the Complainant have been publicly listed on the Hong Kong Stock Exchange since 1988. The Complainant's business activities include television broadcasting, programme production and other broadcasting-related activities such as programme and Video-On-Demand ("VOD") licensing, digital media business, audio and video products selling and distribution.

In 1999, the Complainant launched its principal website "TVB.COM" to provide worldwide viewers the latest information on its programmes and artistes. "TVB.COM" also contains video clips of the Complainant's programmes. In November 2008, the Complainant set up "myTV" section at TVB.COM, providing its drama and a variety of programmes for viewers in Hong Kong by means of live streaming and VOD. According to the Complainant, in 2010, "myTV" had 3 million visitors per month. In 2011, the Complainant extended "myTV" to mobile application for smartphone and tablet users in Hong Kong. In 2013, the Complainant launched the "GOTV" mobile application for users to watch its drama on VOD basis via Internet on computer and mobile devices in Hong Kong. In 2016, the Complainant launched "myTV SUPER" OTT ("over the top") services for viewers to watch its dramas and a variety of programmes on livecast and VOD basis via Internet and/or set top box and/or applications on television, computer and mobile devices and through the website <http://www.mytvsuper.com> in Hong Kong. According to the Complainant, myTV SUPER is now a leading OTT platform in Hong Kong with over 9.1 million users (set-top boxes, mobile apps and website users combined) as of December 2020. According to the Complainant's 2020 annual report, myTV SUPER accounted for 15% of its total revenue from external customers in 2020.

The Complainant's wholly owned subsidiary, TVBI Company Limited ("TVBI"), is responsible for the distribution of the Complainant's Chinese-language programmes across the world. TVBI and its sub-licensees supply the Complainant's programmes to free-to-air broadcasters, cable and satellite television broadcasting service operators, telecommunication services provider, websites, video distributors and VOD service providers worldwide. According to the Complainant's 2020 annual report, programme licensing and distribution accounted for 26% of its total revenue from external customers in 2020.

In 2014, the Complainant's wholly owned subsidiary, TVB Anywhere Limited, launched "TVB Anywhere" for viewers to watch the Complainant's programmes and channels on television via set top box in overseas regions. In 2019, TVB Anywhere Limited launched

“TVB Anywhere+” mobile application for viewers to watch the Complainant’s programmes and channels on mobile devices and/or television via open Internet in overseas regions. The Complainant’s wholly owned subsidiary, TVB (USA) Inc. (“TVBUSA”), provides satellite and cable TV services in the USA. The Complainant’s TV programmes, services and activities available in the USA are introduced at TVBUSA’s website (<http://www.tvbusa.com>). According to the Complainant’s 2020 annual report, overseas pay TV and TVB Anywhere accounted for 5% of its total revenue from external customers in 2020.

The Complainant owns valid trademark registrations for its primary mark “TVB” in 14 jurisdictions in various classes of its core business interest. Meanwhile, it has also registered various trademarks incorporating the letters “tvb”, such as “TVBJ”, “TVB8”, “TVB 星河頻道”, “TVB Anywhere”, “TVB 盒子”, “TVB Xinghe 星河”, “TVB Video”, “TVBS-E”, “TVB Satellite Channel Europe”, “TVBI”, “TVBS-Europe”, “TVB Europe”, “TVB SUPER CHANNEL”, “TBV8 頻道”, “tvbN”, “tvbE”, “tbvQ”, “TVBUDDY”, “tvb.com”, “TVBC”, “翡翠東方 TVBC”, “TVB NETWORK VISION”, “TVB NETWORK VISION 網絡電視”, “TVB, Staff & Artistes Fund for Charities”, “TVB Window”, “TVB Radio”, “TVBM”, “TVB JADE”, “iTVB”, and “愛 TVB”. As of the date of this submission, the Complainant and its subsidiaries have registered and owned over 190 domain names incorporating the component “tvb”, including “itvb.商標”, “tvb.me”, “tvbihk.com.hk”, “tvbusa.com”, “tvbusa.us”, “tvbwkly.com”, “tvb.asia”, “tvbartistesblog.com”, “tvbartisteblog.com”, “tvbartistsblog.com”, “tvbartistblog.com”, “tvbartistesblog.com.hk”, “tvbartisteblog.com.hk”, “tvbartistsblog.com.hk”, “tvbartistblog.com.hk”, “tvbartistesblog.com.cn”, “tvbartisteblog.com.cn”, “tvbartistsblog.com.cn”, “tvbartistblog.com.cn”, “tvbartisteblog.com.cn”, “tvbartistesblog.com.cn”, “tvbmusic.com.hk”, “tvbnews.com.hk”, “tvbn.com.hk”, “tvbgroup.com.cn”, “tvbgroup.cn”, “tvbchina.com.cn”, “tvb.com.cn”, “tvb.hk”, “tvb.com.hk”, “tvb.com”, “tvbnewsroom.com.hk”, “tvbn.hk”, “tvbof.com.mo”, “tvbop.com.mo”, “tvb.co.in”, “tvb.com.vn”, “tvb.com.sg”, “tvb.sg”, “tvb.ae”, “tvb.xxx”, “tvbi.xxx”, “tvbchina.cn”, “tvbc.com.cn”, “tvbfinance.com”, “tvbcharity.hk”, “tvbcharity.com.hk”, “tvbcharity.org”, “tvbcharity.org.hk”, “tvbc. 中國”, “tvbappstore.com.hk”, “tvbappstore.hk”, “tvbappstore.com”, “tvbappstore.net”, “tvb.tm”, “tvbanywhere.com”, “tvbanywhere.net”, “tvbanywhere.hk”, “tvbanywhere.com.hk”, “tvbgo.hk”, “tvb-go.hk”, “tvbgold.hk”, “tvb-gold.hk”, “tvbzhibo.com”, “tvb123.com”, “tvbdo.com”, “tvbcorporate.com”, “tvbcorporate.hk”, “tvbcorporate.com.hk”, “tvbdo.org”, “tvb8.com.hk”, “tvbeurope.net”, “tvbeurope.hk”, “tvbeurope.asia”, “tvbeurope.cn”, “tvbeurope.com.cn”, “tvbeurope.cn.com”, “tvbeurope.co.in”, “tvbeurope.com.tw”, “tvbeurope.in”, “tvbeurope.net.cn”, “tvbeurope.tw”, “tvbeurope.com.hk”, “tvbeurope.biz”, “tvbeurope.info”, “tvbeurope.org”, “tvbdo.info”, “tvbstream.com”, “tvbdo.eu”, “tvb.vn”, “tvbeurope.eu”, “aztvb.com”, “tvb22.com”, “tvb.website”, “tvb.biz”, “tvb-online.com”, “tvb.video”, “tvblove.com”, “tvb.love”, “tvbspecial.com”, “tvb2014.com”, “tvbxinghe.com.hk”, “mytvb.hk”, “tvbihk.com”, “tvbihk.info”, “tvbonly.com”, “tvbys.com”, “tvbow.com”, “tvbyy.com”, “tvbanywhere.sg”, “tvbanywhere.com.sg”, “dramatvb.com”, “mytvbanywhere.com”, “tvbroaming.com”, “tvbpv.com”, “tvbeurope.org.cn”, “tvbanywhere.com.my”, “tvb. 中國”, “tvbanywhere.my”, “tvbihk.com”, “tvbf.com.hk”, “hdtvb.me”, “hdtvb.site”, “tvbcms.com”, “tvbpv.net”, “tvbnetworkvision.net”, “tvbnv.net”, “tvbpayvision.com”, “tvbnetworkvision.com”, “tvbnv.com”, “tvbnetworkvision.tv”, “tvbnv.tv”, “tvbvideo.co.uk”, “hdtvb.biz”, “tvbi.online”, “tvbi.news”, “watchtvb.com”, “tvbyb.com”, “tvbanywhere.app”, “tvb8vn.com”, “tvbnewwings.com”, “tvbnewwings.asia”, “tvbnewwings.hk”,

“tvbnewwings.com.hk”, “tvbnetworkvision.com.hk”, “tvbnetworkvision.hk”, “tvbnnv.hk”, “tvbnnv.com.hk”, “tvbybhk.com”, “seesetvb.net”, “tvbweekly.com”, “tvbweek.com”, “tvbweeklyhk.com”, “tvbweekly.com.hk”, “tvbweek.com.hk”, “tvbvideo.net”, “tvb01.com”, “onlytvb.com” and “onetvb.com”.

In February 2021, it came to the Complainant’s attention that the disputed domain name, which linked to a website providing a large volume of the Complainant’s television programmes to the public without the Complainant’s authorization, had been registered. The Complainant sent cease and desist letters (“C&D letters”) to the Respondent, the website’s Internet Services Providers (“ISPs”), and the domain registrar respectively, demanding them to remove or disable access to the infringing pages and terminate their services to the Respondent. Neither the Respondent, the ISPs nor the registrar had responded to Complainant’s demand before the Complainant made this submission.

B. For Respondent

The Respondent did not file any response with the Centre within the prescribed period.

4. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

- i. The domain name in dispute is confusingly similar to the Complainant’s registered trademarks

The Complaint is based on the Complainant’s trademark “TVB”, which was first registered by the Complainant in Hong Kong in 1992 and is currently registered and/or applied for registration by Complainant in over 30 jurisdictions worldwide. The Complainant also relied on its trademark registrations incorporating the essential element “TVB”, such as “iTVB”, “TVBI”, “TVBS-E” in various jurisdictions and for various services. The Complainant contends that its trade name and trademarks are well known worldwide, and that the disputed domain name entirely incorporates the Complainant’s registered trademark “TVB” and is confusingly similar to the other trademarks owned by the Complainant that are derived from “TVB”. The Complainant argues that the Respondent’s use of the disputed domain would mislead the public to believe that the disputed website is associated with or authorized by the Complainant.

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

The Respondent is not in any way connected, associated or affiliated with the Complainant and Complainant has not authorized, endorsed or otherwise permitted Respondent to register the domain name or use Complainant’s trademark or any variation thereof. There is no evidence that the Respondent is commonly referred to as the disputed domain name, and there is no reason why the Respondent might reasonably be said to have any rights or legitimate interests in registering or using the same. Besides, by offering the Complainant’s programmes without authorization, the Respondent has infringed the copyright

and other intellectual property rights of the Complainant. The Complainant contends that the Respondent is not making any legitimate or fair use of the disputed domain name.

iii. The Respondent has registered and used the domain name in bad faith

The disputed domain name in dispute was registered in 2014 while the Complainant has been widely publicizing “TVB” as its brand name since 1967. The Respondent uses the disputed domain name to provide the Complainant’s television programmes without the Complainant’s authorization. In addition, the Respondent uses “TVB 電視劇”, meaning “TVB dramas”, as an introduction and attraction to the infringing website, which indicates that the Respondent has full knowledge of the Complainant’s marks while intentionally chooses the disputed domain name with the aim to mislead the public. By setting up the infringing website and making public the Complainant’s programme online, the Respondent has used the disputed domain name to compete with the Complainant and seriously prejudiced complainant’s commercial interests, because instead of buying the Complainant’s video products, subscribing VOD/OTT services or visiting online platforms authorized by the Complainant, customers choose to visit the infringing website to get the Complainant’s programmes for free, causing loss of revenues to the Complainant and its affiliated companies.

B. Respondent

The Respondent did not file any response to defend himself within the prescribed period.

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 disputed domain name is “SOTVB.COM”. When assessing whether the disputed domain name is identical or confusingly similar to the Complainant’s trademark, it has been well established that the generic top-level part “.com” should not be considered. In the present case, the Complainant has proven that it owns live and valid trademark registrations for the mark “TVB” in multiple classes in Hong Kong as well as in other jurisdictions (Cambodia, the EU, Indonesia, Japan, Macau, Malaysia, Myanmar, Panama, the PRC, Taiwan, the USA, Venezuela, Vietnam, etc.) The Complainant’s mark “TVB” is entirely incorporated in the second-level disputed domain name “SOTVB”, while the additional part “SO” in the disputed domain name is less distinctive given the high reputation enjoyed by the Complainant’s trademark. Moreover, the Complainant has also proven that it owns a variety of secondary marks incorporating the distinctive part “TVB”,

such as “iTVB”, “愛 TVB”, “TVBUDDY”. Under such circumstances, the Respondent’s registration and use of the disputed domain name incorporating the Complainant’s trademark “TVB” would easily mislead the public into believing that “SOTVB” is another secondary mark owned by the Complainant and that the content on the disputed website is associated with or authorized by the Complainant. Therefore, the Panel accepts the Complainant’s contention that the disputed domain name in this case is confusingly similar to the Complainant’s registered trademark as stipulated by Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

The Complainant has declared in its complaint that the Respondent is not in any form associated with the Complainant or its group, nor is the Respondent’s registration and use of the disputed domain name authorized by the Complainant. The Respondent did not submit a response with the Centre and consequently failed to adduce evidence to prove it has any right or legitimate interest in the disputed domain name. It is therefore inferred that the Respondent in this case does not have any right or legitimate interest in the disputed domain name as stipulated by Paragraph 4(a)(ii) of the Policy.

C) Bad Faith

Paragraph 4(b) of the ICANN Policy specifies four types of circumstances that could be evidence of the registration and use of a domain name in bad faith. They include: (i) circumstances indicating that the holder of the domain name has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or (ii) the holder of the domain name has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or (iii) the holder of the domain name has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the holder of the domain name has intentionally attempted to attract, for commercial gain, Internet users to his web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of his web site or location or of a product or service on his web site or location.

The Complainant has adduced sufficient evidence to demonstrate that its service mark “TVB” has enjoyed a high reputation both locally and internationally. Its Chinese-language programmes are well recognized among worldwide viewers. The Complainant has sent C&D letters to the Respondent on 16 February 2021 and 30 August 2021 respectively. It is unreasonable to infer that the Respondent had no knowledge of the Complainant or its registered trademark when using the disputed domain name in a confusingly similar manner.

As of the date of this decision, the infringing website is still active and offers a variety of the Complainant’s copyrighted TV dramas for free by redirecting visitors to another domain “iiiTV.CC”. This indicates the Respondent’s intention to free-ride on the Complainant’s reputation and would inevitably attract Internet users, who would otherwise have gone to the Complainant’s website for access to the TV programmes, to the infringing website and thus adversely affect the Complainant’s income from online and overseas

distribution. Given the reputation and market recognition of the Complainant's mark accumulated through its continuous use, the Respondent is intentionally attempting to attract, for commercial gains, Internet users to the infringing website by creating a likelihood of confusion with the Complainant's mark. As such, the Panel holds that the disputed domain name has been registered and used in bad faith as stipulated by Paragraph 4(a)(iii) of the Policy.

6. Decision

For all of the foregoing reasons, the Panel decides that the domain name registered by Respondent is confusingly similar to the Complainant's registered trademark, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent's domain name has been registered and is being used in bad faith. Accordingly, pursuant to Paragraph 4(i) of the Policy, the Panel orders that the registration of the domain name <SOTVB.COM> be transferred to the Complainant.



Jyh-An Lee
Sole Panelist

Dated: 17 October 2021