



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-2201604
<b>Complainant:</b>	<b>Tencent Holdings Limited</b>
<b>Respondent:</b>	<b>thanh tu nguyen</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;gameloop.mobi&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 thanh tu nguyen, of hung, da nang 900000, Viet Nam.

The domain name at issue is gameloop.mobi, registered by Respondent with NameCheap, Inc., 4600 East Washington Street, Suite 33, Phoenix, AZ 85034, United States of America.

**2. Procedural History**

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre on March 8, 2022. On March 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 10, 2022, the Registrar transmitted by email to the Center its verification response with respect to the registrant and provided the contact details. On the same day, the Center notified the Complainant of the deficiencies in the Complaint and the Complainant rectified the deficiencies.

On March 11, 2022, the Center verified that the 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 ADNDRC 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 Respondent of the Complaint, and the proceedings commenced on March 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 1, 2022. Respondent submitted a timely response on March 17, 2022 and sent an updated response on March 18, 2022.

Both the Complainant and the Respondent chose to have the Complaint decided by a sole panelist. The Center appointed M. Scott Donahey as the sole panelist in this matter on March 21, 2022. The Panel finds that it was properly constituted. The Panel has submitted a statement of acceptance and declaration of impartiality and independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

### **3. Factual background**

Complainant, a Chinese multinational conglomerate holding company, is the owner of several state registrations for the trademark GAMELOOP, the earliest of which issued on December 12, 2020 under the jurisdiction of Turkey, and the latest of which issued on July 16, 2021 under the jurisdiction of Taiwan. The trademark is used in conjunction with a game emulator. Gameloop has over 50 million monthly active users around the world and provides over 1,000 of the most popular online games. (Complaint, Annexes 4,5, 6.1, 6.2, 6.3, and 6.4).

Complainant has used the GAMELOOP mark since as early as July 2019, and incorporated it in the domain name <gameloop.com>, which had an average monthly visit of 1.9 million from November 2021 to January 2022, and was ranked as the 42,499<sup>th</sup> most popular website in the world, and the 7,778<sup>th</sup> most popular website in Turkey. (Annexes 1, 4, 5, and 7).

Complainant has made significant investment in the advertisement and promotion of its GAMELOOP trademark in worldwide media and on the Internet.

Respondent registered the disputed domain name on December 16, 2019, and has been using the disputed domain name to resolve to its website which promotes a download link from the website operated by Complainant. Respondent states that it is no longer using the disputed domain name for any purpose.

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

#### **A. Complainant**

The Complainant's contentions may be summarized as follows:

- i. Complainant contends that Respondent has been using the disputed domain name resolve to a website "Gameloop Team" and is using images copied from Complainant's official website, while offering download links to the latest and former versions of GameLoop. (Complaint, Annex 3.1).
- ii. Complainant asserts that Respondent is not commonly known by the disputed domain name.
- iii. Complainant contends that Respondent registered the disputed domain name on December 16, 2019, more than five months after Complainant began using the mark.
- iv. Complainant asserts that Respondent included GAMELOOP trademark and images from Complainant's website on its website.
- v. Complainant argues that the website includes advertisements, from which it receives compensation on its website.
- vi. The earliest historical screenshot of the website to which the disputed domain resolves shows Respondent was targeting Complainant's GAMELOOP brand at the time the disputed domain name was registered. (Annex 3.2)

vii. Complainant tried to contact Respondent on January 21, 2022 through a cease and desist letter sent by email. (Complaint, Annex 8). Respondent replied that they would transfer the disputed domain name in two months.

The Complainant requests that the disputed domain name be transferred to the Complainant.

## B. Respondent

The Respondent's contentions may be summarized as follows:

- i. Respondent contends that its use of Complainant's trademark is to make it easier for its users to use Gameloop software, and it provides a download link for "the official website".
- ii. Respondent argues that it is merely promoting the Gameloop software and brand.
- iii. Respondent contends that it is trying to make Gameloop better than other emulators.
- iv. Respondent says it has changed all the content. Respondent states that it does not operate the website gameloop.mobi on the Internet.

## 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 consists of the Complainant's registered trademark GAMELOOP attached to the gTLD *.mobi*. As we must disregard the gTLD designation in our analysis, the Panel finds that the disputed domain name is identical to Complainant's GAMELOOP trademark.

### B) Rights and Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that 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. (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 2.1).

In the present case Complainant alleges that Respondent has no rights or legitimate interests in respect of the disputed domain name and Respondent has failed to assert any such rights.

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

### **C) Bad Faith**


In its answer Respondent initially denies that it is currently acting in bad faith, since it has essentially changed the website from that it originally constructed. Respondent stated that its website was built “to help users use [Complainant’s] Gameloop software better. “[W]e have changed all the content. And we own the domain name gameloop.mobi and we do not operate the website gameloop.mobi on the internet [sic].” “When I built the Gameloop.mobi[sic] website, because I found the Gameloop.fun[sic] website (currently Gameloop.com[sic] to work poorly and lack information on instructions for use, how to play, and how to fix errors when operating, so I built my own website to help users use [Complainant’s] Gameloop software better [sic].

The “reasoning” of Respondent is little more than hubris, self-justification, and an attempt to continue its use of a domain name that admittedly should belong to Complainant, if only Complainant had someone like Respondent to oversee the operation.

As such, the Panel finds that Respondent’s domain name has been registered and is being used in bad faith.

### **6. Decision**

The disputed domain name <gameloop.mobi> should be transferred to Complainant.



M. Scott Donahey  
Panelist

Dated: April 4, 2022